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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD 9714]

RIN 1545–BM44

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AB70

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 146

[CMS–9946–F2]

RIN 0938–AS52

Amendments to Excepted Benefits

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Final rules.

SUMMARY: This document contains final regulations that amend the regulations regarding excepted benefits under the Employee Retirement Income Security Act of 1974, the Internal Revenue Code, and the Public Health Service Act to specify requirements for limited wraparound coverage to qualify as an excepted benefit. Excepted benefits are generally exempt from the requirements that were added to those laws by the Health Insurance Portability and Accountability Act and the Affordable Care Act.

DATES: These final regulations are effective on May 18, 2015.

FOR FURTHER INFORMATION CONTACT: Amy Turner or Elizabeth Schumacher, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 317–5500; Jacob Ackerman, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at (410) 786–1565.

Customer Service Information: Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws, may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*http://www.dol.gov/ebsa*). In addition, information from HHS on private health insurance for consumers can be found on the Centers for Medicare & Medicaid Services (CMS) Web site (*www.cms.gov/cciio*) and information on health reform can be found at *www.HealthCare.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191, 110 Stat. 1936 added title XXVII of the Public Health Service Act (PHS Act), part 7 of the Employee Retirement Income Security Act of 1974 (ERISA), and chapter 100 of the Internal Revenue Code (the Code), providing portability and nondiscrimination provisions with respect to health coverage. These provisions of the PHS Act, ERISA, and the Code were later augmented by other consumer protection laws, including the Mental Health Parity Act of 1996,[1] the Mental Health Parity and Addiction Equity Act of 2008,[2] the Newborns' and Mothers' Health Protection Act,[3] the Women's Health and Cancer Rights Act,[4] the Genetic Information Nondiscrimination Act of 2008,[5] the Children's Health Insurance Program Reauthorization Act of 2009,[6] Michelle's Law,[7] and the Affordable Care Act.[8]

The Affordable Care Act reorganizes, amends, and adds to the provisions of part A of title XXVII of the PHS Act relating to group health plans and health insurance issuers in the group and individual markets. The term ''group health plan'' includes both insured and self-insured group health plans.[9] Section 715(a)(1) of ERISA and section 9815(a)(1) of the Code, as added by the Affordable Care Act, incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code to make them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. The PHS Act sections incorporated by these references are sections 2701 through 2728.

Sections 2722 and 2763 of the PHS Act, section 732 of ERISA, and section 9831 of the Code provide that the requirements of title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, respectively, generally do not apply to excepted benefits. Excepted benefits are described in section 2791 of the PHS Act, section 733 of ERISA, and section 9832 of the Code.

The parallel statutory provisions establish four categories of excepted benefits. The first category includes benefits that are generally not health coverage [10] (such as automobile insurance, liability insurance, workers compensation, and accidental death and dismemberment coverage). The benefits in this category are excepted in all circumstances. In contrast, the benefits in the second, third, and fourth categories are types of health coverage

[1] Public Law 104–204, 110 Stat. 2944 (September 26, 1996).

[2] Public Law 110–343, 122 Stat. 3881 (October 3, 2008).

[3] Public Law 104–204, 110 Stat. 2935 (September 26, 1996).

[4] Public Law 105–277, 112 Stat. 2681–436 (October 21, 1998).

[5] Public Law 110–233, 122 Stat. 881 (May 21, 2008).

[6] Public Law 111–3, 123 Stat. 65 (February 4, 2009).

[7] Public Law 110–381, 122 Stat. 4081 (October 9, 2008).

[8] The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111–152, was enacted on March 30, 2010. (These statutes are collectively known as the ''Affordable Care Act''.)

[9] The term ''group health plan'' is used in title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, and is distinct from the term ''health plan,'' as used in other provisions of title I of the Affordable Care Act. The term ''health plan'' does not include self-insured group health plans.

[10] See 62 FR 16894, 16903 (Apr. 8, 1997), which states that these benefits are generally not health insurance coverage.

but are excepted only if certain conditions are met.

The second category of excepted benefits is limited excepted benefits, which may include limited scope vision or dental benefits, and benefits for long-term care, nursing home care, home health care, or community based care. Section 2791(c)(2)(C) of the PHS Act, section 733(c)(2)(C) of ERISA, and section 9832(c)(2)(C) of the Code authorize the Secretaries of Health and Human Services (HHS), Labor, and the Treasury (collectively, the Secretaries) to issue regulations establishing other, similar limited benefits as excepted benefits. The Secretaries exercised this authority previously with respect to certain health flexible spending arrangements (health FSAs).[11] To be excepted under this second category, the statute (specifically, ERISA section 732(c)(1), PHS Act section 2722(c)(1), and Code section 9831(c)(1)) provides that limited benefits must either: (1) Be provided under a separate policy, certificate, or contract of insurance; or (2) otherwise not be an integral part of a group health plan, whether insured or self-insured.[12]

The third category of excepted benefits, referred to as ''noncoordinated excepted benefits,'' includes both coverage for only a specified disease or illness (such as cancer-only policies), and hospital indemnity or other fixed indemnity insurance. In the group market, these benefits are excepted only if all of the following conditions are met: (1) The benefits are provided under a separate policy, certificate, or contract of insurance; (2) there is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor; and (3) the benefits are paid with respect to any event without regard to whether benefits are provided under any group health plan maintained by the same plan sponsor.[13]

The fourth category of excepted benefits is supplemental excepted benefits.[14] Such benefits must be: (1) Coverage supplemental to Medicare, coverage supplemental to the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) or to Tricare, or similar coverage that is supplemental to coverage provided under a group health plan; and (2) provided under a separate policy, certificate, or contract of insurance.[15]

In 2004, the Departments of the Treasury, Labor, and HHS published final regulations with respect to excepted benefits (the HIPAA regulations).[16] (Subsequent references to the ''Departments'' include all three Departments, unless the headings or context indicate otherwise.)

On December 24, 2013, the Departments published additional proposed regulations with respect to the second category of excepted benefits, limited excepted benefits (2013 proposed regulations).[17] The 2013 proposed regulations proposed to: (1) Eliminate the requirement that participants in self-insured plans pay an additional premium or contribution for limited-scope vision or dental benefits to qualify as benefits that are not an integral part of the plan; (2) set forth the criteria under which employee assistance programs (EAPs) that do not provide significant benefits in the nature of medical care constitute excepted benefits; and (3) allow plan sponsors in certain limited circumstances to offer, as excepted benefits, coverage that wraps around certain individual health insurance coverage. The intent of limited wraparound coverage is to permit employers to provide certain employees, dependents, and retirees who are enrolled in some type of individual market coverage with overall coverage that is generally comparable to the coverage provided under the employers' group health plan, without eroding employer-sponsored coverage.

After consideration of comments received on the 2013 proposed regulations, the Departments published final regulations regarding dental and vision benefits and EAP benefits on October 1, 2014 (2014 final regulations).[18] In the 2014 final regulations, the Departments also stated their intent to publish regulations that addressed limited wraparound coverage in the future, taking into account the extensive comments received on this issue.[19] After consideration of comments on the 2013 proposed regulations, on December 23, 2014, the Departments published new proposed regulations with respect to limited wraparound coverage (2014 proposed regulations), which set forth five requirements under which limited benefits provided through a group health plan that wrap around either eligible individual insurance or coverage under a Multi-State Plan would constitute excepted benefits.[20] A description of the 2014 proposed regulations is set forth below, together with a summary of the comments received on the 2014 proposed regulations and an overview of these final regulations.

II. Overview of the Final Regulations

Under the 2014 proposed regulations, limited benefits provided through a group health plan that wrap around either (1) eligible individual health insurance, or (2) coverage under a Multi-State Plan (collectively referred to as ''limited wraparound coverage'') could constitute excepted benefits, if five requirements were met. For this purpose, the 2014 proposed regulations defined ''eligible individual health insurance'' as individual health insurance coverage that is not a grandfathered health plan,[21] not a transitional individual health insurance market plan,[22] and does not consist solely of excepted benefits. The preamble to the 2014 proposed regulations acknowledged that, in States that elect to establish a Basic Health Program (BHP), certain low-income individuals (for example, those with household income between 133 percent and 200 percent of the Federal poverty

[11] 26 CFR 54.9831–1(c)(3)(v); 29 CFR 2590.732(c)(3)(v); 45 CFR 146.145(b)(3)(v).

[12] See the discussion in the 2014 final regulations concerning the application of these requirements to benefits such as limited-scope dental and vision benefits and employee assistance programs at 79 FR 59131 (Oct. 1, 2014).

[13] 26 CFR 54.9831–1(c)(4); 29 CFR 2590.732(c)(4); 45 CFR 146.145(b)(4). *See also* Q7 in Affordable Care Act Implementation FAQs Part XI, available at *http://www.dol.gov/ebsa/faqs/faq-aca11.html* and *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs11.html.*

[14] On February 13, 2015, the Departments issued guidance to clarify whether insurance coverage that supplements group health coverage by providing additional categories of benefits (and does not also fill gaps in group health plan coverage for cost-sharing obligations, such as coinsurance or deductibles) can be characterized as an excepted benefit. *See* Affordable Care Act Implementation FAQs Part XXIII, available at *http://www.dol.gov/ebsa/faqs/faq-aca23.html* and *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/Supplmental-FAQ_2-13-15-final.pdf.*

[15] 26 CFR 54.9831–1(c)(5); 29 CFR 2590.732(c)(5); 45 CFR 146.145(b)(5). The Departments issued additional guidance regarding supplemental health insurance coverage as excepted benefits. *See* EBSA Field Assistance Bulletin No. 2007–04 (available at *http://www.dol.gov/ebsa/pdf/fab2007-4.pdf*); CMS Insurance Standards Bulletin 08–01 (available at *http://www.cms.gov/CCIIO/Resources/Files/Downloads/hipaa_08_01_508.pdf*); and IRS Notice 2008–23 (available at *http://www.irs.gov/irb/2008-07_IRB/ar09.html*).

[16] 69 FR 78720 (Dec. 30, 2004).

[17] 78 FR 77632.(Dec. 23, 2014).

[18] 79 FR 59131 (Oct. 1, 2014).

[19] 79 FR 59131 (Oct. 1, 2014).

[20] 79 FR 76931 (Dec. 23, 2014).

[21] *See* section 1251 of the Affordable Care Act, 29 CFR 2590.715–1251, and 45 CFR 147.140.

[22] As described in CMS Insurance Standards Bulletin (March 5, 2014) available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/transition-to-compliant-policies-03-06-2015.pdf.*

level) who would otherwise qualify for a tax credit to obtain a qualified health plan through an Exchange would instead be enrolled in coverage through the BHP. The Departments invited comments on how an employer might make wraparound coverage available to BHP enrollees.[23]

Comments addressing the BHP all supported permitting wraparound of BHP coverage. The Departments agree and, therefore, these final regulations permit limited wraparound coverage of BHP coverage in the same manner as limited wraparound coverage of eligible individual health insurance.

A. Covers Additional Benefits

The 2014 proposed regulations stated that limited wraparound coverage would have to be specifically designed to wrap around eligible individual health insurance or Multi-State Plan coverage. That is, the limited wraparound coverage would have to provide meaningful benefits beyond coverage of cost sharing under the eligible individual health insurance or Multi-State Plan coverage. The preamble to the 2014 proposed regulations provided examples, such as that limited wraparound coverage could provide coverage for expanded in-network medical clinics or providers, or provide benefits that are not essential health benefits (EHBs) and that are not covered under the eligible individual health insurance.[24] The preamble to the 2014 proposed regulations also provided that limited wraparound coverage would not be permitted to provide benefits solely under a coordination-of-benefits provision and could not be an account-based reimbursement arrangement.[25] Limited wraparound coverage that covers solely cost sharing would not be permissible, as stated in the preamble to the 2014 proposed regulations, because reduced cost sharing can be obtained by choosing an individual health insurance policy with a higher actuarial value (for example, a platinum plan with a 90 percent actuarial value).[26] The Departments invited comment on safe harbors standardizing the benefits in the limited wraparound coverage that could be established.

Many commenters requested additional clarity on the type of benefits that could be offered as meaningful benefits in limited wraparound coverage. Suggestions included reimbursement for the full cost of primary care, the cost of prescription drugs not on the formulary of the primary plan, ten physician visits per year, services considered to be provided out-of-network by the primary plan, access to onsite clinics or specific health facilities at no cost, or benefits targeted to a specific population (such as coverage for certain orthopedic injuries), home health coverage, or coverage of other benefits that are not covered EHBs under the primary plan. The Departments consider all of these examples to qualify as additional, meaningful benefits under this first requirement to be limited wraparound coverage that qualifies as excepted benefits. As discussed further below, the Departments reiterate that limited wraparound coverage that is an excepted benefit cannot be an account-based mechanism and instead must be a risk-sharing product that covers a defined package of services.

B. Limited in Amount

For the second requirement to be limited wraparound coverage that qualifies as excepted benefits, the Departments proposed that the limited wraparound coverage be limited in amount. Specifically, the 2014 proposed regulations provided that the annual cost of coverage per employee (and any covered dependents) under the limited wraparound coverage could not exceed the maximum annual contribution for health FSAs (which was $2,500 in 2014), indexed in the manner prescribed under Code section 125(i)(2) (which amounts to $2,550 for 2015), and the cost of coverage would include both employer and employee contributions towards coverage and be determined in the same manner as the applicable premium is calculated under a COBRA continuation provision. The preamble to the 2014 proposed regulations stated that the bright-line limitation was intended to be simpler to administer than a cap of 15 percent of the cost of the plan sponsor's primary coverage as set forth in the 2013 proposed regulations.

Many comments stated that the limits on the amount should be higher so that individuals eligible for the limited wraparound coverage would not experience gaps in coverage. Some commenters suggested that the Departments consider an alternative, referencing the higher health savings account (HSA) limits, which are $3,350 for individual coverage and $6,650 for families in 2015, indexed annually. Others suggested the Departments set the limit as the greater of: The maximum permitted annual salary reduction towards a health FSA (as was set forth in the 2014 proposed regulations), or a percentage of the cost of coverage under the primary plan (as was set forth in the 2013 proposed regulations).

These final regulations adopt the last suggestion. Either the dollar or percent limitation would satisfy the Departments' objective of ensuring that the limited wraparound coverage provides a limited benefit, as required by the statute, and be similar to other limited excepted benefits (that is, dental benefits, vision benefits, long term care, nursing home care, home health care, community-based care, or health FSAs as described in 26 CFR 54.9831–1(c)(3); 29 CFR 2590.732(c)(3); 45 CFR 146.145(b)(3)). The percentage, as in the 2013 proposed regulations, is 15 percent of the cost of coverage under the primary plan.

The final regulations do not adopt the suggestion to use much higher limits on the cost of coverage (for example, the HSA limits). Too large a benefit that is not limited in scope (*c.f.,* limited-scope dental and vision excepted benefits) would not constitute a ''similar, limited benefit'' under ERISA section 733(c)(2), PHS Act section 2791(c)(2), or Code section 9832(c)(2).

The Departments also received requests for clarification regarding the administration of the second requirement (that is, that the limited wraparound coverage be limited in amount). Some comments requested that the determination of the cost of coverage be permitted to be made on an aggregate basis in advance of each plan year by an actuary, and not based on actual experience of the group or any individual during the plan year. This approach is precisely the approach that was intended by the Departments. As stated earlier, to qualify as excepted benefits, the limited wraparound coverage could not be an account-based reimbursement arrangement. That is, the coverage must include a risk-sharing element. As such, making a determination regarding the cost of coverage must occur on an aggregate basis. Moreover, to the extent this determination for a given plan year is made on sound actuarial principles that are appropriately documented, the actual experience of the group or any individual during the plan year would not be a factor in determining the cost of coverage for that plan year (although it could impact future years by providing additional information on which the actuarial estimate of the cost of coverage for future years would be based). The final regulations include this clarification.

[23] 79 FR 76935, footnote 32.

[24] 79 FR 76935

[25] 79 FR 76936

[26] *Id.*

C. Nondiscrimination

Under the 2014 proposed regulations, the third requirement for limited wraparound coverage to qualify as excepted benefits related to nondiscrimination. Specifically, the Departments proposed three sub-requirements relating to nondiscrimination. First, the wraparound coverage could not impose any preexisting condition exclusion, consistent with the requirements of section 2704 of the PHS Act (as incorporated into section 715 of ERISA and section 9815 of the Code) and implementing regulations.[27] Second, the wraparound coverage could not discriminate against individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual), consistent with the requirements of section 702 of ERISA, section 9802 of the Code, and section 2705 of the PHS Act (as incorporated into section 715 of ERISA and section 9815 of the Code) and implementing regulations.[28] Finally, neither the primary group health plan coverage nor the limited wraparound coverage could fail to comply with section 2716 of the PHS Act (as incorporated into section 715 of ERISA and section 9815 of the Code) or fail to be excludible from income with respect to any individual due to the application of section 105(h) of the Code (as applicable). These final regulations adopt the approach outlined in the 2014 proposed regulations.

The Departments received two comments on this third requirement. One commenter inquired as to the potential interaction between excepted benefits and the excise tax on high cost employer-sponsored health coverage under Code section 4980I. The Treasury and the IRS issued Notice 2015–16 on February 23, 2015 describing potential approaches with regard to a number of issues under Code section 4980I and inviting comments by May 15, 2015. Issues relating to Code section 4980I will be addressed as part of that rulemaking. Another commenter requested that the Departments consider ''modernizing'' the nondiscrimination provisions under Code section 105(h) and section 2716 of the PHS Act relating to prohibiting discrimination in favor of highly compensated employees. The Departments are considering this suggestion and other comments previously received for purposes of future guidance relating to these provisions.

D. Plan Eligibility Requirements

The fourth requirement to qualify as excepted benefits concerned plan eligibility requirements. First, under the 2014 proposed regulations, individuals eligible for the limited wraparound coverage could not be enrolled in excepted benefit coverage that is a health FSA. One commenter suggested permitting dual enrollment in limited wraparound coverage and health FSA coverage. However, as described earlier, the Departments are using their discretion under ERISA section 733(c)(2), PHS Act section 2791(c)(2), and Code section 9832(c)(2) to define ''other similar, limited benefits'' as excepted benefits and do not adopt this suggestion. To ensure that wraparound coverage is a limited benefit, like health FSAs, the Departments do not intend to allow plan sponsors to combine multiple excepted benefits into an arrangement that functions as a material substitute for primary group health plan coverage and still be exempt from the health market reforms.

Under the 2014 proposed regulations, as part of the fourth requirement for limited wraparound coverage to constitute excepted benefits, coverage would be required to comply with one of two alternative sets of standards relating to eligibility and benefits: one set of plan eligibility requirements for wraparound benefits offered in conjunction with eligible individual health insurance (or BHP coverage) for persons who are not full-time employees, and a separate set of standards for coverage that wraps around certain Multi-State Plan coverage. As described further below, limited wraparound coverage for persons who are not full-time employees is intended for employers that are generally offering affordable, minimum value coverage to their full-time workers but want to offer an additional limited benefit to their part-time workers. Limited wraparound coverage offered in conjunction with a Multi-State Plan is intended for employers that were offering reasonably comprehensive coverage prior to the promulgation of these final rules, and wish to offer limited wraparound coverage while still contributing roughly the same total amount toward their employees' health benefits.

1. Limited Wraparound Coverage Offered in Conjunction With Eligible Individual Health Insurance (or BHP Coverage) for Persons Who Are Not Full-Time Employees

As under the 2014 proposed regulations, limited coverage that wraps around eligible individual health insurance (or BHP coverage) for an individual who is not a full-time employee is required to satisfy three standards relating to plan eligibility.

i. Employer Obligations With Respect to Full-Time Employees

First, for each year that wraparound coverage is offered, the employer that is the sponsor of the plan offering wraparound coverage, or the employer participating in a plan offering wraparound coverage, must offer to its full-time employees coverage that: (1) Is substantially similar to coverage that the employer would need to offer to its full-time employees in order not to be subject to a potential assessable payment under the employer shared responsibility provisions of section 4980H(a) of the Code, if such provisions were applicable (that is, substantially similar to an offer of minimum essential coverage (as defined in Code section 5000A(f)) to at least 95 percent of its full-time employees (or to all but five of its full-time employees, if five is greater than five percent of its full-time employees)); (2) provides minimum value (as defined in section 36B(c)(2)(C)(ii) of the Code); and (3) is reasonably expected to be affordable (permitting use of the safe harbor rules for determining affordability set forth in 26 CFR 54.4980H–5(e)(2)). The preamble to the 2014 proposed regulations stated that, if a plan or issuer providing limited wraparound coverage takes reasonable steps to ensure that employers disclose necessary information regarding their coverage offered and affordability information to the plan or issuer, the plan or issuer could rely on reasonable representations by employers regarding this information, unless the plan or issuer has specific knowledge to the contrary.

Several commenters requested that, in the context of small employers and multiemployer plans, there be an exemption from the requirement that, to be considered excepted benefits, the employer offer to its full-time employees coverage that is substantially similar to coverage that the employer would need to offer pursuant to Code section 4980H(a). However, these final excepted benefits regulations are designed to allow plan sponsors an

[27] 29 CFR 2590.715–2704 and 45 CFR 147.108. *See also* Q2 in Affordable Care Act Implementation FAQs Part XXII, available at *http://www.dol.gov/ebsa/faqs/faq-aca22.html* and *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQs-Part-XXII-FINAL.pdf* regarding the prohibition against offering employees with high claims risk a choice between enrollment in its standard group health plan or cash.

[28] 26 CFR 54.9802–1, 29 CFR 2590.702, and 45 CFR 146.121.

option to offer additional workers health coverage comparable to that which they already offer, rather than to serve as a substitute for primary coverage.

Other commenters asked the Departments to clarify that any Code section 4980H-related requirements are met in instances in which the employer has no full-time employees. These final regulations clarify that, in the event that the employer has no full-time employees, but the plan covers retirees (and their dependents), or covers part-time employees (and their dependents), the requirements to provide coverage that is substantially similar to coverage that the employer would need to offer to its full-time employees in order not to be subject to a potential assessable payment section 4980H(a) of the Code, that provides minimum value, and that is reasonably expected to be affordable, are all considered satisfied.

ii. Limited Eligibility

Second, eligibility for the limited wraparound coverage must be limited to employees who are not full-time employees (and their dependents), or who are retirees (and their dependents). In the preamble to the 2014 proposed regulations, the Departments stated that ''full-time employees'' would be employees who are reasonably expected to work at least an average of 30 hours per week. Plans and issuers would not be required to define ''full-time employees'' strictly in accordance with the rules of Code section 4980H, but employers could rely on the Code section 4980H definition, or any reasonable interpretation of who is reasonably expected to work an average of 30 hours a week, for purposes of this provision. The Departments invited comment on this approach.

Some commenters argued that plan sponsors should be able to offer limited coverage that wraps around eligible individual health insurance to full-time employees. The Departments do not adopt this change. A rationale for treating the wraparound coverage as an excepted benefit is that recipients will be able to use this limited type of coverage in conjunction with individual coverage purchased through an Exchange without being disqualified from claiming the premium tax credit. This may be attractive to employers as a means of providing some health coverage to employees who may not otherwise have been offered coverage, such as part-time employees or retirees. However, this is not intended to incentivize or permit employers to fail to offer minimum essential coverage to full-time employees, a population to whom employers have typically offered coverage.

One commenter sought clarification that plan sponsors offering limited wraparound coverage may rely on a determination of full-time employee status at the time of enrollment. The Departments agree that employers offering limited wraparound coverage will make determinations based on the expected status of an employee in the future as a part-time employee versus full-time employee. Accordingly, the final regulations include a clarification that this standard is met if it is reasonably determined at the time of enrollment that the employee will on average work fewer than 30 hours per week during the plan year. Moreover, for purposes of administering the premium tax credit under section 36B of the Code, if it is reasonably determined at the time of enrollment that the employee will on average work fewer than 30 hours per week during the plan year and therefore the employee is offered limited coverage that wraps around eligible individual health insurance, but the employee later during the coverage period meets the definition of a full-time employee, the coverage will not fail to be excepted benefits and the employee will not become ineligible for premium tax credits for the remainder of the plan year solely because the original reasonable determination proves incorrect. Whether, to be reasonable, that determination would need to be changed for future plan years will depend on all the facts and circumstances.

Several commenters sought clarification regarding the definition of ''dependent.'' Specifically, commenters asked whether the term ''dependent'' includes ''spouses'' (as the term is defined under 26 CFR 54.9801–2, 29 CFR 2590.701–2, and 45 CFR 144.103 for purposes of chapter 100 of the Code, part 7 of ERISA, and title XXVII of the PHS Act), or whether it is limited to ''dependent children'' (as the term is defined under Code section 4980H and its implementing regulations). These final regulations clarify that, for purposes of excepted benefits, the term ''dependent'' is defined by reference to the definitions section governing the market reforms (that is, 26 CFR 54.9801–2, 29 CFR 2590.701–2, and 45 CFR 144.103) and not the employer shared responsibility provisions under Code section 4980H and its implementing regulations. Accordingly, spouses may qualify as dependents to the extent they are eligible for coverage under the terms of the limited wraparound coverage. Moreover, some commenters sought clarification as to whether a plan could permit enrollment of a spouse beneficiary without enrollment of an employee participant. While nothing in these final regulations, nor any other provision of ERISA, the Code, or the PHS Act requires plans to enroll spouse beneficiaries for coverage (other than COBRA coverage) if the participant does not enroll, nothing in these provisions prohibits plans from enrolling such a spouse if plans choose to do so.[29]

iii. Offer of Other Group Health Plan Coverage

Third, under the 2014 proposed regulations, other group health plan coverage, not limited to excepted benefits, would be required to be offered to the individuals eligible for the wraparound coverage. Only individuals eligible for other group health plan coverage could be eligible for the wraparound coverage.

Some commenters contended that plan sponsors should not be required to offer other group health plan coverage to individuals who are not full-time employees. This provision does not require employers to offer group health plan coverage to workers who are not full-time employees but it does limit the ability to offer the wrap-around coverage only to workers otherwise eligible for other group health plan coverage. That is because this provision is not intended to create an opportunity or incentive for employers to discontinue providing group health plan coverage and to encourage its employees to obtain coverage through the Exchange subsidized through the premium tax credit while still receiving meaningful employer-provided health benefits. Further, the same standard is applied in order for a health FSA to be an excepted benefit, and this provision in the final regulation is intended to allow employers to offer a limited benefit, similar to a health FSA.

2. Limited Wraparound Coverage Offered in Conjunction With Multi-State Plan Coverage

For limited coverage that wraps around Multi-State Plan coverage, four requirements would be required to be met under the 2014 proposed regulations.

i. OPM Review and Approval

The first of the four standards would require that the limited wraparound

[29] *See* ERISA section 601, Code section 4980B and PHS Act section 2201, which requires enrollment of qualified beneficiaries (including spouses) after a loss of coverage in connection with a qualifying event.

coverage be specifically designed and approved by the Office of Personnel Management (OPM) to provide benefits in conjunction with coverage under a Multi-State Plan authorized under section 1334 of the Affordable Care Act. Several comments sought clarification as to whether OPM would be designing limited wraparound coverage, or whether that would more appropriately be the role of the plan sponsor or health insurance issuer. These final rules include a modification to clarify that OPM would not design limited wraparound coverage. Instead, OPM's role would be to review and approve such coverage. Moreover, as indicated in the preamble to the 2014 proposed regulations, with respect to the maintenance of effort standard (discussed below), OPM's role is to ensure that group health plans and health insurance issuers offering Multi-State Plan wraparound coverage have a reasonable process in place for assuring employers meet the criteria set forth in these regulations for excepted benefits.

ii. Maintenance of Effort

The 2014 proposed regulations provided that the employer would have had to offer coverage in the plan year that began in 2014 that is substantially similar to coverage that the employer would need to have offered to its full-time employees in order to not be subject to an assessable payment under the employer shared responsibility provisions of section 4980H(a) of the Code, if such provisions had been applicable. In addition, in the plan year that began in 2014, the employer would have had to have offered coverage to a substantial portion of full-time employees that provided ''minimum value'' (as defined in section 36B(c)(2)(C)(ii) of the Code) and was affordable (applying the safe harbor rules for determining affordability set forth in 26 CFR 54.4980H–5(e)(2)). Finally, for the duration of the pilot program (described later in this preamble), the employer's annual aggregate contributions for both primary and limited wraparound coverage must be substantially the same as the employer's aggregate contributions for coverage offered to full-time employees in 2014. The Departments stated in the preamble that they were considering interpreting this ''substantially the same'' condition as a percentage (for example, 80 or 90 percent) and potentially applying it on a per-worker basis to allow for fluctuations in an employer's workforce.

Citing that some employers may have made changes to their coverage in 2014 because Exchange coverage was first available in 2014, several commenters requested that plan sponsors be permitted to use either 2013 or 2014 as the base year for this maintenance of effort requirement set forth in these second and third requirements for limited coverage that wraps around Multi-State Plan coverage. These final regulations adopt this suggestion.

Other comments stated that an employer's annual aggregate contribution toward primary and limited wraparound coverage should include any assessable payments under Code section 4980H owed by the employer. An applicable large employer may become subject to an assessable payment if it fails to offer minimum essential coverage to its full-time employees and one or more of those employees obtains a premium tax credit, or it fails to provide a full-time employee minimum essential coverage that provides minimum value and is affordable for that employee and that employee obtains a premium tax credit. In neither case does the payment of an assessable payment provide coverage to the employee or otherwise assist that employee in obtaining coverage. Nor does the fact that the failure to provide coverage may permit the employee to obtain the premium tax credit mean that the resulting fee is contributing toward that employee's health coverage. The final regulations, therefore, do not make this change.

Some comments sought clarification regarding whether the employer's annual aggregate contributions for both primary and limited wraparound coverage must be substantially the same as the employer's aggregate contributions for coverage offered to full-time employees in 2013 or 2014. Some requested OPM be given discretion to determine whether the maintenance of effort standard has been met by each employer. Others requested a threshold of 60 percent in determining whether this standard has been met. Many factors, including fluctuations in workforce size, cost of coverage, and employer contributions towards other fringe benefits may affect employer contributions from year to year. The final regulations retain the standard set forth in the 2014 proposed regulations that the employer's annual aggregate contributions for both primary and limited wraparound coverage must be substantially the same as the employer's aggregate contributions for coverage offered to full-time employees in 2014 (or 2013). For this purpose, the Departments consider this ''substantially the same'' condition to be met if contributions were at least 80 percent of contributions made in 2013 or 2014, applied on an average, full-time worker basis (to allow for fluctuations in an employer's workforce). OPM may make a finding, based on all the facts and circumstances, that other employer contribution arrangements also meet this standard. OPM may provide additional guidance (such as examples and safe harbors) in the future.

As with coverage that wraps around eligible individual health insurance (or that wraps around Basic Health Plan coverage), commenters asked the Departments to clarify that any Code section 4980H-related requirements are met in instances in which the employer has no full-time employees. These final regulations adopt a parallel clarification for coverage that wraps around Multi-State Plan coverage as for coverage that wraps around eligible individual health insurance (or that wraps around Basic Health Plan coverage). That is, while these final regulations do not permit new employers to provide wraparound coverage as an excepted benefit, these final regulations clarify that, in the event that the employer has no full-time employees, but the plan covers retirees (and their dependents), or covers part-time employees (and their dependents), the requirements that, in the plan year that began in 2013 or 2014, the employer would have had to have offered coverage to a substantial portion of full-time employees that provided minimum value and was affordable is met, as is the requirement that, for the duration of the pilot program, the employer's annual aggregate contributions for both primary and limited wraparound coverage must be substantially the same as the employer's aggregate contributions for coverage offered to full-time employees in 2013 or 2014.

For purposes of administering this provision with respect to limited wraparound coverage offered in conjunction with Multi-State Plan coverage, the Departments had proposed that the term ''full-time employee'' means a ''full-time employee'' as defined in 26 CFR 54.4980H–1(a)(21) who is not in a limited non-assessment period for certain employees (as defined in 26 CFR 54.4980H–1(a)(26)). Moreover, if a plan or issuer providing limited wraparound coverage takes reasonable steps to ensure that employers disclose necessary information regarding their coverage offered and contribution levels for 2013 or 2014 to the plan or issuer, the plan or issuer may rely on reasonable representations by employers regarding this information, unless the plan or issuer has specific knowledge to the contrary. Consistent with the reporting

and evaluation criteria described later in this preamble, the Departments stated that OPM may verify that plans and issuers have reasonable mechanisms in place to ensure that contributing employers meet these standards.

E. Reporting

The fifth and final requirement for limited wraparound coverage to qualify as excepted benefits under the 2014 proposed regulations is a reporting requirement, for group health plans and group health insurance issuers, as well as group health plan sponsors. The final regulations adopt the approach outlined in the 2014 proposed regulations.

A self-insured group health plan, or a health insurance issuer offering or proposing to offer Multi-State Plan wraparound coverage, would report to OPM, in a form and manner specified in OPM guidance, information OPM reasonably requires to determine whether the plan or issuer qualifies to offer such coverage or complies with the applicable requirements of this section.

In addition, the plan sponsor of any group health plan offering any type of limited wraparound coverage would report to HHS, in a form and manner specified in guidance, information HHS reasonably requires to determine whether the exception for limited wraparound coverage is allowing plan sponsors to provide workers with comparable benefits whether enrolled in minimum essential coverage under a group health plan offered by the plan sponsor, or enrolled in eligible individual health insurance, BHP coverage, or Multi-State Plan coverage, with additional limited wraparound coverage offered by the plan sponsor, without causing an erosion of coverage.

Commenters requested that there be coordination of any reporting requirements with existing reporting requirements and some made specific suggestions regarding data elements that should be required for reporting. The Departments agree with the principle of non-duplication and will seek comment on any new reporting requirements through the process established by Paperwork Reduction Act of 1995.

F. Pilot Program With Sunset Date

Under the 2014 proposed regulations, limited wraparound coverage would be permitted under a pilot program for a limited time. Specifically, this type of wraparound coverage could be offered as excepted benefits if it is first offered no later than December 31, 2017, and ends on the later of: (1) The date that is three years after the date wraparound coverage is first offered; or (2) the date on which the last collective bargaining agreement relating to the plan terminates after the date wraparound coverage is first offered (determined without regard to any extension agreed to after the date the wraparound coverage is first offered). The 2014 proposed regulations invited comments on this time frame for applicability, including whether the Departments should have the option to provide for an earlier termination date.

Many commenters cited uncertainty and the lack of lead time as negatively impacting full utilization of the pilot program and requested a longer implementation period. The Departments agree that the timing for publication of these final rules makes 2015 plan year implementation impossible or impracticable for most plans. Accordingly, these final rules specify that wraparound coverage could be offered as excepted benefits if the coverage is first offered no earlier than January 1, 2016 and no later than December 31, 2018. The end date is unchanged from the proposal, that is the later of: (1) The date that is three years after the date wraparound coverage is first offered; or (2) the date on which the last collective bargaining agreement relating to the plan terminates after the date wraparound coverage is first offered (determined without regard to any extension agreed to after the date the wraparound coverage is first offered).

III. Economic Impact and Paperwork Burden

A. Summary

As discussed in detail above, these regulations amend the definition of ''limited excepted benefits'' in the group market to provide plan sponsors with two options to offer limited wraparound coverage to certain individuals. Under the first option, a plan sponsor could offer limited benefits provided through a group health plan that wraps around eligible individual health insurance to employees who are not full-time employees (and their dependents), or who are retirees (and their dependents). For this purpose, full-time employees are employees who are reasonably expected to work at least an average of 30 hours per week. Under the second option, the limited wraparound coverage that satisfies the requirements outlined in the regulations must be approved by OPM and be offered in conjunction with Multi-State Plan coverage authorized under section 1334 of the Affordable Care Act. Under the first option, the limited benefits would also be permitted to wrap around the Basic Health Program authorized under section 1331 of the Affordable Care Act.

B. Executive Orders 12866 and 13563—Departments of Labor and HHS

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a regulation: (1) Having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has determined that the action is significant within the meaning of section 3(f)(4) of Executive Order 12866, and the Departments accordingly provide the following assessment of its potential benefits and costs.

The Departments recognize that many plan sponsors provide comprehensive health benefits to their workers. One objective of the Affordable Care Act is to allow individuals with comprehensive health insurance plans to maintain their current level of benefits. Some employers are interested in offering wraparound coverage to employees who are enrolled in a Multi-State Plan authorized under section 1334 of the Affordable Care Act or to part-time employees. These regulations provide two options to employers that clarify the circumstances under which plan sponsors can provide to their employees such limited wraparound coverage that qualifies as an excepted benefit.

The cost (and Federal budget impact [30]) of these final regulations is difficult to quantify. The Departments solicited comments in the regulatory impact analysis section of the preamble to the 2014 proposed regulations. Comments were invited generally and on specific questions, including: To what degree, if any, might this regulation increase employers' propensity to provide health insurance? To what extent, if any, this proposed regulation could affect plan sponsors' decision making? Are there any particular sectors of the economy in which employers will be more or less inclined to pursue wraparound coverage programs?

Comments were also invited on the effects of the proposal and the Departments requested detailed data that would inform the following questions: What will be the impact of limiting the cost of the wraparound coverage to $2,500 per employee (and any covered dependents)? How many employers offer coverage that provides minimum value and is affordable for a substantial portion (under the first option) or 95 percent (under the second option) of employees who are eligible for coverage? To what extent would premiums for comprehensive health coverage change in the presence and absence of this rule?

No specific data were received in response to this solicitation, although several commented that limited conditions under which wraparound coverage could be offered were overly restrictive and made it of limited use. Others commented that the uncertainty of the life span of a time-limited pilot program would minimize uptake of the offering of limited wraparound coverage.

These final regulations generally implement the 2014 proposed regulations with marginal change, as discussed above. Both options are designed so that wraparound coverage could not replace employer-sponsored primary group coverage. Under the individual health insurance wraparound option, the employer also must offer other group health coverage that is not limited to excepted benefits and provides minimum value to the class of participants offered the wraparound coverage by reason of their employment. Only individuals who are not full-time employees and who are eligible for other group health plan coverage may be eligible for the wraparound coverage. Also, the employer coverage must substantially satisfy the employer shared responsibility provisions of Code section 4980H(a), and the coverage would have to be affordable for at least 95 percent of full-time employees.

Under the Multi-State Plan wraparound option, the employer would have to offer coverage in the plan year beginning in 2013 or 2014 that would have substantially satisfied the employer shared responsibility provisions of Code section 4980H(a) if the provision had been applicable, provided minimum value, and been affordable for a substantial portion of its full-time employees.[31] The employer's annual contributions for both its primary and wraparound coverage must be substantial.

The final regulations permit limited wraparound coverage to be excepted benefits if initially offered between January 1, 2016 and December 31, 2018, and continuing for the longer of three years or the date on which the last collective bargaining agreement relating to the group health plan terminates. In addition, the maximum benefit cannot exceed the greater of the annual health FSA contribution limit ($2,550 for 2015), indexed; or 15 percent of the firm's primary plan cost. In the 2014 proposed regulations the maximum benefit was the annual health FSA contribution limits ($2,550 for 2015), indexed.

As with the 2014 proposed regulations, the decision to offer the limited wraparound coverage remains optional. There is greater administrative complexity associated with the wraparound coverage than primary coverage alone or primary coverage plus a health FSA which offers similar benefits. Given a choice, some plan sponsors may choose to increase the affordability of their primary coverage rather than offer limited wraparound coverage. Some plan sponsors may not have that choice: The employers may not be in a financial position to make their primary health plans affordable to more workers, let alone contribute to wraparound coverage. Employers may also continue to simply not provide employees with affordable, minimum value coverage, allowing their workers to purchase coverage and potentially qualify for premium tax credits through an Exchange with no additional wraparound benefit, and these employers would continue to make any employer shared responsibility payments as applicable, resulting in no additional cost to the employer or the Federal government.

The option to offer limited wraparound coverage would not encumber any currently existing means by which employers can provide comprehensive health insurance coverage to their employees in compliance with the Affordable Care Act. Rather, it would clarify two additional, alternative means of doing so.

For the foregoing reasons, the Departments have reached the conclusion that the impact of the benefits, costs, and transfers will be limited. The Departments do not expect many plans to offer limited wraparound coverage, and will monitor usage and impact during the pilot program through reporting, as discussed above.

C. Paperwork Reduction Act—Department of Labor and Department of the Treasury

These final regulations are not subject to the requirements of the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3501 *et seq.*), because it does not contain a collection of information as defined in 44 U.S.C. 3502(3).

D. Paperwork Reduction Act—Department of HHS

The final rule is not subject to the requirements of the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3501 *et seq.*), because it does not contain a collection of information as defined in 44 U.S.C. 3502(3). An analysis under the PRA will be conducted in the future for any future guidance establishing a collection of information related to the rule.

E. Regulatory Flexibility Act—Departments of Labor and HHS

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency certifies that a proposed rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of RFA requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the notice of

[30] As with other group health coverage, employer contributions to the limited wraparound coverage would be excluded from employee income for tax purposes. Similar to the cost of the proposal, the budget implications of adding limited wraparound coverage as a form of excepted benefits depends on the number of employers that elect either option and the number of employees that in turn receive it.

[31] The substantial level was included to help minimize the implications for the primary plan's risk pool by preventing a large number of low-wage workers from leaving the primary plan for Exchange coverage.

proposed rulemaking describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations and governmental jurisdictions.

For purposes of the RFA, the Departments continue to consider a ''small entity'' to be an employee benefit plan with fewer than 100 participants. The basis for this definition is found in section 104(a)(2) of the act, which permits the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants. Pursuant to the authority of section 104(a)(3), the Department has previously issued at 29 CFR 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46 and 2520.104b–10 certain simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans covering fewer than 100 participants and satisfying certain other requirements.

Further, while some large employers may have small plans, in general small employers maintain most small plans. Thus, the Departments believe that assessing the impact of these final regulations on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business that is based on size standards promulgated by the Small Business Administration (13 CFR 121.201) pursuant to the Small Business Act (15 U.S.C. 631 *et seq.*). The Departments requested comment on the appropriateness of the size standard at the proposed rule phase and received no responses.

Because these final regulations impose no additional costs on employers or plans, the Departments believe that they do not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to section 605(b) of the RFA, the Departments hereby certify that these final regulations will not have a significant economic impact on a substantial number of small entities.

F. Special Analyses—Department of the Treasury

For purposes of the Department of the Treasury it has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these final regulations, and, because these final regulations do not impose a collection of information on small entities, an analysis under the RFA is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Small Business Administration for comment on its impact on small business.

G. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*), as well as Executive Order 12875, these final regulations do not include any federal mandate that may result in expenditures by State, local, or tribal governments, or the private sector, which may impose an annual burden of $100 million adjusted for inflation since 1995.

H. Federalism

Executive Order 13132 outlines fundamental principles of federalism. It requires adherence to specific criteria by federal agencies in formulating and implementing policies that have ''substantial direct effects'' on the states, the relationship between the national government and states, or on the distribution of power and responsibilities among the various levels of government. Federal agencies promulgating regulations that have these federalism implications must consult with state and local officials, and describe the extent of their consultation and the nature of the concerns of state and local officials in the preamble to the final regulation.

In the Departments' view, the final regulations, by clarifying policy regarding certain expected benefits options that can be designed by employers to support their employees, will provide more certainty to employers and others in the regulated community as well as states and political subdivisions regarding the treatment of such arrangements under ERISA. Accordingly, the Departments will continue to affirmatively engage in outreach with officials of state and political subdivisions regarding excepted benefits and seek their input on any federalism implications that they believe may be presented.

I. Congressional Review Act

These final regulations are subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), which specifies that, before a rule can take effect, the Federal agency promulgating the rule shall submit to each House of the Congress and to the Comptroller General a report containing a copy of the rule along with other specified information. These final regulations are being transmitted to Congress and the Comptroller General for review.

IV. Statutory Authority

The Department of the Treasury regulations are adopted pursuant to the authority contained in sections 7805 and 9833 of the Code.

The Department of Labor regulations are adopted pursuant to the authority contained in 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Public Law 110–343, 122 Stat. 3765; Public Law 110–460, 122 Stat. 5123; Secretary of Labor's Order 1–2011, 77 FR 1088 (January 9, 2012).

The Department of Health and Human Services regulations are adopted pursuant to the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements, and State regulation of health insurance.

John M. Dalrymple,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

Approved: March 11, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

Signed this 11th day of March, 2015.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Dated: March 11, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: March 11, 2015.

Sylvia Burwell,

Secretary, Department of Health and Human Services

Department of the Treasury

Internal Revenue Service

26 CFR Chapter I

Accordingly, 26 CFR part 54 is amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 54 continues to read in part as follows:

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

Section 54.9831–1 also issued under 26 U.S.C. 9833; * * *

■ **Par 2.** Section 54.9831–1 is amended by adding paragraph (c)(3)(vii) to read as follows:

§ 54.9831–1 Special rules relating to group health plans.

* * * * *

(c) * * *

(3) * * *

(vii) *Limited wraparound coverage.* Limited benefits provided through a group health plan that wrap around eligible individual health insurance (or Basic Health Plan coverage described in section 1331 of the Patient Protection and Affordable Care Act); or that wrap around coverage under a Multi-State Plan described in section 1334 of the Patient Protection and Affordable Care Act, collectively referred to as ''limited wraparound coverage,'' are excepted benefits if all of the following conditions are satisfied. For this purpose, eligible individual health insurance is individual health insurance coverage that is not a grandfathered health plan (as described in section 1251 of the Patient Protection and Affordable Care Act and 29 CFR 2590.715–1251), not a transitional individual health insurance plan (as described in the March 5, 2014 Insurance Standards Bulletin Series—Extension of Transitional Policy through October 1, 2016), and does not consist solely of excepted benefits (as defined in paragraph (c) of this section).

(A) *Covers additional benefits.* The limited wraparound coverage provides meaningful benefits beyond coverage of cost sharing under either the eligible individual health insurance, Basic Health Program coverage, or Multi-State Plan coverage. The limited wraparound coverage must not provide benefits only under a coordination-of-benefits provision and must not consist of an account-based reimbursement arrangement.

(B) *Limited in amount.* The annual cost of coverage per employee (and any covered dependents, as defined in § 54.9801–2) under the limited wraparound coverage does not exceed the greater of the amount determined under either paragraph (c)(3)(vii)(B)(*1*) or (*2*) of this section. Making a determination regarding the annual cost of coverage per employee must occur on an aggregate basis relying on sound actuarial principles.

(*1*) The maximum permitted annual salary reduction contribution toward health flexible spending arrangements, indexed in the manner prescribed under section 125(i)(2). For this purpose, the cost of coverage under the limited wraparound includes both employer and employee contributions towards coverage and is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(*2*) Fifteen percent of the cost of coverage under the primary plan. For this purpose, the cost of coverage under the primary plan and under the limited wraparound coverage includes both employer and employee contributions towards the coverage and each is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(C) *Nondiscrimination.* All of the conditions of this paragraph (c)(3)(vii)(C) are satisfied.

(*1*) *No preexisting condition exclusion.* The limited wraparound coverage does not impose any preexisting condition exclusion, consistent with the requirements of section 2704 of the PHS Act (incorporated by reference into section 9815) and 29 CFR 2590.715–2704.

(*2*) *No discrimination based on health status.* The limited wraparound coverage does not discriminate against individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual, as defined in § 54.9801–2), consistent with the requirements of section 9802 and section 2705 of the PHS Act (incorporated by reference into section 9815).

(*3*) *No discrimination in favor of highly compensated individuals.* Neither the limited wraparound coverage, nor any other group health plan coverage offered by the plan sponsor, fails to comply with section 2716 of the PHS Act (incorporated by reference into section 9815) or fails to be excludible from income for any individual due to the application of section 105(h) (as applicable).

(D) *Plan eligibility requirements.* Individuals eligible for the wraparound coverage are not enrolled in excepted benefit coverage under paragraph (c)(3)(v) of this section (relating to health FSAs). In addition, the conditions set forth in either paragraph (c)(3)(vii)(D)(*1*) or (*2*) of this section are met.

(*1*) *Limited wraparound coverage that wraps around eligible individual insurance for persons who are not full-time employees.* Coverage that wraps around eligible individual health insurance (or that wraps around Basic Health Plan coverage) must satisfy all of the conditions of this paragraph (c)(3)(vii)(D)(*1*).

(*i*) For each year for which limited wraparound coverage is offered, the employer that is the sponsor of the plan offering limited wraparound coverage, or the employer participating in a plan offering limited wraparound coverage, offers to its full-time employees coverage that is substantially similar to coverage that the employer would need to offer to its full-time employees in order not to be subject to a potential assessable payment under the employer shared responsibility provisions of section 4980H(a), if such provisions were applicable; provides minimum value (as defined in section 36B(c)(2)(C)(ii)); and is reasonably expected to be affordable (applying the safe harbor rules for determining affordability set forth in § 54.4980H–5(e)(2)). If a plan or issuer providing limited wraparound coverage takes reasonable steps to ensure that employers disclose to the plan or issuer necessary information regarding their coverage offered and affordability information, the plan or issuer is permitted to rely on reasonable representations by employers regarding this information, unless the plan or issuer has specific knowledge to the contrary. In the event that the employer that is the sponsor of the plan offering

wraparound coverage, or the employer participating in a plan offering wraparound coverage, has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (c)(3)(vii)(D)(*1*)(*i*) is considered satisfied.

(*ii*) Eligibility for the limited wraparound coverage is limited to employees who are reasonably determined at the time of enrollment to not be full-time employees (and their dependents, as defined in § 54.9801–2), or who are retirees (and their dependents, as defined in § 54.9801–2). For this purpose, full-time employees are employees who are reasonably expected to work at least an average of 30 hours per week.

(*iii*) Other group health plan coverage, not limited to excepted benefits, is offered to the individuals eligible for the limited wraparound coverage. Only individuals eligible for the other group health plan coverage are eligible for the limited wraparound coverage.

(*2*) *Limited coverage that wraps around Multi-State Plan coverage.* Coverage that wraps around Multi-State Plan coverage must satisfy all of the conditions of this paragraph (c)(3)(vii)(D)(*2*). For this purpose, the term ''full-time employee'' means a ''full-time employee'' as defined in § 54.4980H–1(a)(21) who is not in a limited non-assessment period for certain employees (as defined in § 54.4980H–1(a)(26)). Moreover, if a plan or issuer providing limited wraparound coverage takes reasonable steps to ensure that employers disclose to the plan or issuer necessary information regarding their coverage offered and contribution levels for 2013 or 2014 (as applicable), and for any year in which limited wraparound coverage is offered, the plan or issuer is permitted to rely on reasonable representations by employers regarding this information, unless the plan or issuer has specific knowledge to the contrary. Consistent with the reporting and evaluation criteria of paragraph (c)(3)(vii)(E) of this section, the Office of Personnel Management may verify that plans and issuers have reasonable mechanisms in place to ensure that contributing employers meet these standards.

(*i*) The limited wraparound coverage is reviewed and approved by the Office of Personnel Management, consistent with the reporting and evaluation criteria of paragraph (c)(3)(vii)(E) of this section, to provide benefits in conjunction with coverage under a Multi-State Plan authorized under section 1334 of the Patient Protection and Affordable Care Act. The Office of Personnel Management may revoke approval if it determines that continued approval is inconsistent with the reporting and evaluation criteria of paragraph (c)(3)(vii)(E) of this section.

(*ii*) The employer offered coverage in the plan year that began in either 2013 or 2014 that is substantially similar to coverage that the employer would need to have offered to its full-time employees in order to not be subject to an assessable payment under the employer shared responsibility provisions of section 4980H(a), if such provisions had been applicable. In the event that a plan that offered coverage in 2013 or 2014 has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (c)(3)(vii)(D)(*2*)(*ii*) is considered satisfied.

(*iii*) In the plan year that began in either 2013 or 2014, the employer offered coverage to a substantial portion of full-time employees that provided minimum value (as defined in section 36B(c)(2)(C)(ii)) and was affordable (applying the safe harbor rules for determining affordability set forth in § 54.4980H–5(e)(2)). In the event that the plan that offered coverage in 2013 or 2014 has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (c)(3)(vii)(D)(*2*)(*iii*) is considered satisfied.

(*iv*) For the duration of the pilot program, as described in paragraph (c)(3)(vii)(F) of this section, the employer's annual aggregate contributions for both primary and limited wraparound coverage are substantially the same as the employer's total contributions for coverage offered to full-time employees in 2013 or 2014.

(E) *Reporting*—(*1*) *Reporting by group health plans and group health insurance issuers.* A self-insured group health plan, or a health insurance issuer, offering or proposing to offer limited wraparound coverage in connection with Multi-State Plan coverage pursuant to paragraph (c)(3)(vii)(D)(*2*) of this section reports to the Office of Personnel Management (OPM), in a form and manner specified in guidance, information OPM reasonably requires to determine whether the plan or issuer qualifies to offer such coverage or complies with the applicable requirements of this section.

(*2*) *Reporting by group health plan sponsors.* The plan sponsor of a group health plan offering limited wraparound coverage under paragraph (c)(3)(vii) of this section, must report to the Department of Health and Human Services (HHS), in a form and manner specified in guidance, information HHS reasonably requires.

(F) *Pilot program with sunset.* The provisions of paragraph (c)(3)(vii) of this section apply to limited wraparound coverage that is first offered no earlier than January 1, 2016 and no later than December 31, 2018 and that ends no later than on the later of:

(*1*) The date that is three years after the date limited wraparound coverage is first offered; or

(*2*) The date on which the last collective bargaining agreement relating to the plan terminates after the date limited wraparound coverage is first offered (determined without regard to any extension agreed to after the date limited wraparound coverage is first offered).

* * * * *

Department of Labor

Employee Benefits Security Administration

29 CFR Chapter XXV

For the reasons stated in the preamble, the Department of Labor amends 29 CFR part 2590 as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 3. The authority citation for Part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1185c, 1185d, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L. 104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3765; Pub. L. 110–460, 122 Stat. 5123; Secretary of Labor's Order 1–2011, 77 FR 1088 (January 9, 2012).

■ 4. Section 2590.732 is amended by adding paragraph (c)(3)(vii) to read as follows:

§ 2590.732 Special rules relating to group health plans.

* * * * *

(c) * * *

(3) * * *

(vii) *Limited wraparound coverage.* Limited benefits provided through a group health plan that wrap around eligible individual health insurance (or Basic Health Plan coverage described in section 1331 of the Patient Protection and Affordable Care Act); or that wrap around coverage under a Multi-State Plan described in section 1334 of the Patient Protection and Affordable Care Act, collectively referred to as ''limited wraparound coverage,'' are excepted benefits if all of the following conditions are satisfied. For this

purpose, eligible individual health insurance is individual health insurance coverage that is not a grandfathered health plan (as described in section 1251 of the Patient Protection and Affordable Care Act and § 2590.715–1251), not a transitional individual health insurance plan (as described in the March 5, 2014 Insurance Standards Bulletin Series—Extension of Transitional Policy through October 1, 2016), and does not consist solely of excepted benefits (as defined in paragraph (c) of this section).

(A) *Covers additional benefits.* The limited wraparound coverage provides meaningful benefits beyond coverage of cost sharing under either the eligible individual health insurance, Basic Health Program coverage, or Multi-State Plan coverage. The limited wraparound coverage must not provide benefits only under a coordination-of-benefits provision and must not consist of an account-based reimbursement arrangement.

(B) *Limited in amount.* The annual cost of coverage per employee (and any covered dependents, as defined in § 2590.701–2) under the limited wraparound coverage does not exceed the greater of the amount determined under either paragraph (c)(3)(vii)(B)(*1*) or (*2*) of this section. Making a determination regarding the annual cost of coverage per employee must occur on an aggregate basis relying on sound actuarial principles.

(*1*) The maximum permitted annual salary reduction contribution toward health flexible spending arrangements, indexed in the manner prescribed under section 125(i)(2) of the Code. For this purpose, the cost of coverage under the limited wraparound includes both employer and employee contributions towards coverage and is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(*2*) Fifteen percent of the cost of coverage under the primary plan. For this purpose, the cost of coverage under the primary plan and under the limited wraparound coverage includes both employer and employee contributions towards the coverage and each is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(C) *Nondiscrimination.* All of the conditions of this paragraph (c)(3)(vii)(C) are satisfied.

(*1*) *No preexisting condition exclusion.* The limited wraparound coverage does not impose any preexisting condition exclusion, consistent with the requirements of section 2704 of the PHS Act (incorporated by reference into section 715 of ERISA) and § 2590.715–2704.

(*2*) *No discrimination based on health status.* The limited wraparound coverage does not discriminate against individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual, as defined in § 2590.701–2), consistent with the requirements of section 702 of ERISA and section 2705 of the PHS Act (incorporated by reference into section 715 of ERISA).

(*3*) *No discrimination in favor of highly compensated individuals.* Neither the limited wraparound coverage, nor any other group health plan coverage offered by the plan sponsor, fails to comply with section 2716 of the PHS Act (incorporated by reference into section 715 of ERISA) or fails to be excludible from income for any individual due to the application of section 105(h) of the Code (as applicable).

(D) *Plan eligibility requirements.* Individuals eligible for the wraparound coverage are not enrolled in excepted benefit coverage under paragraph (c)(3)(v) of this section (relating to health FSAs). In addition, the conditions set forth in either paragraph (c)(3)(vii)(D)(*1*) or (*2*) of this section are met.

(*1*) *Limited wraparound coverage that wraps around eligible individual insurance for persons who are not full-time employees.* Coverage that wraps around eligible individual health insurance (or that wraps around Basic Health Plan coverage) must satisfy all of the conditions of this paragraph (c)(3)(vii)(D)(*1*).

(*i*) For each year for which limited wraparound coverage is offered, the employer that is the sponsor of the plan offering limited wraparound coverage, or the employer participating in a plan offering limited wraparound coverage, offers to its full-time employees coverage that is substantially similar to coverage that the employer would need to offer to its full-time employees in order not to be subject to a potential assessable payment under the employer shared responsibility provisions of section 4980H(a) of the Code, if such provisions were applicable; provides minimum value (as defined in section 36B(c)(2)(C)(ii) of the Code); and is reasonably expected to be affordable (applying the safe harbor rules for determining affordability set forth in 26 CFR 54.4980H–5(e)(2)). If a plan or issuer providing limited wraparound coverage takes reasonable steps to ensure that employers disclose to the plan or issuer necessary information regarding their coverage offered and affordability information, the plan or issuer is permitted to rely on reasonable representations by employers regarding this information, unless the plan or issuer has specific knowledge to the contrary. In the event that the employer that is the sponsor of the plan offering wraparound coverage, or the employer participating in a plan offering wraparound coverage, has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (c)(3)(vii)(D)(*1*)(*i*) is considered satisfied.

(*ii*) Eligibility for the limited wraparound coverage is limited to employees who are reasonably determined at the time of enrollment to not be full-time employees (and their dependents, as defined in § 2590.701–2), or who are retirees (and their dependents, as defined in § 2590.701–2). For this purpose, full-time employees are employees who are reasonably expected to work at least an average of 30 hours per week.

(*iii*) Other group health plan coverage, not limited to excepted benefits, is offered to the individuals eligible for the limited wraparound coverage. Only individuals eligible for the other group health plan coverage are eligible for the limited wraparound coverage.

(*2*) *Limited coverage that wraps around Multi-State Plan coverage.* Coverage that wraps around Multi-State Plan coverage must satisfy all of the conditions of this paragraph (c)(3)(vii)(D)(*2*). For this purpose, the term ''full-time employee'' means a ''full-time employee'' as defined in 26 CFR 54.4980H–1(a)(21) who is not in a limited non-assessment period for certain employees (as defined in 26 CFR 54.4980H–1(a)(26)). Moreover, if a plan or issuer providing limited wraparound coverage takes reasonable steps to ensure that employers disclose to the plan or issuer necessary information regarding their coverage offered and contribution levels for 2013 or 2014 (as applicable), and for any year in which limited wraparound coverage is offered, the plan or issuer is permitted to rely on reasonable representations by employers regarding this information, unless the plan or issuer has specific knowledge to the contrary. Consistent with the reporting and evaluation criteria of paragraph (c)(3)(vii)(E) of this section, the Office of Personnel Management may verify that plans and issuers have reasonable mechanisms in place to ensure that contributing employers meet these standards.

(*i*) The limited wraparound coverage is reviewed and approved by the Office of Personnel Management, consistent with the reporting and evaluation

criteria of paragraph (c)(3)(vii)(E) of this section, to provide benefits in conjunction with coverage under a Multi-State Plan authorized under section 1334 of the Patient Protection and Affordable Care Act. The Office of Personnel Management may revoke approval if it determines that continued approval is inconsistent with the reporting and evaluation criteria of paragraph (c)(3)(vii)(E) of this section.

(*ii*) The employer offered coverage in the plan year that began in either 2013 or 2014 that is substantially similar to coverage that the employer would need to have offered to its full-time employees in order to not be subject to an assessable payment under the employer shared responsibility provisions of section 4980H(a) of the Code, if such provisions had been applicable. In the event that a plan that offered coverage in 2013 or 2014 has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (c)(3)(vii)(D)(*2*)(*ii*) is considered satisfied.

(*iii*) In the plan year that began in either 2013 or 2014, the employer offered coverage to a substantial portion of full-time employees that provided minimum value (as defined in section 36B(c)(2)(C)(ii) of the Code) and was affordable (applying the safe harbor rules for determining affordability set forth in 26 CFR 54.4980H–5(e)(2)). In the event that the plan that offered coverage in 2013 or 2014 has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (c)(3)(vii)(D)(*2*)(*iii*) is considered satisfied.

(*iv*) For the duration of the pilot program, as described in paragraph (c)(3)(vii)(F) of this section, the employer's annual aggregate contributions for both primary and limited wraparound coverage are substantially the same as the employer's total contributions for coverage offered to full-time employees in 2013 or 2014.

(E) *Reporting*—(*1*) *Reporting by group health plans and group health insurance issuers.* A self-insured group health plan, or a health insurance issuer, offering or proposing to offer limited wraparound coverage in connection with Multi-State Plan coverage pursuant to paragraph (c)(3)(vii)(D)(*2*) of this section reports to the Office of Personnel Management (OPM), in a form and manner specified in guidance, information OPM reasonably requires to determine whether the plan or issuer qualifies to offer such coverage or complies with the applicable requirements of this section.

(*2*) *Reporting by group health plan sponsors.* The plan sponsor of a group health plan offering limited wraparound coverage under paragraph (c)(3)(vii) of this section, must report to the Department of Health and Human Services (HHS), in a form and manner specified in guidance, information HHS reasonably requires.

(F) *Pilot program with sunset*—The provisions of paragraph (c)(3)(vii) of this section apply to limited wraparound coverage that is first offered no earlier than January 1, 2016 and no later than December 31, 2018 and that ends no later than on the later of:

(*1*) The date that is three years after the date limited wraparound coverage is first offered; or

(*2*) The date on which the last collective bargaining agreement relating to the plan terminates after the date limited wraparound coverage is first offered (determined without regard to any extension agreed to after the date limited wraparound coverage is first offered).

* * * * *

Department of Health and Human Services

45 CFR Subtitle A

For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR part 146 as set forth below:

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 5. The authority citation for part 146 continues to read as follows:

Authority: Secs. 2702 through 2705, 2711 through 2723, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg–1 through 300gg–5, 300gg–11 through 300gg–23, 300gg–91, and 300gg–92).

■ 6. Section 146.145 is amended by adding paragraph (b)(3)(vii) to read as follows:

§ 146.145 Special rules relating to group health plans.

* * * * *

(b) * * *

(3) * * *

(vii) *Limited wraparound coverage.* Limited benefits provided through a group health plan that wrap around eligible individual health insurance (or Basic Health Plan coverage described in section 1331 of the Patient Protection and Affordable Care Act); or that wrap around coverage under a Multi-State Plan described in section 1334 of the Patient Protection and Affordable Care Act, collectively referred to as ''limited wraparound coverage,'' are excepted benefits if all of the following conditions are satisfied. For this purpose, eligible individual health insurance is individual health insurance coverage that is not a grandfathered health plan (as described in section 1251 of the Patient Protection and Affordable Care Act and § 147.140 of this subchapter), not a transitional individual health insurance plan (as described in the March 5, 2014 Insurance Standards Bulletin Series—Extension of Transitional Policy through October 1, 2016), and does not consist solely of excepted benefits (as defined in paragraph (b) of this section).

(A) *Covers additional benefits.* The limited wraparound coverage provides meaningful benefits beyond coverage of cost sharing under either the eligible individual health insurance, Basic Health Program coverage, or Multi-State Plan coverage. The limited wraparound coverage must not provide benefits only under a coordination-of-benefits provision and must not consist of an account-based reimbursement arrangement.

(B) *Limited in amount.* The annual cost of coverage per employee (and any covered dependents, as defined in § 144.103 of this subchapter) under the limited wraparound coverage does not exceed the greater of the amount determined under either paragraph (b)(3)(vii)(B)(*1*) or (*2*) of this section. Making a determination regarding the annual cost of coverage per employee must occur on an aggregate basis relying on sound actuarial principles.

(*1*) The maximum permitted annual salary reduction contribution toward health flexible spending arrangements, indexed in the manner prescribed under section 125(i)(2) of the Internal Revenue Code. For this purpose, the cost of coverage under the limited wraparound includes both employer and employee contributions towards coverage and is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(*2*) Fifteen percent of the cost of coverage under the primary plan. For this purpose, the cost of coverage under the primary plan and under the limited wraparound coverage includes both employer and employee contributions towards the coverage and each is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(C) *Nondiscrimination.* All of the conditions of this paragraph (b)(3)(vii)(C) are satisfied.

(*1*) *No preexisting condition exclusion.* The limited wraparound coverage does not impose any preexisting condition exclusion,

consistent with the requirements of section 2704 of the PHS Act and § 147.108 of this subchapter.

(*2*) *No discrimination based on health status.* The limited wraparound coverage does not discriminate against individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual, as defined in § 144.103 of this subchapter), consistent with the requirements of section 2705 of the PHS Act.

(*3*) *No discrimination in favor of highly compensated individuals.* Neither the limited wraparound coverage, nor any other group health plan coverage offered by the plan sponsor, fails to comply with section 2716 of the PHS Act or fails to be excludible from income for any individual due to the application of section 105(h) of the Internal Revenue Code (as applicable).

(D) *Plan eligibility requirements.* Individuals eligible for the wraparound coverage are not enrolled in excepted benefit coverage under paragraph (b)(3)(v) of this section (relating to health FSAs). In addition, the conditions set forth in either paragraph (b)(3)(vii)(D)(*1*) or (*2*) of this section are met.

(*1*) *Limited wraparound coverage that wraps around eligible individual insurance for persons who are not full-time employees.* Coverage that wraps around eligible individual health insurance (or that wraps around Basic Health Plan coverage) must satisfy all of the conditions of this paragraph (b)(3)(vii)(D)(*1*).

(*i*) For each year for which limited wraparound coverage is offered, the employer that is the sponsor of the plan offering limited wraparound coverage, or the employer participating in a plan offering limited wraparound coverage, offers to its full-time employees coverage that is substantially similar to coverage that the employer would need to offer to its full-time employees in order not to be subject to a potential assessable payment under the employer shared responsibility provisions of section 4980H(a) of the Internal Revenue Code, if such provisions were applicable; provides minimum value (as defined in section 36B(c)(2)(C)(ii) of the Internal Revenue Code); and is reasonably expected to be affordable (applying the safe harbor rules for determining affordability set forth in 26 CFR 54.4980H–5(e)(2)). If a plan or issuer providing limited wraparound coverage takes reasonable steps to ensure that employers disclose to the plan or issuer necessary information regarding their coverage offered and affordability information, the plan or issuer is permitted to rely on reasonable representations by employers regarding this information, unless the plan or issuer has specific knowledge to the contrary. In the event that the employer that is the sponsor of the plan offering wraparound coverage, or the employer participating in a plan offering wraparound coverage, has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (b)(3)(vii)(D)(*1*)(*i*) is considered satisfied.

(*ii*) Eligibility for the limited wraparound coverage is limited to employees who are reasonably determined at the time of enrollment to not be full-time employees (and their dependents, as defined in § 144.103 of this subchapter), or who are retirees (and their dependents, as defined in § 144.103 of this subchapter). For this purpose, full-time employees are employees who are reasonably expected to work at least an average of 30 hours per week.

(*iii*) Other group health plan coverage, not limited to excepted benefits, is offered to the individuals eligible for the limited wraparound coverage. Only individuals eligible for the other group health plan coverage are eligible for the limited wraparound coverage.

(*2*) *Limited coverage that wraps around Multi-State Plan coverage.* Coverage that wraps around Multi-State Plan coverage must satisfy all of the conditions of this paragraph (b)(3)(vii)(D)(*2*). For this purpose, the term ''full-time employee'' means a ''full-time employee'' as defined in 26 CFR 54.4980H–1(a)(21) who is not in a limited non-assessment period for certain employees (as defined in 26 CFR 54.4980H–1(a)(26)). Moreover, if a plan or issuer providing limited wraparound coverage takes reasonable steps to ensure that employers disclose to the plan or issuer necessary information regarding their coverage offered and contribution levels for 2013 or 2014 (as applicable), and for any year in which limited wraparound coverage is offered, the plan or issuer is permitted to rely on reasonable representations by employers regarding this information, unless the plan or issuer has specific knowledge to the contrary. Consistent with the reporting and evaluation criteria of paragraph (b)(3)(vii)(E) of this section, the Office of Personnel Management may verify that plans and issuers have reasonable mechanisms in place to ensure that contributing employers meet these standards.

(*i*) The limited wraparound coverage is reviewed and approved by the Office of Personnel Management, consistent with the reporting and evaluation criteria of paragraph (b)(3)(vii)(E) of this section, to provide benefits in conjunction with coverage under a Multi-State Plan authorized under section 1334 of the Patient Protection and Affordable Care Act. The Office of Personnel Management may revoke approval if it determines that continued approval is inconsistent with the reporting and evaluation criteria of paragraph (b)(3)(vii)(E) of this section.

(*ii*) The employer offered coverage in the plan year that began in either 2013 or 2014 that is substantially similar to coverage that the employer would need to have offered to its full-time employees in order to not be subject to an assessable payment under the employer shared responsibility provisions of section 4980H(a) of the Internal Revenue Code, if such provisions had been applicable. In the event that a plan that offered coverage in 2013 or 2014 has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (b)(3)(vii)(D)(*2*)(*ii*) is considered satisfied.

(*iii*) In the plan year that began in either 2013 or 2014, the employer offered coverage to a substantial portion of full-time employees that provided minimum value (as defined in section 36B(c)(2)(C)(ii) of the Internal Revenue Code) and was affordable (applying the safe harbor rules for determining affordability set forth in 26 CFR 54.4980H–5(e)(2)). In the event that the plan that offered coverage in 2013 or 2014 has no full-time employees for any plan year limited wraparound coverage is offered, the requirement of this paragraph (b)(3)(vii)(D)(*2*)(*iii*) is considered satisfied.

(*iv*) For the duration of the pilot program, as described in paragraph (b)(3)(vii)(F) of this section, the employer's annual aggregate contributions for both primary and limited wraparound coverage are substantially the same as the employer's total contributions for coverage offered to full-time employees in 2013 or 2014.

(E) *Reporting*—(*1*) *Reporting by group health plans and group health insurance issuers.* A self-insured group health plan, or a health insurance issuer, offering or proposing to offer limited wraparound coverage in connection with Multi-State Plan coverage pursuant to paragraph (b)(3)(vii)(D)(*2*) of this section reports to the Office of Personnel Management (OPM), in a form and manner specified in guidance, information OPM reasonably requires to determine

whether the plan or issuer qualifies to offer such coverage or complies with the applicable requirements of this section.

(*2*) *Reporting by group health plan sponsors.* The plan sponsor of a group health plan offering limited wraparound coverage under paragraph (b)(3)(vii) of this section, must report to the Department of Health and Human Services (HHS), in a form and manner specified in guidance, information HHS reasonably requires.

(F) *Pilot program with sunset*—The provisions of paragraph (b)(3)(vii) of this section apply to limited wraparound coverage that is first offered no earlier than January 1, 2016 and no later than December 31, 2018 and that ends no later than on the later of:

(*1*) The date that is three years after the date limited wraparound coverage is first offered; or

(*2*) The date on which the last collective bargaining agreement relating to the plan terminates after the date limited wraparound coverage is first offered (determined without regard to any extension agreed to after the date limited wraparound coverage is first offered).

* * * * *

[FR Doc. 2015–06066 Filed 3–16–15; 11:15 am]

BILLING CODE 4830–01–P; 4510–29–P; 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0907]

RIN 1625–AA00

Safety Zones; Upper Mississippi River Between Mile 38.0 and 46.0, Thebes, IL; and Between Mile 78.0 and 81.0, Grand Tower, IL.

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard published in the **Federal Register** of March 5, 2015, a final rule document making final an interim rule previously published at 79 FR 66622 on November 10, 2014. The March 5 final rule incorrectly cited the interim rule as published at 77 FR 75850 on December 26, 2012. This document corrects the citation and date in that final rule to correctly reflect the proper interim rule citation and effective date.

DATES: Effective on March 18, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Dan McQuate, U.S. Coast Guard; telephone 270–442–1621, email *daniel.j.mcquate@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Coast Guard published a document in the **Federal Register** of March 5, 2015 making an interim rule final as published. The citation to the interim rule was published incorrectly. This correction removes the incorrect citation and amendatory instruction for 33 CFR part 165.

In rule FR Doc. 2015–03331 published on March 5, 2015 (80 FR 11885), make the following correction. On page 11887, in the third column, correct the last full paragraph of the document to read as follows: Accordingly, the interim rule amending 33 CFR part 165 that published at 79 FR 66622 on November 10, 2014, is adopted as a final rule without change.

Dated: March 12, 2015.

Katia Cervoni,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2015–06174 Filed 3–17–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0797; FRL–9921–01]

Boscalid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of boscalid in or on dill seed, the herb subgroup 19A, the stone fruit group 12–12, and the tree nut group 14–12. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). In addition, this regulation removes established tolerances for certain commodities/groups superseded by this action, and corrects the spelling of papaya.

DATES: This regulation is effective March 18, 2015. Objections and requests for hearings must be received on or before May 18, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0797, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions

provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0797 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 18, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0797, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of February 25, 2014 (79 FR 10458) (FRL–9906–77), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3E8215) by (IR–4), 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.589 be amended by establishing tolerances for residues of the fungicide boscalid, 3-pyridinecarboxamide,2-chloro-N-(4′-chloro[1,1′-biphenyl]-2-yl), in or on herb, subgroup 19A at 190 parts per million (ppm), and dill, seed at 300 ppm as well as changing the existing tolerance for ''fruit, stone, group 12'' to ''fruit, stone, group 12–12'' and ''nut, tree, group 14'' to ''nut, tree, group 14–12'' and also removing the existing tolerance for pistachio at 0.70 ppm. That document referenced a summary of the petition prepared by BASF, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the levels at which some of the tolerances are being established. The reason for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

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

In mammals, the primary targets are the liver and the thyroid (indirectly from liver adaptive response). In subchronic and chronic feeding studies in rats, mice and dogs, boscalid generally caused decreased body weights and decreased body weight gains (primarily in mice) and effects on the liver (increase in weights, changes in enzyme levels and histopathological changes) as well as on the thyroid (increase in weights and histopathological changes). Mode of action studies conducted in rats indicated that boscalid has a direct effect upon the liver and that the thyroid effects are secondary. A reversibility study in rats indicated that both liver and thyroid parameters returned to control values after the animals were placed on control diet. Thyroid weights were elevated in rats and dogs, but there were no histopathological changes observed in the thyroid in either mice or dogs.

In a developmental toxicity study in rats, no developmental toxicity was observed in the fetuses at the highest dose tested (limit dose). No effects were noted in the dams in this study. In a developmental toxicity study in rabbits, an increased incidence of abortions or early delivery was observed at the limit dose. There was quantitative evidence of increased susceptibility in the 2-generation reproduction study in rats, where decreases in body weights and in body weight gains in male offspring were seen at a dose that was lower than the dose that induced parental/systemic toxicity. There was quantitative evidence of increased susceptibility in the developmental neurotoxicity study in rats, where decreases in pup body weights (PND 4) and in body weight gains (PND 1–4) were seen in the absence of any maternal toxicity, however, these effects were shown to be reversible in that no treatment-related effects on body weight, body weight gain or any other parameter were noted at PND 21.

Although there is some evidence indicating increased incidence of thyroid follicular cell adenomas in rats, EPA classified boscalid as ''suggestive evidence of carcinogenicity'' and has concluded that the endpoint for chronic assessment would be protective of these effects. This is based on the following: the adenomas occurred at dose levels above the level used to establish the chronic population adjusted dose (cPAD), statistically significant increases were only seen for benign tumors (adenomas) and not for malignant ones (carcinomas), the increase in adenomas in females was

slight, and there was no evidence of mutagenicity.

There was no evidence of neurotoxicity in rats in the acute, subchronic, or developmental studies up to the limit dose. No neurotoxic observations were noted in any of the other studies in any species.

Specific information on the studies received and the nature of the adverse effects caused by boscalid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document, ''*Boscalid—Human Health Risk Assessment for a Section 3 Registration of New Uses on Herb Subgroup 19A and Dill Seed, Plus Crop Group Conversions on Stone Fruit Group 12–12 and Tree Nut Group 14–12''* at pg. 35 in docket ID number EPA–HQ–OPP–2013–0797.

B. Toxicological Points of Departure/Levels of Concern

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

A summary of the toxicological endpoints for boscalid used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of November 8, 2013 (78 FR 67042) (FRL–9401–5).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to boscalid, EPA considered exposure under the petitioned-for tolerances as well as all existing boscalid tolerances in 40 CFR 180.589. EPA assessed dietary exposures from boscalid in food as follows:

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

No such effects were identified in the toxicological studies for boscalid; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumed tolerance-level residues and used some percent crop treated (PCT) information as described in Unit III.C.1.iv.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that the chronic endpoint will be protective of potential cancer effects. EPA's estimate of chronic exposure as described above is relied upon to evaluate whether any exposure could exceed the cPAD and thus pose a cancer risk.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

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

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

The Agency estimated the PCT for existing uses as follows: Almonds 40%; apples 15%; apricots 25%; blueberries 35%; broccoli 2.5%; cabbage 5%; caneberries 45%; cantaloupes 5%; carrots 15%; cauliflower 5%; celery 5%; cherries 45%; cucumbers 5%; dry beans/dry peas 2.5%; garlic 5%; grapes 30%; green beans 5%; green peas 1%; hazelnuts 5%; lettuce 25%; nectarines 15%; onions 20%; oranges 1%; peaches 20%; peanuts 1%; pears 15%; peppers 2.5%; pistachios 30%; plums/prunes 5%; potatoes 20%; pumpkins 10%; squash 5%; strawberries 60%; sugar beets 1%; tomatoes 5%; walnuts 1%; and watermelons 25%.

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

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

which boscalid may be applied in a particular area.

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

Based on the First Index Reservoir Screening Tool (FIRST) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of boscalid for chronic exposure assessments are estimated to be 26.4 parts per billion (ppb) for surface water and 697 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 697 ppb was used to assess the contribution to drinking water.

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

Boscalid is currently registered for the following uses that could result in residential exposures: Golf course turf, residential fruit and nut trees, and residential ornamentals and landscape gardens. EPA assessed residential exposure using the following assumptions:

All residential exposures are considered short-term in duration. The residential handler assessment included short-term exposures via the dermal and inhalation routes from treating residential ornamentals, landscape gardens, and trees.

In terms of post-application exposure, there is the potential for dermal post-application exposure for individuals as a result of being in an environment that has been previously treated with boscalid. Short-term dermal exposures were assessed for adults, youth 11 to 16 years old, and children 6 to 11 years old. Incidental oral exposure to children 1 to 2 years old is not expected from treated turf because boscalid is registered for use only on golf course turf and residential gardens and trees.

The scenarios used in the aggregate assessment were those that resulted in the highest exposures. The highest exposures for all age groups were associated with only residential post-application dermal exposures, not inhalation exposures, and consist of the following:

- The residential dermal exposure for use in the adult aggregate assessment reflects dermal exposure from post-application activities on treated gardens.
- The residential dermal exposure for use in the youth (11–16 years old) aggregate assessment reflects dermal exposure from post-application golfing on treated turf.
- The residential dermal exposure for use in the child (6–11 years old) aggregate assessment reflects dermal exposure from post-application activities in treated gardens.

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

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased susceptibility in the rat developmental study as no developmental toxicity was seen at the highest dose tested (limit dose).

There was evidence of increased *qualitative* susceptibility in the rabbit developmental study as characterized by an increased incidence of abortions or early delivery at the limit dose. It could not be ascertained if the abortions were the result of a treatment-related effect on the dams, the fetuses or both. It was concluded that the degree of concern is low because the increased abortions or early delivery was seen only at the limit dose and the abortions may have been due to maternal stress.

There was evidence of increased *quantitative* susceptibility seen in the rat 2-generation reproduction study and the developmental neurotoxicity study, in that reduced body weights were seen in the offspring at dose levels where no parental toxicity was observed. However, the degree of concern is low because the dose selected for chronic dietary and non-dietary exposure risk assessments is lower than the dose that caused the body weight effects, and the effect was shown to be reversible in the developmental neurotoxicity study.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x for all scenarios except for inhalation exposures where the 10X FQPA SF was retained. That decision is based on the following findings:

i. The toxicity database is complete, with the exception of a subchronic inhalation study. EPA is retaining a 10X FQPA SF for assessing residential inhalation risks to adult applicators.

ii. For the reasons listed in Unit III.D.2., the Agency has concluded that there are no residual uncertainties concerning the potential for prenatal and post-natal toxicity.

iii There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessment assumed tolerance level residues and was moderately refined using some PCT data. The use of the PCT data for some crops is based on reliable data and will not underestimate the exposure and risk. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to boscalid in drinking water. EPA used similarly conservative assumptions to

assess post-application exposure of children. These assessments will not underestimate the exposure and risks posed by boscalid.

E. Aggregate Risks and Determination of Safety

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

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

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to boscalid from food and water will utilize 26% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of boscalid is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Boscalid is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to boscalid. EPA used the dermal exposure scenarios mentioned in Unit III.C.3. in the aggregate assessment because those scenarios resulted in the highest exposures and corresponding lowest MOEs.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that the combined short-term food, water, and residential exposures result in aggregate MOEs of 380 for adults, 460 for children 6–11 years old, and 1,100 for youth 11–16 years old. Because EPA's level of concern for boscalid is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, boscalid is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for boscalid.

5. *Aggregate cancer risk for U.S. population.* Based on the data summarized in Unit III.A., EPA has concluded that the cPAD is protective of possible cancer effects. Given the results of the chronic risk assessment, cancer risk resulting from exposure to boscalid is not of concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography/mass spectrometry (GC/MS)) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

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

The Codex has not established MRLs for herbs or dill seed. For stone fruit, Codex has an MRL of 3 ppm and the U.S. tolerance is 3.5 ppm. The U.S. tolerance cannot be lowered to 3 ppm to harmonize with Codex, because the cherry residue data used in support of the U.S. tolerances necessitate a higher value. The Codex tree nut MRL (0.05 ppm) is lower than the U.S. tolerance (0.7 ppm), and harmonization is not possible.

C. Revisions to Petitioned-For Tolerances

The petitioned for tolerance of 190 ppm for the herb subgroup 19A is not supported by the field trial data and the processing data and therefore, the tolerance is being established at 150 ppm based on the highest average field trial (HAFT) data for basil and the processing factor for drying. The tolerance for dill seed is being established at 100 ppm, not the petitioned for level of 300 ppm, based on an evaluation of the residue data using the Organization for Economic Cooperation and Development (OECD) calculation procedure.

V. Conclusion

Therefore, tolerances are established for residues of boscalid in or on dill, seed at 100 ppm; fruit, stone, group 12–12 at 3.5 ppm; herb subgroup 19A at 150 ppm; and nut, tree, group 14–12 at 0.70 ppm. In addition, due to the establishment of these tolerances, the existing tolerances for fruit, stone, group 12; nut, tree, group 14; and pistachio are removed as unnecessary. Lastly, as an administrative correction, the existing entry for ''papya'' is changed to its correct spelling ''papaya.''

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735,

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 3, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Revise § 180.589(a)(1) as follows:

■ a. Add in alphabetical order entries for ''Dill, seed'' and ''Herb subgroup 19A''.

■ b. Remove the entries for ''Fruit, stone, group 12'' and ''Nut, tree, group 14'' and add in their place entries for ''Fruit, stone, group 12–12'' and ''Nut, tree, group 14–12'', respectively.

■ c. Remove the entry for ''Pistachio.''

■ d. Remove the entry for ''Papya'' and add in its place an entry for ''Papaya.''

The addition and revisions read as follows:

§ 180.589 Boscalid; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * * * *	
Dill, seed	100
* * * * * * *	
Fruit, stone, group 12–12	3.5
* * * * * * *	
Herb subgroup 19A	150
* * * * * * *	
Nut, tree, group 14–12	0.70
* * * * * * *	
Papaya	1.5
* * * * * * *	

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[FR Doc. 2015–06141 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0483; FRL–9923–59]

Dimethomorph; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of dimethomorph in or on papaya at 1.5 parts per million (ppm). BASF Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA) to cover residues of dimethomorph in papaya imported into the United States; there are currently no U.S. registrations for pesticides containing dimethomorph that are used on papaya.

DATES: This regulation is effective March 18, 2015. Objections and requests for hearings must be received on or before May 18, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0483, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the

Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0483 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 18, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0483, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 17, 2014 (79 FR 75107) (FRL–9918–90), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3E8218) by BASF Corporation, P.O. Box, 13528, Research Triangle Park, North Carolina 27709. The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the fungicide dimethomorph, in or on papaya at 1.5 ppm. That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* No comments were received on the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

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

Dimethomorph has low acute toxicity by the oral, dermal, or inhalation route of exposure. It is not an eye or skin irritant, and is not a skin sensitizer. There is no evidence that dimethomorph is a developmental, reproductive, carcinogenic, mutagenic or immunotoxic chemical. Dimethomorph is classified as ''not likely to be carcinogenic to humans'' based upon lack of evidence of carcinogenicity in rats and mice.

No biologically significant effect was observed in the rat subchronic oral toxicity study while decreased body weight and increased incidence of arteritis in male rats and decreased body weights and increased incidence of ''ground-glass'' foci in livers of female rats were observed in the rat chronic toxicity study. In the dog subchronic oral toxicity study, decreased absolute and relative prostate weights, and slight liver effects were observed. No toxicity was observed at the limit dose in the rat 28-day dermal toxicity study. The developmental toxicity studies showed no increased sensitivity to offspring of either rats or rabbits as demonstrated by

no-observed-adverse-effect-level's (NOAEL) equal to or higher than those producing toxicity in the maternal animals. Likewise, in the 2-generation reproduction study, there was no toxicity to the offspring at doses lower than that causing parental toxicity.

In an acute neurotoxicity study, functional observational battery (FOB) findings and reduced motor activity were observed. However, these findings were considered an impairment of the overall condition of the animals following treatment, rather than direct neurotoxic effects of the dimethomorph exposure. No neurotoxic effects were observed in the subchronic neurotoxicity study in rats and there is no evidence of neurotoxicity throughout the dimethomorph toxicity database. There was no evidence of immunotoxicity in the immunotoxicity study.

Specific information on the studies received and the nature of the adverse effects caused by dimethomorph as well as the NOAEL and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Dimethomorph: Human Health Risk Assessment to Support Establishment of a Tolerance Without U.S. Registration for Papaya* on page 9 within the docket ID number EPA–HQ–OPP–2014–0483.

B. Toxicological Points of Departure/Levels of Concern

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

A summary of the toxicological endpoints for dimethomorph used for human risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR DIMETHOMORPH FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (Females 13–49 years of age).	No appropriate endpoint was identified including developmental toxicity studies in rats and rabbits.	Not applicable	No study selected.
Acute dietary (General population).	LOAEL = 250 mg/kg/day UF_A. UF_H = 10x ..... FQPA SF_L = 10x	Acute RfD = 0.25 mg/kg/day. aPAD = 0.25 mg/kg/day.	Acute Neurotoxicity Study. LOAEL = 250 mg/kg/day based on reduced motor activity in both sexes.
Chronic dietary (All populations)	NOAEL = 11 mg/kg/day UF_A = 10x. UF_H = 10x ..... FQPA SF = 1x	Chronic RfD = 0.1 mg/kg/day. cPAD = 0.1 mg/kg/day.	Carcinogenicity study in rats. LOAEL = 46.3 mg/kg/day based on decreased body weight and increases in liver lesions in female rats.
Cancer (Oral, dermal, inhalation).	Classification: "Not likely" to be a human carcinogen.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to dimethomorph, EPA considered exposure under the petitioned-for tolerances as well as all existing dimethomorph tolerances in 40 CFR 180.493. EPA assessed dietary exposures from dimethomorph in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for dimethomorph. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) Nationwide Health and Nutrition Examination Survey, What We Eat In America (NHANES/WWEIA) conducted from 2003–2008. As to residue levels in food, EPA made the following assumptions for the acute exposure assessment: tolerance-level residues for all commodities, 100 percent crop treated (PCT) for all commodities and Dietary Exposure Evaluation Model (DEEM) (ver. 7.81) default processing factors or empirical processing factors.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data

from the USDA's (NHANES/WWEIA) conducted from 2003–2008 as well. As to residue levels in food, EPA made the following assumptions for the chronic exposure assessment: Tolerance-level residues for all commodities, 100 PCT for all commodities and DEEM (ver. 7.81) default processing factors or empirical processing factors.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that dimethomorph should be classified as ''not likely'' to be a human carcinogen based upon lack of evidence of carcinogenicity in rats and mice. Therefore a cancer risk assessment was not necessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for dimethomorph. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The drinking water concentrations have not changed since the last assessment. The Agency utilized a maximum application rate of 1.4 pound active ingredient/acre/season (lb ai/A/season) for broccoli (which is the use with the most exposure and highest PCT area). The groundwater value was generated using the Screening Concentration in Groundwater (SCI–GROW) Model and the surface water values were generated using a Tier 1 broccoli model. The surface water estimate was used for both acute and chronic assessment (81.1 parts per billion (ppb) for acute and 24.7 ppb for chronic) because these values were higher than the groundwater value. Since the current petition is for a tolerance in/on imported papaya, an assessment of the impacts of that use on drinking water was not required.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Dimethomorph is not registered for any specific use patterns that would result in residential exposure.

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* The available data did not provide evidence of increased sensitivity in the offspring based on the results from developmental studies conducted with rats and rabbits as well as a 2-generation reproduction study conducted with rats. There were no toxic effects observed in either the rat developmental toxicity or the rat 2-generation reproductive toxicity studies at doses that were lower than doses which produced toxic effects in the parents. Additionally, no developmental toxicity was demonstrated in the rabbit developmental toxicity study.

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

i. The toxicity database for dimethomorph is complete.

ii. The available data do not support a determination that dimethomorph is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that dimethomorph results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The unrefined acute and chronic dietary risk assessments used tolerance level residues, included modeled drinking water estimates, assumed 100 PCT, and incorporated DEEM default processing factors. EPA made conservative (protective) assumptions in the groundwater and surface water modeling used to assess exposure to dimethomorph in drinking water. These assessments will not underestimate the exposure and risks posed by dimethomorph.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to dimethomorph will occupy 39% of the aPAD for children 3–5 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to dimethomorph from food and water will utilize 25% of the cPAD for children 1–2 years the population group receiving the greatest exposure. There are no residential uses for dimethomorph.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no short-term adverse effect was identified, dimethomorph is not expected to pose a short-term risk.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered

to be a background exposure level). An intermediate-term adverse effect was identified; however, dimethomorph is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for dimethomorph.

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

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

IV. Other Considerations

A. Analytical Enforcement Methodology

FAMS–002–04 which utilizes high performance liquid chromatography with ultraviolet detection (HPLC/UV) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

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

The Codex has not established a MRL for residues of dimethomorph in/on papaya.

V. Conclusion

Therefore, tolerances are established for residues of dimethomorph, in or on papaya at 1.5 ppm. While no pesticides containing dimethomorph have been registered in the United States for use on papaya, this tolerance allows importation of papaya containing permissible residues of dimethomorph under the FFDCA.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 9, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.493 alphabetically add the commodity ''papaya'' to the table in paragraph (a) to read as follows:

§ 180.493 Dimethomorph; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * *	* * *
Papaya [1]	1.5
* * *	* * *

[1] There are no U.S. registrations as of January 20, 2015.

* * * * *

[FR Doc. 2015–06106 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2014–0610; FRL–9924–47–Region 4]

Approval and Promulgation of Implementation Plans; Region 4 States; 2008 Lead, 2008 Ozone and 2010 Nitrogen Dioxide Prevention of Significant Deterioration Infrastructure Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of submissions from Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee for inclusion into each State's implementation plan. This action pertains to the Clean Air Act (CAA or Act) infrastructure requirements for the 2008 Lead, 2008 Ozone and 2010 Nitrogen Dioxide (NO_2) National Ambient Air Quality Standards (NAAQS). The CAA requires that each state adopt and submit a state implementation plan (SIP) for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA. These plans are commonly referred to as ''infrastructure'' SIPs. Specifically, EPA is approving the portions of the submissions from Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee that relate to the infrastructure SIP prevention of significant deterioration (PSD) requirements. All other applicable infrastructure requirements for the 2008 Lead, 2008 Ozone and 2010 NO_2 NAAQS associated with these States are being addressed in separate rulemakings.

DATES: This rule is effective on April 17, 2015.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2014–0610. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for the ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits the submission for a new or revised NAAQS.

Through this action, EPA is approving the PSD requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) (hereafter ''PSD Elements'') for various infrastructure SIP submissions from the states of Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee. As described further below, for some of these states, EPA is approving the PSD Elements in the infrastructure SIP submissions for the 2008 Lead, 2008 Ozone and 2010 NO_2 NAAQS; whereas for other states, EPA is only approving the PSD Elements of the infrastructure SIP submissions for a subset of these NAAQS. All other applicable infrastructure requirements for the 2008 Lead, 2008 Ozone and 2010 NO_2 NAAQS associated with these States are being addressed in separate rulemakings.

a. 2008 Lead NAAQS

For the 2008 Lead NAAQS, EPA is only approving the PSD Elements of the infrastructure SIP submissions from Alabama (received November 4, 2011), Florida (received October 14, 2011), Georgia (received May 14, 2012), Kentucky (received July 17, 2012), Mississippi (received November 17, 2011), and South Carolina (received September 20, 2011). EPA notes that the Agency approved the PSD Elements of Tennessee's 2008 Lead infrastructure SIP submission on August 12, 2013 (78 FR 48806).

b. 2008 Ozone NAAQS

For the 2008 Ozone NAAQS, EPA is only approving the PSD Elements of the infrastructure SIP submissions from Alabama (received August 20, 2012), Georgia (received March 6, 2012), Mississippi (received May 29, 2012; and resubmitted July 26, 2012), and South Carolina (received on July 17, 2012). EPA notes that the Agency approved the PSD Elements of the infrastructure SIP submissions for the 2008 Ozone NAAQS for Kentucky on March 7, 2013 (78 FR 14691) and November 3, 2014 (79 FR 65143), and Tennessee on March 6, 2013 (78 FR 14450) and January 9, 2014 (79 FR 1593).

c. 2010 NO_2 NAAQS

For the 2010 NO_2 NAAQS, EPA is approving the PSD Elements of the infrastructure SIP submissions from Alabama (received April 23, 2013), Florida (received January 22, 2013), Georgia (received March 25, 2013), Kentucky (received April 26, 2013), Mississippi (received February 28, 2013), South Carolina (received April 30, 2014), and Tennessee (received March 13, 2014).

EPA is acting upon the PSD Elements portions of SIP submissions that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 Lead, 2008 Ozone and 2010 NO_2 NAAQS for various states in Region 4. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address. EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and new source review (NSR) pollutants, including GHGs.

On November 13, 2014, EPA published a proposed rulemaking to approve the portions of the above-described infrastructure SIP submissions from Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee to address the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) of the CAA. *See* 79 FR 67398. Comments on the proposed rulemaking were due on or before December 15, 2014. No adverse comments were received. EPA's November 13, 2014, proposed rulemaking contains more detailed information regarding Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee submissions to address the PSD permitting requirements being approved today, and the rationale for this final action.

II. What are states required to address under Sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3) and 110(a)(2)(J) related to PSD?

Section 110(a)(2)(C) has three components that must be addressed in infrastructure SIP submissions: Enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources; and PSD permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program).

Section 110(a)(2)(D)(i) has two components; 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components have two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4'').

Section 110(a)(2)(J) has four components that must be addressed in infrastructure SIP submissions: (1) Consultation with government officials, (2) public notification, (3) prevention of significant deterioration, and (4) visibility protection.

With respect to the PSD Elements of these sections, EPA interprets the CAA to require each state to make, for each new or revised NAAQS, an infrastructure SIP submission that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants.

See EPA's November 13, 2014, proposed rulemaking at 79 FR 67398 for more detailed information on EPA's analysis of how the Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee infrastructure SIP submissions meet the requirements of the PSD Elements for the NAAQS for which they were submitted. As mentioned above, EPA did not receive any adverse comments on the November 13, 2014, proposed rulemaking. As such and based on EPA's analysis, the Agency has made the determination that:

- Alabama's SIP and practices are adequate and comply with PSD Elements for the 2008 Lead, 2008 Ozone and 2010 NO_2 NAAQS;
- Florida's SIP and practices are adequate and comply with PSD Elements for the 2008 Lead and 2010 NO_2 NAAQS;
- Georgia's SIP and practices are adequate and comply with the PSD Elements for the 2008 Lead, 2008 Ozone, and 2010 NO_2 NAAQS;
- Kentucky's SIP and practices are adequate and comply with the PSD Elements for the 2008 Lead and 2010 NO_2 NAAQS;
- Mississippi's SIP and practices are adequate and comply with the PSD Elements for the 2008 Lead, 2008 Ozone, and 2010 NO_2 NAAQS;
- South Carolina's SIP and practices are adequate and comply with the infrastructure SIP PSD Elements for the 2008 Lead, 2008 Ozone, and 2010 NO_2 NAAQS; and
- Tennessee's SIP and practices are adequate and comply with the infrastructure SIP PSD Elements for the 2010 NO_2 NAAQS.

III. Final Action

As described above, EPA is approving the portions of the above-described infrastructure SIP submissions from Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee to address the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) of the CAA. As described above, for some of these states, EPA is approving the PSD Elements of the infrastructure SIP submissions for the 2008 Lead, 2008 Ozone and 2010 Nitrogen NO_2 NAAQS; whereas for other states, EPA is only approving the PSD Elements of the infrastructure SIP submissions for a subset of these NAAQS. EPA is approving these portions of these submissions because they are consistent with section 110 of the CAA.

EPA also notes that, at present, the Agency has preliminarily determined that the Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee SIPs are sufficient to satisfy the PSD permitting requirements portion of section 110(a)(2)(C), 110(a)(2)(D)(i)(II), prong 3 and 110(a)(2)(J) with respect to GHGs because the PSD permitting program previously-approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of Best Available Control Technology. Although the approved Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee PSD permitting programs may currently contain provisions that are no longer necessary in light of the Supreme Court's *Utility Air Regulatory Group v. Environmental Protection Agency*

decision, these previous approvals do not render the infrastructure SIP submission inadequate to satisfy sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J). The SIPs contain the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision. Accordingly, the Supreme Court decision does not affect EPA's approval of Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee's infrastructure SIPs as to the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

With the exception of South Carolina, the SIPs involved in this action are not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.'' With respect to this action as it relates to South Carolina, EPA notes that the Catawba Indian Nation Reservation is located within South Carolina and pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the Catawba Indian Nation and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' Thus, the South Carolina SIP applies to the Catawba Reservation, however, because this action is not approving any specific rule into the South Carolina SIP, but rather proposing that the State's already approved SIP meets certain CAA requirements, EPA has determined that there are no substantial direct effects on the Catawba Indian Nation. EPA has also determined that these revisions will not impose any substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 6, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart B—Alabama

■ 2. Section 52.50(e), is amended by adding three new entries for ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone NAAQS'', and ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'' at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA Approval date	Explanation
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS.	Alabama	11/4/2011	3/18/2015 **Federal Register** citation	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.
110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone NAAQS.	Alabama	8/20/2012	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Alabama	4/23/2013	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.

Subpart K—Florida

■ 3. Section 52.520(e), is amended by adding two new entries for ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS'' and ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'' at the end of the table to read as follows:

§ 52.520 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA Approval date	**Federal Register** notice	Explanation
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS.	10/14/2011	3/18/2015	[Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	1/22/2013	3/18/2015	[Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.

Subpart L—Georgia

■ 4. Section 52.570(e), is amended by adding three new entries for ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone NAAQS'', and ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'' at the end of the table to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA Approval date	Explanation
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS.	Georgia	5/14/2012	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.
110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone NAAQS.	Georgia	3/6/2012	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA Approval date	Explanation
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Georgia	3/25/2013	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.

Subpart S—Kentucky

■ 5. Section 52.920(e), is amended by adding two new entries ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS'' and ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'' at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA Approval date	Explanations
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS.	Kentucky	7/17/2012	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Kentucky	4/26/2013	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only

Subpart Z—Mississippi

■ 6. Section 52.1270(e), is amended by adding three new entries for ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone NAAQS'', and ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'' at the end of the table to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED MISSISSIPPI NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA Approval date	Explanation
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS.	Mississippi	11/17/2011	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.
110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone NAAQS.	Mississippi	5/29/2012 and amended on 7/26/2012	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Mississippi	2/28/2013	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.

Subpart PP—South Carolina

■ 7. Section 52.2120(e), is amended by adding three new entries for ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone NAAQS'', and ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'' at the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e) * * *

Provision	State effective date	EPA Approval date	Explanation
*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead NAAQS.	9/20/2011	3/18/2015 ..... [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.
110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone NAAQS.	7/17/2012	3/18/2015 ..... [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	4/30/2014	3/18/2015 ..... [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.

Subpart RR—Tennessee

■ 8. Section 52.2220(e), is amended by adding a new entry for ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS'' at the end of the table to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA Approval date	Explanation
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Tennessee	3/13/2014	3/18/2015 [Insert **Federal Register** citation].	Addressing the PSD permitting requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only.

[FR Doc. 2015–06112 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0847; FRL–9923–63]

2-Propenoic acid, polymer With ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate; when used as an inert ingredient in a pesticide chemical formulation. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate on food or feed commodities.

DATES: This regulation is effective March 18, 2015. Objections and requests for hearings must be received on or before May 18, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0874, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0874 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 18, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0874, by one of the following methods.

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

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

II. Background and Statutory Findings

In the **Federal Register** of January 28, 2015 (80 FR 4527) (FRL–9921–55), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–10770) filed by BASF Corporation, 100 Park Avenue, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate; CAS Reg. No. 85075–52–1. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

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

III. Risk Assessment and Statutory Findings

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

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d).

2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.
2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.
3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).
4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.
5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.
6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 Daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of >50,000 Daltons is greater than or equal to 10,000 Daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated

from dietary, inhalation, or dermal exposure to 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate is >50,000 Daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

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

EPA has not found 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate to share a common mechanism of toxicity with any other substances, and 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate.

VIII. Other Considerations

A. Existing Exemptions From a Tolerance

There are no existing exemptions from a tolerance for 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate polymers.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

IX. Conclusion

Accordingly, EPA finds that exempting residues of 2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

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

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

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology

Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 12, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.960, the table is amended by alphabetically adding an entry for ''2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate, minimum number average molecular weight (50,149 Daltons)'' after the entry for ''2-propenoic acid polymer, with 1,3-butadiene and ethenylbenzene, minimum number average molecular weight (in amu), 9400'' to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * * * *	
2-Propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate, minimum number average molecular weight (50,149 Daltons)	85075–52–1
* * * * * * *	

[FR Doc. 2015–06227 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Chapter II

[Railworthiness Directive, Notice No. 1]

Railworthiness Directive for Railroad Tank Cars Equipped With Certain McKenzie Valve & Machining LLC Valves

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of railworthiness directive.

SUMMARY: Recent FRA investigations identified several railroad tank cars transporting hazardous materials and leaking small quantities of product from the cars' liquid lines. FRA's investigation revealed that the liquid lines of the leaking tank cars were equipped with a certain type of 3″ ball valve marketed and sold by McKenzie Valve and Machining (McKenzie) (formerly McKenzie Valve & Machining Company), an affiliate company of Union Tank Car Company (UTLX). FRA further found certain closure plugs installed on the 3″ valves cause mechanical damage to the valves, which leads to the destruction of the valves' seal integrity and that the 3″ valves, as well as similarly-designed 1″ and 2″ valves provided by this manufacturer are not approved for use on tank cars. FRA is issuing this Railworthiness Directive (Directive) to all owners of tank cars used to transport hazardous materials within the United States to ensure they identify and appropriately remove and replace these valves with approved valves consistent with Federal regulations.

DATES: This Directive is effective March 18, 2015. This Directive is applicable March 13, 2015.

FOR FURTHER INFORMATION CONTACT: Karl Alexy, Staff Director, Hazardous Materials Division, Office of Technical Oversight, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6245; *Karl.Alexy@dot.gov.*

SUPPLEMENTARY INFORMATION: Recent FRA investigations identified several DOT Specification 111 railroad tank cars transporting hazardous materials and leaking small quantities of product.[1] One instance occurred during the week of January 11, 2015, and involved a train of 100 tank cars loaded with crude oil being transported by BNSF Railway (BNSF) from Tioga, ND, to a refinery in Anacortes, WA. BNSF discovered 14 tank cars leaking crude oil en route and in accordance with the applicable regulations, notified FRA of the releases. Upon discovery of the defective condition of these cars, BNSF removed the cars from the train (at Hauser, ID; Vancouver and Auburn, WA, respectively). When the train arrived at its final destination in Anacortes, the consignee, Tesoro Refining, discovered two additional cars leaking product. In all, BNSF and Tesoro identified 16 leaking tank cars from the original train consist.

On January 15, 2015, FRA inspected seven of the identified leaking tank cars that BNSF removed from the train in Vancouver. The FRA inspector observed crude oil on the sides of each of these cars, and upon inspection of each tank car's top fittings, found product leaking from the liquid line ball valves and around each valve's closure plug. FRA also found the standalone closure plugs in each of these valves loose. Further inspection revealed that the valve balls had visual signs of mechanical damage. The mechanical damage FRA observed indicated that the bottom face of the closure plug came in contact with the valve ball, consequentially preventing complete engagement of the closure plug.

A second instance involved a single tank car loaded with mineral spirits (a Class 3 flammable liquid) found leaking on January 15, 2015, in a BNSF yard in Denver, CO. FRA's preliminary investigation shows that the leak occurred through the liquid line valve

[1] DOT Specification 111 tank cars are general purpose, nonpressure railroad tank cars commonly used to transport a variety of regulated hazardous materials, as well as nonregulated commodities. In 2011, through issuance of Casualty Prevention Circular 1232, the Association of American Railroads (AAR) adopted an industry standard intended to improve the crashworthiness of DOT Specification 111 tank cars used in crude oil and ethanol service. These cars, known as CPC 1232 cars, include a thicker shell, head protection, top fittings protection, and relief valves with a greater flow capacity as compared to baseline DOT Specification 111 cars. The leaking tank cars identified in this Directive include both a baseline DOT 111 Specification car and CPC–1232 cars.

while the car was en route to its destination.

UTLX owns all 17 of the cars found leaking as described above. Each of the leaking cars was configured with liquid line ball valves sold by UTLX's affiliate, McKenzie, and each valve was configured with a 3″ standalone plug as a closure. FRA identified the leaking valves as 3″ McKenzie UNNR threaded ball valves (McKenzie valves).

McKenzie provided FRA several valve configuration drawings indicating that the valve was a full port valve. This configuration requires a 3″ x 2″ reducer bushing with a 2″ plug to prevent contact between the closure plug and the valve ball. McKenzie also informed FRA that it markets and sells the same design of valve in 1″ and 2″ models. For the 2″ valve, McKenzie specified the use of a 1″ plug and an appropriately sized reducer.

At FRA's request, UTLX provided FRA drawings of the top fittings arrangements for these cars. However, unlike the drawings provided by McKenzie, the UTLX drawings provided by UTLX did not include a full port valve with a reducer bushing. Instead, consistent with the physical configuration of the tank cars FRA inspected, the drawings showed a full port threaded valve along with a 3″ plug and chain.

On January 27, 2015, FRA conducted field testing of the McKenzie valves at UTLX's Altoona, PA, tank car repair facility. FRA tested new 1″, 2″, and 3″ McKenzie valves at the facility's valve shop. The field testing included two cycles of application and removal of each valve's plug. FRA found that the 1″ and 2″ McKenzie valves showed no signs of contact between the valve ball when a 1″ or 2″ closure plug was installed and tightened. However, when a 3″ closure plug was applied and tightened in the 3″ McKenzie valve, the plug contacted and damaged the ball. The damage observed during this testing was consistent with the type of damage observed on the leaking UTLX tank cars described above.

FRA's field testing further found that the application of downward force on the valve ball applied by the 3″ plug resulted in the over-compression, damage, and misalignment of the inboard seal, causing the valve to leak. FRA also observed that once a valve's ball is damaged, when the valve is subsequently opened, the damaged surface of the ball also damaged the valve's top seals by tearing the seals. This further compromises the valve's seal. Additionally, FRA understands that with repeated opening and closing (exemplifying in-service use), the valve's threads will degrade, necessitating further engagement of the threads during subsequent applications of the plug. This continual degradation of the threads will require increasingly more tightening of the plug, exacerbating the damage to the ball and seals. In summary, FRA found that normal application and tightening of the 3″ plug in a 3″ McKenzie valve destroys the valve seal integrity.

FRA conducted a followup investigation at the UTLX facility in Altoona to perform a leak test of the 3″ McKenzie valve that was field tested and damaged on January 27, 2015. Although the designed leak-free working pressure of this valve is up to 500 pounds per square inch (psi), the leak test procedure requires that the valve hold a minimum pressure of 30 psi. The subject McKenzie valve failed to retain the minimum 30 psi of compressed air test pressure. The valve showed signs of a significant leak.

As required by Title 49 Code of Federal Regulations (CFR) 179.100–13 and 179.200–16 of the Federal Hazardous Materials Regulations (49 CFR parts 171–180; (HMR)), all valves applied to tanks cars must be of an approved design. The term ''approved'' is defined in 49 CFR 179.2 as ''approved by the [AAR] Tank Car Committee.'' [2]

McKenzie provided FRA with the Association of American Railroads (AAR) approval letters for the McKenzie valves. While McKenzie may have believed these approvals were sufficient, the provided AAR approvals demonstrate clear inconsistencies between the type of valve design that AAR approved versus the design of the valve actually being used and the design depicted on the valve configuration drawings both McKenzie and UTLX provided to FRA. AAR Approval E–077035 (October 26, 2007) is a renewal of previous AAR approvals,[3] and describes a 3″ standard port threaded ball valve. The original approvals that AAR renewed described and referred to UTLX Drawing 72916, which depicts a 3″ standard port threaded ball valve. In contrast, the 3″ McKenzie valve at issue is a full port ball valve. A full port valve is different from a standard port valve.[4] The dimensions of the valve body that AAR approved is significantly longer than the bodies of the valves depicted on the McKenzie drawings and the bodies of the valves actually installed on the leaking tank cars. McKenzie also provided a copy of a September 29, 2008, application for approval of a 3″ threaded full port valve (AAR application number E–087016), but neither McKenzie nor AAR have provided evidence of that valve's subsequent approval.

McKenzie provided information to FRA indicating that from 2009 through the present, it sold approximately 11,200 of the 3″ valves to a variety of tank car owners and tank car facilities. McKenzie indicates that since 2012, its sales of these valves were predominantly to replace in-kind valves previously installed on existing tank cars. Further, McKenzie informed FRA that as of January 26, 2015, the company has stopped selling the 3″ valves as a result of the noted safety concerns. Overall, McKenzie and UTLX provided information leading FRA to conclude that approximately 6,000 DOT Specification railroad tank cars are equipped with the unapproved 3″ McKenzie UNNR valves. In addition, McKenzie indicates that it has sold over 37,000 1″ and 2″ valves to a variety of tank car owners and tank car facilities.

To date, FRA has identified only a small number of relatively minor hazardous materials leaks directly attributable to the identified McKenzie valves. FRA believes that the number of leaks potentially attributable to the identified McKenzie valves used in tank car liquid lines could be much higher. Based on FRA's field testing, the 3″ McKenzie valve appears to present an immediate safety issue in certain circumstances. While the 1″ and 2″ McKenzie valves do not appear to present similar concerns, based on the information that AAR, McKenzie, and UTLX have provided to date, it does not appear that any size of the McKenzie valves (*i.e.,* the 1″, 2″, or 3″ UNNR valves) are currently approved for use

[2] As background, the Tank Car Committee is composed of various railroad industry representatives, including railroads, tank car shipper and owner organizations, tank car builders, and chemical and industry associations. FRA and the DOT's Pipeline and Hazardous Materials Safety Administration also participate in the Tank Car Committee's processes. The Tank Car Committee has traditionally been the body with the expertise to develop tank car design, construction, and maintenance standards in this country. DOT sets minimum tank car specifications at 49 CFR part 179, and AAR approves designs meeting the requirements of part 179.

[3] AAR Approval E–977030 (April 9, 1997). AAR Approval E–977030 was a renewal of AAR Approval E–897047 (June 21, 1989), which also referred to UTLX Drawing 72916.

[4] The difference between a full port and standard port ball valve is the size of the ball's bore diameter as related to nominal pipe sizes, with the ball size being in proportion to the bore size diameter. The bore size in a full port valve is that of its nominal pipe size, where the bore size in a standard port valve is that of the next smallest nominal pipe size. For example, the bore diameter for a 3″ standard port ball valve is approximately 2.25″, or one pipe size smaller, and for a full port ball valve, the bore diameter is approximately 3″ in diameter (the actual size of the pipe).

on railroad tank cars. Accordingly, use of such valves on tank cars is in violation of the HMR. At this time, FRA is not aware of any non-accident releases or other releases from railroad tank cars involving the 1″ or 2″ McKenzie valves, but since the valves have not been approved by AAR they have not been shown to be safe for use on railroad tank cars.

McKenzie and UTLX have taken independent actions to address some of the safety concerns with the 3″ valves. However, FRA believes those actions fail to adequately address the safety issue the valves present.

Railworthiness Directive: Based on the above discussion, and acting under the authority granted in 49 CFR 180.509(b)(4), FRA finds that the continued use of railroad tank cars equipped with the unapproved McKenzie UNNR threaded ball valves (including the 1″, 2″, and 3″ UNNR valves) to transport hazardous materials by rail in the United States presents an unsafe operating condition. The use of such tank cars equipped with these valves could result in the release of hazardous materials. Further, the use of tank cars equipped with these McKenzie valves used to transport hazardous materials in the United States violates the requirements of the HMR. FRA is issuing this directive to ensure public safety, ensure compliance with the applicable Federal regulations governing the safe movement of hazardous materials by rail, and restore the railworthiness of all tank cars equipped with the above-described McKenzie valves.

Upon the applicability date of this Directive, any railroad tank car equipped with an unapproved McKenzie UNNR threaded ball valve (McKenzie valve) is prohibited from being loaded with any hazardous material described in 49 CFR 172.101 and offered into transportation until the requirements listed below are met. Tank car owners [5] of tank cars equipped with McKenzie valves must:

(1) Identify the railroad tank cars in their fleet equipped with any McKenzie valve.

(2) Provide to FRA: (a) The reporting mark and number of each car equipped with any McKenzie valve; and (b) the type of valve each car is equipped with.

(3) Create and maintain for a minimum of 6 months from the applicability date of this directive a record of the inspection of each McKenzie valve. The record must include, at a minimum, the inspection date and location, as well as the results of the inspection (*i.e.,* whether the valve was removed or not). The record must be made available to FRA for inspection upon request.

(4) Immediately inspect the 3″ McKenzie valves on each affected car. If any valve is configured with a 3″ standalone plug, ensure that the car is not loaded and offered into transportation until that valve is replaced with an approved valve consistent with 49 CFR part 179. In addition, any tank car equipped with an unapproved 3″ McKenzie valve is prohibited from being offered into transportation (whether loaded or residue) after May 12, 2015.

(5) Immediately inspect the 1″ and 2″ McKenzie valves on each affected car. If any valve shows evidence of mechanical damage, ensure that the car is not loaded and offered into transportation until that valve is replaced with an approved valve consistent with 49 CFR part 179. Even if a valve is not damaged, a tank car equipped with an unapproved 1″ or 2″ McKenzie valve is prohibited from being offered into transportation (whether loaded or residue) after June 11, 2015.

(6) Ensure that each unapproved McKenzie valve is removed and replaced by an entity permitted to perform such work in accordance with 49 CFR part 179.

(7) Ensure the valve application is properly qualified as required by subpart F of 49 CFR part 180.

After tank car owners have inspected and/or replaced the unapproved valves on each affected tank car as required above, and have provided the necessary information regarding that car to FRA, tank car owners may load the cars with hazardous materials and offer those cars for transportation. Alternatively, if upon an adequate showing demonstrating the safety of the 1″ and 2″ valves, McKenzie obtains AAR's approval for the use of those valves on DOT Specification 111 tank cars, cars equipped with these 1″ or 2″ McKenzie valves may be returned to hazardous materials service.

Tank car owners must send the information required to be submitted to FRA under this Directive to:

Mr. Randy M. Keltz, Jr., Tank Car Quality Assurance Specialist, Office of Railroad Safety, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone: (202) 236–7460, Email: *Randy.Keltz@dot.gov.*

Regardless of any entity's compliance with this directive, FRA reserves the right to seek civil penalties or to take any other appropriate enforcement action for violations of the HMR that have occurred. FRA will be conducting an investigation to ensure that all tank cars equipped with the valves in question are identified and repaired consistent with the requirements of this Directive.

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

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2015–06213 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–06–P

[5] The term ''tank car owners'' is as defined in 49 CFR 180.503.

Proposed Rules

Federal Register
Vol. 80, No. 52
Wednesday, March 18, 2015

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Docket No. FCIC–14–0001]

RIN 0563–AC45

General Administrative Regulations; Subpart X—Interpretations of Statutory Provisions, Policy Provisions, and Procedures

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise the General and Administrative Regulation Subpart X—Interpretations of Statutory and Regulatory Provisions, to incorporate interpretations of procedures previously issued and administered in accordance with Manager's Bulletin MGR–05–018 and to provide a mechanism for interpretations of policy provisions that are not codified in the Code of Federal Regulations. The intended effect of this action is to provide requestors with information on how to request a final agency determination or an interpretation of FCIC procedures within one administrative regulation, bring consistency and clarity to the processes used, and to clarify existing provisions.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business April 17, 2015 and will be considered when the rule is to be made final.

ADDRESSES: FCIC prefers that comments be submitted electronically through the Federal eRulemaking Portal. You may submit comments, identified by Docket ID No. FCIC–14–0001, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205.

All comments received, including those received by mail, will be posted without change to *http://www.regulations.gov,* including any personal information provided, and can be accessed by the public. All comments must include the agency name and docket number or Regulatory Information Number (RIN) for this rule. For detailed instructions on submitting comments and additional information, see *http://www.regulations.gov.* If you are submitting comments electronically through the Federal eRulemaking Portal and want to attach a document, we ask that it be in a text-based format. If you want to attach a document that is a scanned Adobe PDF file, it must be scanned as text and not as an image, thus allowing FCIC to search and copy certain portions of your submissions. For questions regarding attaching a document that is a scanned Adobe PDF file, please contact the RMA Web Content Team at (816) 823–4694 or by email at *rmaweb.content@rma.usda.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments received for any dockets by the name of the person submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the complete User Notice and Privacy Notice for Regulations.gov at *http://www.regulations.gov/#!privacyNotice.*

FOR FURTHER INFORMATION CONTACT: Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, PO Box 419205, Kansas City, MO 64141–6205, telephone (816) 926– 7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by the OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the Office of Management and Budget (OMB) under control number 0563–0055.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

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

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation does not require any more action on the part of the small entities than is required on the part of large entities. A Regulatory Flexibility Analysis has not been prepared since

this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. Interpretations of statutory and regulatory provisions are matters of general applicability and, therefore, no administrative appeals process is available and judicial review may only be brought to challenge the interpretation after seeking a determination of appealability by the Director of the National Appeals Division in accordance with 7 CFR part 11. Interpretations of procedure or policy provisions not codified in the Code of Federal Regulations are administratively appealable and the appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought against FCIC.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to revise the General and Administrative Regulations Subpart X—Interpretations of Statutory and Regulatory Provisions to provide requestors with information on how to request a final agency determination and an interpretation of procedures or policy provisions not codified in the Code of Federal Regulations within one administrative regulation. There are provisions in policies not codified in the Code of Federal Regulations that are identical to those in the Common Crop Insurance Basic Provisions (Basic Provisions) or Crop Provisions codified in the Code of Federal Regulations. In such instances, the requestor sought an interpretation of the applicable provision in the Basic Provisions and that interpretation was applicable to all policies that contained an identical provision. Nothing in this rule changes this process. However, there are numerous policies with provisions that are not codified in the Code of Federal Regulations in any policy. For these policy provisions, this rule provides a mechanism to obtain an interpretation of such provision.

The rule will also clarify existing provisions, eliminate redundancies, remove or update obsolete references, simplify the regulation to address final agency determinations and interpretations of procedures or policy provisions not codified in the Code of Federal Regulations in the same regulation, simplify program administration, and improve clarity of the requestor and FCIC obligations. The proposed rule also incorporates the information formerly contained in Manager's Bulletin MGR–05–018 into subpart X for efficiency and ease of use. Manager's Bulletin MGR–05–018 currently provides criteria for requesting an interpretation of procedures when a requestor seeks an interpretation of the meaning or applicability of procedure used in administering the Federal crop insurance program. Accordingly, Manager's Bulletin MGR–05–018 will no longer be used upon issuance of the final rule to this proposed rule.

The proposed rule amends the language to be consistent where possible and revises the regulation in plain language for ease of readability by the requestor.

List of Subjects in 7 CFR Part 400

Administrative practice and procedure, crop insurance, reporting and recordkeeping requirements.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 400 as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

■ 1. The authority citation for 7 CFR part 400 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(o).

■ 2. Revise § Subpart X as follows:

Subpart X—Interpretations of Statutory Provisions, Policy Provisions, and Procedures

Sec.
400.765 Definitions.
400.766 Basis and Applicability.
400.767 Requestor Obligations.
400.768 FCIC Obligations.

§ 400.765 Definitions.

Act. The Federal Crop Insurance Act, 7 U.S.C. 1501–1524.

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within the United States Department of Agriculture.

Final Agency Determination. An interpretation of provisions of the Act, regulations, or any policy provision that is codified in the **Federal Register**.

Participant. Any applicant for Federal crop insurance, an insured, or a private insurance company with a reinsurance agreement with FCIC or their agent, loss adjuster, employee or contractor.

Policy. The agreement to insure an agricultural commodity reinsured by FCIC under the provisions of the Federal Crop Insurance Act which consists of the accepted application, the applicable Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other amendments, endorsements, or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

Procedure. All FCIC issued handbooks, manuals, memoranda, and bulletins for any crop insurance policy reinsured by FCIC.

RMA. The Risk Management Agency, an agency of the United States Department of Agriculture.

You. The requestor of a final agency determination or interpretation of procedure or policy provision not codified in the Code of Federal Regulations.

§ 400.766 Basis and Applicability.

(a) The regulations contained in this subpart prescribe the rules and criteria for obtaining a final agency determination or an interpretation of a procedure or policy provision not codified in the Code of Federal Regulations.

(1) FCIC will provide a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations, as applicable, for policy provisions or procedures that were in effect during the four most recent

calendar years from the calendar year in which your request was submitted. For example, for a request received in the 2014 calendar year, FCIC will consider requests for the 2014, 2013, 2012, and 2011.

(2) If FCIC determines a request is outside the scope of crop years authorized in paragraph (a)(1) of this section, you will be notified within 30 days of the date of receipt by FCIC.

(3) If the policy provisions or procedures have changed for the time period you seek an interpretation you must submit a separate request for each policy provision or procedure by year. For example, if you seek an interpretation of section 6(b) of the Small Grains Crop Provisions for the 2012 through 2015 crop years but the policy provisions were revised starting with the 2014 crop year. You must submit two requests, one for the 2012 and 2013 crop years and another for the 2014 and 2015 crop years.

(b) With respect to a Final Agency Determination:

(1) All final agency determinations issued by FCIC are binding on all participants in the Federal crop insurance program for the crop years the policy provisions are in effect. Unless appealed in accordance with paragraph (2), failure of the National Appeals Division, arbitrator, or mediator to adhere to the final agency determination provided under this subpart will result in the nullification of any award or agreement in arbitration or mediation.

(2) All final agency determinations are considered matters of generally applicable and are not appealable to the National Appeals Division.

(i) Before obtaining judicial review of any final agency determination, you must obtain an administrative final determination from the Director of the National Appeals Division on the issue of whether the final agency determination is a matter of general applicability.

(ii) Any appeal of a final agency determination must be in accordance with 7 CFR 400.766(c)(4).

(c) With respect to an interpretation of procedure or policy provision not codified in the Code of Federal Regulations:

(1) If either you or any other does not agree with the written interpretation of procedure or policy provision not codified in the Code of Federal Regulations provided by FCIC, a request for administrative review may be filed in accordance with 7 CFR, part 400, subpart J. If you seek an administrative review from FCIC, such request must be submitted in in accordance with § 400.767(a).

(2) FCIC will not accept requests for administrative review from the National Appeals Division, a mediator or arbitrator.

(3) The RMA Office of the Deputy Administrator for Product Management will make a determination on the request for administrative review not later than 30 days after receipt of the request.

(4) Regardless of whether you have sought administrative review, you may appeal an interpretation of procedure made by FCIC to the National Appeals Division in accordance with 7 CFR part 11.

§ 400.767 Requestor Obligations.

(a) All requests for a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations submitted under this subpart must:

(1) Be submitted to the Deputy Administrator using the format provided on RMA's Web site at *http://www.rma.usda.gov/regs/533/section533.html* through one of the following methods:

(i) In writing by certified mail or overnight delivery, to the Deputy Administrator, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0801, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205;

(ii) By facsimile at (816) 926–1803; or

(iii) By electronic mail at *subpartx@rma.usda.gov;*

(2) State whether you are seeking a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations;

(3) Identify and quote the specific provision in the Act, regulations, procedure, or policy provision for which you are requesting a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations;

(4) Contain no more than one request for an interpretation (You must make separate requests for each provision if more than one provision is at issue. For example, if there is a dispute with the interpretation of section 3 of the Loss Adjustment Manual, then one request for an interpretation is required. If there is a dispute with the interpretation of section 3 of the Loss Adjustment Manual and section 2 of the Macadamia Nut Loss Adjustment Standards Handbook, then two separate requests for an interpretation are required);

(5) State the crop, crop year(s), and plan of insurance applicable to the request;

(6) State the name, address, and telephone number of a contact person for the request; and

(7) Contain your detailed interpretation of the specific provision of the Act, regulations, procedure, or policy provision for which the request for interpretation is being requested.

(b) You may request a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations, as applicable, only if you have legally filed or formally initiated a judicial review, mediation, or arbitration.

(1) You must identify the type of proceeding (*e.g.* mediation, arbitration, or litigation) in which the interpretation will be used, and the date the proceeding is scheduled to begin, or the earliest possible date the proceeding would likely begin if a specific date has not been established;

(2) The name, address, telephone number, and if applicable, fax number, or email address of a contact person for both parties to the proceeding;

(3) Requests must be submitted not later than 90 days before the date the mediation, arbitration or litigation proceeding in which the interpretation will be used is scheduled to begin.

(i) If the rules of the court, mediation, or arbitration require the interpretation prior to the date the proceeding begins, add 90 days to the number of days required prior to the proceeding. For example, if a court requires the interpretation 20 days prior to the date the proceeding begins, you must submit the request 110 days before the proceeding is scheduled to begin.

(ii) Failure to timely submit a request for a final agency determination may result in:

(A) FCIC issuing a determination that no interpretation could be made because the request was not timely submitted; and

(B) Nullification of any agreement or award in accordance with the applicable Basic Provisions.

(iii) If during the mediation, arbitration, or litigation proceeding, an issue arises that requires a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations, the mediator, arbitrator, judge, or magistrate must promptly request a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations in accordance with § 400.767(a).

(4) FCIC at its sole discretion may authorize personnel to provide an oral or written interpretation, as appropriate; and

(5) Any decision or settlement resulting from such mediation, arbitration, or litigation proceeding before FCIC provides its interpretation may not be binding on the parties.

(c) If multiple parties are involved and have opposing interpretations a joint request for a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations including both requestor interpretations in one request is encouraged. If multiple insured persons are parties to the proceedings, and the request for a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations applies to all parties, one request may be submitted for all insured persons instead of separate requests for each person. In this case, the information required in this section must be provided for each person.

§ 400.768 FCIC Obligations.

(a) FCIC reserves the right to not provide a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations for any request regarding, or that contains specific factual information to situations or cases, such as acts or failures to act of any participant under the terms of a policy, procedure, or any reinsurance agreement.

(1) Regardless of whether or not FCIC accepts a request, FCIC will not consider specific factual information to situations or cases in any final agency determination.

(2) FCIC will not consider any examples provided in your interpretation because those are fact specific and could be construed as a finding of fact by FCIC. If an example is required to illustrate an interpretation, FCIC will provide the example in the interpretation.

(b) If, in the sole judgment of FCIC, the request is unclear, ambiguous, or incomplete, FCIC will not provide a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations but notify you within 30 days of the date of receipt by FCIC that the request is unclear, ambiguous, or incomplete.

(c) If FCIC notifies you that a request is unclear, ambiguous or incomplete under § 400.768(b), the 90 day time period for FCIC to provide a response is stopped on the date FCIC notifies you. On the date FCIC receives a clear, complete, and unambiguous request, FCIC has the balance of the days remaining in the 90 day period to provide a response to you. For example, FCIC receives a request for a final agency determination on January 10. On February 10, FCIC notifies you the request is unclear. On March 10, FCIC receives a clarified request that meets all requirements for FCIC to provide a final agency determination. FCIC has sixty days from March 10, the balance of the 90 day period, to provide a response.

(d) FCIC reserves the right to modify the request for a final agency determination into an interpretation of procedure or policy provision not codified in the Code of Federal Regulations as needed if the request pertains to procedures or uncodified policy provisions and contains the information required in § 400.767.

(e) FCIC will provide you a written final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations within 90 days of the date of receipt for a request that meets all requirements in § 400.767.

(f) If FCIC does not provide a response within 90 days of receipt of a request, you may assume your interpretation is correct for the applicable crop year. However, your interpretation shall not be considered generally applicable and shall not be binding on any other program participants. Additionally, in the case of a joint request for a final agency determination or an interpretation of procedure or policy provision not codified in the Code of Federal Regulations, if FCIC does not provide a response within 90 days, neither party may assume their interpretations are correct.

(g) FCIC will publish all final agency determinations as specially numbered documents on the RMA Web site because they are generally applicable to all program participants.

(h) FCIC will not publish any interpretation of procedure or policy provision not codified in the Code of Federal Regulations because they are only applicable to the parties in the dispute. You are responsible for providing copies of the interpretation of procedure or policy provision not codified in the Code of Federal Regulations to all other parties involved in the proceeding.

(i) When issuing an interpretation, FCIC will not evaluate the insured, approved insurance provider, agent or loss adjuster as it relates to the performance of following FCIC policy provisions or procedures. Interpretations will not include any analysis of whether the insured, approved insurance provider, agent, or loss adjuster was in compliance with the policy provision or procedure in question.

Signed in Washington, DC, on March 5, 2015.

Brandon Willis,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2015–06224 Filed 3–17–15; 8:45 am]

BILLING CODE 3410–08–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[NRC–2009–0279]

RIN 3150–AJ29

Radiation Protection

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On July 25, 2014, the U.S. Nuclear Regulatory Commission (NRC) published for comment an advance notice of proposed rulemaking (ANPR) to obtain input from members of the public on the development of a draft regulatory basis. The draft regulatory basis would identify potential changes to the NRC's current radiation protection regulations. The potential changes, if implemented, would achieve a closer alignment between the NRC's radiation protection regulations and the recommendations of the International Commission on Radiological Protection (ICRP) contained in ICRP Publication 103 (2007). The NRC is extending the comment period for the ANPR to provide additional time for members of the public to develop and submit their comments.

DATES: The comment period has been extended and expires on June 22, 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.

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–2009–0279. Address questions about NRC dockets to Carol

Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

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

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: Cardelia Maupin, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2312; email: *Cardelia.Maupin@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2009–0279 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0279.
- 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 ANPR document is available in ADAMS under Accession No. ML14183B023.
- 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–2009–0279 in your comment submission.

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

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

II. Further Information

On July 25, 2014 (79 FR 43284), the NRC published for comment an ANPR to obtain input from members of the public on the development of a draft regulatory basis. The draft regulatory basis would identify potential changes to the NRC's current radiation protection regulations. The potential changes, if implemented, would achieve a closer alignment between the NRC's radiation protection regulations and the recommendations in ICRP Publication 103 (2007). The ANPR identifies specific questions and issues with respect to a possible revision of the NRC's radiation protection requirements. Comments, including responses to the specific questions, will be considered by the NRC staff when it develops the draft regulatory basis.

The Part 20 of Title 10 of the *Code of Federal Regulations* (10 CFR) ANPR public comment period was originally scheduled to close on November 24, 2014, after a 120-day comment period. In response to several requests from members of the public received throughout November 2014, the NRC extended the public comment period on the ANPR, by an additional 120 days, to March 24, 2015 (79 FR 69065; November 20, 2014).

In response to a second request, dated February 18, 2015, from several members of the public, the NRC is now extending the public comment period by an additional 90 days. The deadline for submitting comments is now extended from March 24, 2015, to June 22, 2015.

Dated at Rockville, Maryland, this 11th day of March 2015.

For the Nuclear Regulatory Commission,

Laura A. Dudes,

Director, Division of Material Safety, State, Tribal and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–06244 Filed 3–17–15; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

RIN 3245–AG68

Small Business Investment Companies—Early Stage

AGENCY: U.S. Small Business Administration.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: The U.S. Small Business Administration (SBA) is seeking input and comments on its Early Stage Small Business Investment Company (SBIC) initiative, promulgated in the final rule on April 27, 2012. The intent of the initiative was to license and provide SBA leverage to SBICs over a 5-year period (fiscal years 2012 through 2016) that would focus on making investments in early stage small businesses. Although 58 investment funds applied to the program, to date SBA has only licensed 5 Early Stage SBICs. SBA is seeking input from the public to determine whether existing market conditions warrant SBA continuing to license Early Stage SBICs past fiscal year 2016 on an ongoing basis and, if so, what changes should be made to the program to attract qualified early stage fund managers.

DATES: Comments must be received on or before May 18, 2015.

ADDRESSES: You may submit comments, identified by RIN 3245–AG68, by any of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov.* Please follow the instructions for submitting comments.
- Mail, Hand Delivery/Courier: Javier Saade, Associate Administrator for the Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

SBA will post comments on this Advance Notice of Proposed Rulemaking on *http://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.regulations.gov,* please submit the information to Theresa Jamerson, Office of Investment and Innovation, 409 Third Street SW., Washington, DC 20416. Highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Theresa Jamerson, Office of Investment and Innovation, (202) 205–7563.

SUPPLEMENTARY INFORMATION:

I. Background Information

Early Stage Small Business Investment Company Initiative. In the Small Business Investment Act of 1958 (the Act), Congress created the Small Business Investment Company (SBIC) program to ''stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply. * * *'' 15 U.S.C. 661. Congress intended that the program ''be carried out in such manner as to insure the maximum participation of private financing sources.'' *Id.* In accordance with that policy, the U.S. Small Business Administration (SBA), through the SBIC program, does not invest directly in small businesses, but provides leverage to SBICs, privately-owned and professionally managed for-profit investment funds licensed by SBA, by guaranteeing the payment of debentures issued by SBICs (Debentures). These SBICs in turn make loans to, and investments in, qualifying small businesses.

Since Fiscal Year (FY) 2000, the SBIC Debenture program has operated at zero subsidy cost, meaning that expected losses to the program's portfolio must be fully recouped through the collection of SBIC leverage fees in order to keep the program at zero subsidy cost to the taxpayer. By statute, SBIC leverage fees include a 1% commitment fee, a 2% draw fee, and an annual charge set at the time of commitment and paid on outstanding leverage in conjunction with interest payments. 15 U.S.C. 683(i). The annual charge is formulated each year to keep the program at zero subsidy cost, but may not, by statute, exceed 1.38%. 15 U.S.C. 683(b). Because the standard Debenture (Current Pay Debenture) requires semi-annual interest payments, most SBICs structure their investments as loans or mezzanine debt to finance later stage small businesses with positive operating cash flow so that they can meet requisite interest payments.

On April 27, 2012, SBA published a final rule (77 FR 25042) to define a new sub-category of SBICs as part of President Obama's Start-up America initiative. SBA's intent was to license over a 5-year period (fiscal years 2012 through 2016) venture funds focused on early stage businesses and to guarantee Debentures in an amount up to one-half of each fund's total capitalization. SBA allocated $1 billion of its SBIC Debenture leverage authorization over these years to this effort.

Although SBA has received 58 applications to the Early Stage SBIC program, to date, SBA has only licensed 5 Early Stage SBICs due to the quality of the application pool and SBA's rigorous licensing standards. SBA is seeking input on whether a market need for the program remains and, if so, what changes should SBA consider in order to attract Early Stage fund managers with successful track records.

Early Stage SBIC Key Requirements Summary. Current regulations identify special requirements for Early Stage SBICs to manage the risk associated with these funds investing in seed and early stage businesses, including the following:

(1) *Licensing Process*—§ 107.310: SBA uses a call process rather than accepting rolling applications as in the regular SBIC program.

(2) *Required Investments*—§ 107.1120(k): Early Stage SBICs must invest at least 50% of aggregate financing dollars into Early Stage companies, as defined in § 107.50, but generally defined as companies that have not yet achieved positive operating cash flow as of the date of the initial investment.

(3) *Minimum Regulatory Capital*—§ 107.210(3): Early Stage SBICs must have at least $20 million in Regulatory Capital (qualifying Private Capital as defined in § 107.50).

(4) *Leverage:*

(a) *Maximum Leverage*—§ 107.1150: Early Stage SBICs may qualify for leverage up to 100% of Regulatory Capital (also called ''one tier of leverage''), not to exceed $50 million.

(b) *SBA Leverage Fees*—§ 107.1130: All SBICs issuing Debentures, including Early Stage SBICs, must pay 3% in up-front fees (1% at commitment and 2% at draw) and an additional SBA fee, not to exceed 1.38 percent per annum, on outstanding Debentures paid at the same time as interest.

(c) *Type of Leverage:* Early Stage SBICs may choose from two types of leverage both with ten year maturities and subject to Early Stage Distribution rules:

(i) *Early Stage Current Pay Debenture:* Requires quarterly payments for interest and SBA annual fees. Early Stage SBICs choosing to use the Current Pay Debenture are required to maintain a 5-year interest reserve per § 107.1181. The interest reserve may include unfunded commitments or cash reserves which could be funded from Debenture proceeds. The interest reserve is intended to provide a pool of funds from which Early Stage SBICs can pay interest and annual fees while their investments mature.

(ii) *Discounted/Accruing Debenture:* Debenture issued at a discount of 5 years of annual fees and interest charges, so that the amount owed accrues over a 5-year period to face value. After the 5-year period, quarterly payments for interest and annual fees must be paid on an ongoing basis.

(5) *Distribution Rules—§ 107.1180:* Before an Early Stage SBIC with outstanding leverage may distribute to its investors, it must first pay all required SBA interest and charges and any leverage principal due at maturity. After those payments are made, if the Early Stage SBIC's capital impairment percentage, defined in § 107.1840, is 50 percent or more, and the SBIC's leverage ratio (defined as outstanding leverage to Leverageable Capital) exceeds 0.5, it must repay all outstanding SBIC Debentures before distributing to private investors. Otherwise, the Early Stage SBIC must repay SBA leverage, at a minimum, pro rata (in proportion) with any distributions returned to private investors on a cumulative basis.

(6) *Restrictions on Third-Party Debt—§ 107.565:* Early Stage SBICs must seek SBA's prior written approval before incurring any third-party debt, except for accounts payable from routine business operations.

(7) *Capital Impairment Percentage (CIP) §§ 107.1830–1850:* CIP is the primary financial metric SBA uses to evaluate an SBIC's ability to repay its leverage. CIP measures the losses incurred by an SBIC relative to its Regulatory Capital. If an SBIC exceeds its maximum allowable CIP, SBA has the right to, among other things, declare the entire indebtedness of the SBIC's Debentures immediately due and payable; and institute proceedings for the appointment of SBA as receiver of the SBIC. Because Early Stage SBICs are

limited to one tier of leverage, the maximum allowable CIP ranges from 45% to 70%, depending on the percentage of equity. If the percentage of equity investments at cost exceeds 67%, the maximum allowable CIP would be 70%.

II. Market Gap

(1) *Market Need.* According to data from PricewaterhouseCoopers Moneytree (*https://www.pwcmoneytree.com/*), financings to seed and early stage companies by venture funds has grown from $2.16 billion in the first quarter of calendar year 2012 to over $4 billion in the second quarter of calendar year 2014, the highest amount in any quarter since 2000. As a federal credit program, SBA seeks to direct capital to gaps in the marketplace. Given the growth in early stage financings since 2012, SBA is trying to determine whether it should continue to license Early Stage SBICs past 2016. SBA is seeking input from the public with regard to the following questions:

(a) Are there barriers preventing promising early stage small businesses from being financed, and, if so, what are the barriers?

(b) Are there gaps in the financial markets with regard to financing early stage or seed companies in the United States? If so, what evidence exists to identify and verify these gaps?

(c) If there are no or limited gaps in the financial markets for early stage and seed companies in the United States, should SBA continue the Early Stage SBIC program past 2016, but issue a call for Early Stage SBIC applications only if and when identifiable market gaps occur? If so, what evidence should SBA use to identify declining market conditions or gaps in the market?

(2) *Targeted Early Stage SBIC Participants.* The Early Stage SBIC initiative focused on more established and traditional early stage venture funds to participate in the program because these funds' investment strategy effectively utilizes SBA's leverage to finance small businesses. SBA recognizes that many early stage and seed businesses may obtain capital from other sources than traditional early stage/seed venture funds. Accelerator funds, incubators, angel investment funds or other types of similar funds—venture capital funds that generally make a substantial number of relatively small-dollar equity investments in seed and early stage businesses—have not demonstrated significant interest in SBA's Early Stage SBIC initiative. Could these funds effectively utilize Debenture leverage as part of their investment strategy in a way that would not increase the risk profile of the SBIC program. What changes to the Early Stage SBIC program would SBA need to make in order to attract qualified funds that use this investment strategy? Would the minimum regulatory capital need to be changed? Would the leverage terms need to be changed? What data is available to assess the risk associated with these types of funds?

III. Early Stage SBIC Program Structure

(1) *Fund-Level Debt Versus Equity.* Based on discussions with early stage fund managers and limited partners, SBA understands that most early stage funds would prefer equity rather than fund-level debt. However, SBA is only authorized to guarantee SBIC Debentures for its licensed funds. SBA also recognizes the potential mismatch between Debenture leverage and early stage portfolio company cash flows. Because most early stage portfolio companies do not have the cash flow to service debt, most early stage financings are structured as equity. SBA tried to compensate for this in the Early Stage SBIC program by implementing a discounted debenture in which leverage is issued at a discount and interest and charges accrue for 5 years before the fund would be required to make payments on a quarterly basis. Alternatively, Early Stage SBICs could use the Current Pay Debenture and pay interest and charges on a quarterly basis using the required interest reserve.

SBA has heard from members of the venture capital industry that many early stage funds are not interested in leverage. SBA seeks input from the public on whether fund-level debt is of use to early stage fund managers or whether concerns exist with regard to current SBIC Early Stage Debenture leverage terms.

(2) *Early Stage SBIC Leverage Terms.* Early Stage SBICs are expected to have significantly higher losses than regular SBICs, due to the risk associated with their portfolios. SBA structured the Early Stage SBIC program so that it could be run with minimum impact to the regular SBIC Debenture program. This includes limiting the amount of Early Stage leverage as a percentage of the overall SBIC portfolio. Key Early Stage SBIC requirements are summarized in Section I of this ANPRM. SBA seeks input from the public to identify how Early Stage SBIC requirements could be improved without increasing SBA's credit risk. In particular, SBA has the following questions:

(a) *Minimum Regulatory Capital:* Currently, Early Stage SBICs must have at least $20 million in Regulatory Capital. Should SBA modify this Regulatory Capital requirement in order to improve the number of qualified applicants to the program?

(b) *Maximum Leverage:* SBA set the maximum leverage for Early Stage SBICs at $50 million based on its overall allocation of $200 million per year, in order to provide some level of portfolio diversification. Should SBA increase the maximum leverage available to Early Stage SBICs, for example, to $100 million, approximately half of any year's allocation?

(c) *Maximum Leverage Ratio:* Currently, SBA provides up to one tier of leverage, not to exceed the maximum, in order to limit its credit risk. Should SBA lower the maximum leverage ratio to help further reduce its credit risk? What maximum leverage ratio is appropriate?

(d) *Interest Reserve:* If Early Stage SBICs use the Current Pay Debenture, they must maintain a 5-year interest reserve to make interest and annual charge payments. SBA set this interest reserve to make sure that Early Stage SBICs would have sufficient funds to make required interest payments for the first 5 years and to lower the overall loss rate. Would removing the interest reserve attract more qualified applicants? If so, since the interest reserve was put in place to mitigate SBA's risk and limit the increase to the SBIC Debenture annual charge, what actions should SBA consider to help mitigate SBA's risk?

(3) *Other Early Stage SBIC Regulations.* SBA invites comments on other aspects of Early Stage regulations, including the following:

(a) *Licensing Process:* Would a rolling licensing process (where SBA accepts applications throughout the year) versus the Early Stage Call process, identified in § 107.310, be preferred and/or attract more qualified applicants to the program?

(b) *Third-Party Debt:* Do third-party debt restrictions identified in § 107.565 detract from the program and what changes could be made to achieve the same credit risks for SBA?

(4) *Other SBIC Regulations and Guidelines.* SBA also invites comments on other SBIC regulatory requirements as identified in 13 CFR part 107 that may be of particular concern to Early Stage SBIC applicants. For example, some Early Stage SBICs and potential applicants have indicated concerns with SBA's Valuation Guidelines (*http://www.sba.gov/content/valuation-guidelines-sbics*). SBA is interested in feedback as to what those concerns are

and what changes industry members would recommend.

Dated: March 11, 2015.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2015–06182 Filed 3–17–15; 8:45 am]

BILLING CODE 8025–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R03–OAR–2015–0119; FRL–9924–56–Region 3]

Clean Air Act Title V Operating Permit Program Revision; Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Pennsylvania Title V Operating Permit Program submitted by the Commonwealth of Pennsylvania on February 11, 2014. The Pennsylvania Operating Permit Program is implemented through its Title V Operating Permits Rule, codified at Subchapter G of Chapter 127 of Title 25 of the Pennsylvania Code. The February 11, 2014 revision amends the title V fee program that funds the Pennsylvania Title V Operating Permit Program. These changes resulted in substantial revisions to Pennsylvania's Title V Operating Permit Program. EPA is proposing to approve these revisions. The intended effect of this action is to improve the Commonwealth's title V operating permit program.

DATES: Written comments must be received on or before April 17, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2015–0119 by one of the following methods:

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

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

C. *Mail:* EPA–R03–OAR–2015–0119, David Campbell, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2015–0119. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

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

SUPPLEMENTARY INFORMATION:

I. Background

EPA granted full approval of the Pennsylvania Title V Operating Permits Program on July 30, 1996. *See* 61 FR 39597. Under 40 CFR 70.9(a) and (b), an approved state title V operating permits program must require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and ensure that any fee required under 40 CFR 70.9 is used solely for permit program costs. The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program costs.

Pennsylvania's initial title V permit emission fee, established in 1994 at 25 PA Code 127.705, was $37 per ton of regulated pollutant per title V facility. Pennsylvania's fee has been increased each year since 1994 by the percentage, if any, by which the Consumer Price Index (CPI) for the most recent calendar year exceeded the CPI for the previous calendar year. Under that regulatory framework, the annual emission fee for emissions occurring in calendar year 2012 was $57.50 per ton of regulated pollutant for emissions of up to 4,000 tons of each regulated pollutant. The fee structure has not been revised since 1994.

Pennsylvania has determined that title V annual emission fee revenues collected are no longer sufficient to cover title V program costs. Installation of air pollution control technology over the past two decades on major stationary sources, the retirement or curtailment of operations by major sources, and the conversion at many major facilities from burning coal or oil to burning natural gas have resulted in decreased emission of regulated pollutants that are subject to annual emission fees, and revenues collected have been decreasing as a result. The decline in interest rates paid on savings account balances used by the Commonwealth to manage permit fees collected also has affected the funds available to Pennsylvania, as the investments earn less interest in the current economy compared to the early years of the title V program. Pursuant to 40 CFR 70.4(i)(2), when EPA receives a title V program revision, EPA will publish its proposed approval or disapproval in the **Federal Register** and provide opportunity for comment.

II. Summary of Program Revision

In the February 11, 2014 program revision, Pennsylvania has included revised 25 PA Code 127.705 which Pennsylvania has amended to increase

Pennsylvania's annual emission fees. Fees are increased to $85 per ton of emissions for emissions from title V sources of up to 4,000 tons of each regulated pollutant. The provisions for increasing the annual emissions fees in response to increases in the CPI at 25 PA Code 127.705(d) remain unchanged. The revised fees are designed to cover all reasonable costs required to develop and administer the title V program as required by 40 CFR 70.9(a) and (b). These costs include those for activities such as reviewing and processing plan approvals and operating permits, conducting inspections, responding to complaints and pursuing enforcement actions, emissions and ambient air monitoring, preparing applicable regulations and guidance, modeling, analyses, demonstrations, emission inventories, and tracking emissions.

Without this fee increase, Pennsylvania anticipates funds will not be sufficient to sustain the title V permitting program beginning fiscal years 2015–2016. If funds become insufficient to sustain the title V permitting program in Pennsylvania, EPA may determine that Pennsylvania has not taken ''significant action to assure adequate administration and enforcement of the Program'' and take subsequent required action under 40 CFR 70.10(b) and(c) as well as impose mandatory and discretionary sanctions under the CAA.

III. EPA Analysis of Program Revision

The February 11, 2014 Title V Operating Permit Program revision consists of amendments to Pennsylvania's rules which establish annual emission fees under title V of the CAA. This rulemaking proposes approval of the increase to the annual title V fees paid by the owner or operator of a title V facility from $57.50 per ton of regulated air pollutant to $85 per ton because the revision meets requirements in 40 CFR 70.9 for sufficient title V fees to cover permit program costs. The emission fees apply to emissions up to 4,000 tons of any regulated pollutant. The proposed revision does not establish a fee structure for carbon dioxide or other greenhouse gases (GHGs). EPA's rules do not mandate revisions to state title V programs to account for GHG emissions.

IV. Proposed Action

Pursuant to 40 CFR 70.4(i)(2), EPA is proposing to approve the Pennsylvania Title V Operating Program revision submitted on February 11, 2014 to increase the annual title V fees paid by the owners or operators of all title V facilities throughout Pennsylvania, including Allegheny and Philadelphia Counties, from $57.50 per ton of regulated air pollutant to $85 per ton. The revision meets requirements in 40 CFR 70.9. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule related to Pennsylvania title V fees does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the program is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: March 6, 2015.

William C. Early,

Acting, Regional Administrator, Region III.

[FR Doc. 2015–06145 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2014–0532, FRL–9924–72–Region 10]

Approval and Promulgation of Implementation Plans; Alaska

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve and incorporate by reference revisions to the Alaska State Implementation Plan (SIP) submitted on July 1, 2014 and October 24, 2014. These revisions primarily update the adoption by reference of Federal regulations and definitions into the Alaska SIP. The revisions also clarify stationary source permitting rules governing owner-requested emission limits and revise the SIP to reflect the redesignation of the Eagle River area of Anchorage. Upon final action, the Alaska SIP will be updated to reflect recent Federal regulatory changes and actions.

DATES: Comments must be received on or before April 17, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2014–0532, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Kristin Hall, EPA Region 10, Office of Air, Waste and Toxics (AWT–150), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101.
- *Email: R10-Public_Comments@epa.gov.*
- *Hand Delivery:* EPA Region 10 Mailroom, 9th Floor, 1200 Sixth

Avenue, Suite 900, Seattle WA, 98101. Attention: Kristin Hall, Office of Air, Waste and Toxics, AWT–150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2014–0532. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: Kristin Hall at telephone number: (206) 553–6357, email address: *hall.kristin@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' is used, it is intended to refer to the EPA.

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I. Background
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I. Background

Section 110 of the Clean Air Act (CAA) specifies the general requirements for states to submit SIPs to implement, maintain and enforce the National Ambient Air Quality Standards (NAAQS) and the EPA's actions regarding approval of those SIPs. On July 1, 2014 and October 24, 2014, the Alaska Department of Environmental Conservation (ADEC), on behalf of the Governor of Alaska, submitted SIP revisions to the EPA to account for regulatory updates effective October 6, 2013 and November 9, 2014, respectively. These revisions update Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50 Air Quality Control (18 AAC 50) to reflect the adoption by reference of Federal regulations and definitions into the Alaska SIP, and edit associated cross-references to definitions. The revisions also clarify stationary source permitting rules governing owner-requested emission limits, and update the SIP to reflect the redesignation of the Eagle River area of Anchorage to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}).

We note that this action does not address the portions of the July 1, 2014, and October 24, 2014, SIP submittals related to Alaska's nonattainment new source review permitting program. The nonattainment new source review permitting rule updates submitted as part of these revisions were approved in a previous action on January 7, 2015 (80 FR 832). In this action, we are proposing to approve the remainder of the revisions to the Alaska SIP submitted on July 1, 2014 and October 24, 2014. Please see below for our evaluation.

II. EPA Evaluation of Alaska SIP Revisions

A. 18 AAC 50.015—Air Quality Designations, Classifications and Control Regions

On January 7, 2013, the EPA approved the maintenance plan submitted by ADEC for the Eagle River PM_{10} nonattainment area and its accompanying request to redesignate the area to attainment for the PM_{10} NAAQS (78 FR 900). The redesignation became effective on March 8, 2013. Accordingly, in the July 1, 2014, submittal, ADEC revised 18 AAC 50.015 ''Air Quality Designations, Classifications, and Control Regions'' to reflect the change. We are proposing to approve the revision to this rule.

B. 18 AAC 50.040—Federal Standards Adopted by Reference

Guideline on Air Quality Modeling

In the July 1, 2014, submittal, ADEC revised and submitted changes to 18 AAC 50.040 ''Federal Standards Adopted by Reference'' to update the citation dates incorporating by reference certain Federal requirements into the Alaska SIP. Specifically, ADEC submitted the updated adoption by reference of 40 CFR part 51, Appendix W ''Guideline on Air Quality Models'' revised as of July 1, 2012. We are proposing to approve this revision as consistent with Federal requirements.

Prevention of Significant Deterioration (PSD)

ADEC also submitted the updated incorporation by reference of Federal PSD permitting regulations at 40 CFR 51.166 and 40 CFR 52.21, revised as of April 1, 2013, which are referenced in ADEC's major source permitting rules in 18 AAC Chapter 50, Article 3, and relied on to implement ADEC's SIP-approved PSD permitting program. ADEC excluded from its submittal certain PSD permitting provisions in 40 CFR 51.166 and 40 CFR 52.21 that have been vacated by recent Court decisions, and those provisions are therefore not before the EPA for approval. Specifically, in response to the Court vacatur of the EPA $PM_{2.5}$ significant monitoring concentration (SMC) and significant impact level (SIL) regulations, ADEC did not submit to the EPA for approval the provisions in the Alaska SIP impacted by the Court decision (18 AAC 50.040(h)(7) and (9)). ADEC's July 1, 2014, submittal cover letter confirms that ADEC intends to act in accordance with the Court vacatur, and that, although these provisions have not yet been repealed and remain in effect as a matter of State law, ADEC will not apply either the $PM_{2.5}$ SMC provisions at 40 CFR 51.166(i)(5)(i)(c) and 52.21 (i)(5)(i)(c), or the $PM_{2.5}$ SIL provisions at 40 CFR 51.166(k)(2) and 52.21(k)(2) in implementing the State new source permitting program. For a more detailed discussion of this issue, please see our

previous action addressing revisions to the State PSD program (proposed May 5, 2014, 79 FR 25533; finalized September 19, 2014, 79 FR 56268).

ADEC also excluded from its submittals the greenhouse gas (GHG) regulatory provision at 40 CFR 52.21(b)(49)(v) that was recently vacated by the Supreme Court and that is adopted by reference in 18 AAC 50.040(h)(4), effective October 6, 2013. On June 3, 2010, the EPA revised Federal PSD permitting rules addressing the application of the requirements to GHG emissions (GHG Tailoring Rule) (75 FR 31514). However, on June 23, 2014, the Supreme Court, in *Utility Air Regulatory Group* v. *Environmental Protection Agency,*[1] issued a decision addressing the application of PSD permitting requirements to GHG emissions. The Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source (or modification thereof) required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of best available control technology. In order to act consistently with its understanding of the Court's decision pending further judicial action before the U.S. Court of Appeals for the District of Columbia to effectuate the decision, the EPA is not continuing to apply the EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, the EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.* 40 CFR 51.166(b)(48)(v)).

The EPA anticipates a need to revise Federal PSD rules in light of the Supreme Court decision. In addition, the EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. The timing and content of subsequent EPA actions with respect to the EPA regulations is expected to be informed by additional legal processes before the D.C. Circuit. The EPA is not expecting states to have revised their existing PSD program regulations at this juncture, before the D.C. Circuit has addressed these issues and before the EPA has revised its regulations at 40 CFR 51.166 and 52.21. However, the EPA is evaluating PSD program submissions to assure that state programs correctly address GHGs, consistent with the Supreme Court's decision. Because ADEC has excluded from its SIP submission the GHG Tailoring Rule provision that was vacated by the Supreme Court, that provision is not before the EPA for action.

For the reasons discussed above, we are proposing to determine that the updated incorporation by reference of Federal requirements in 18 AAC 50.040(h) is consistent with CAA requirements for SIP-approved PSD permitting programs.

We note that in both the July 1, 2014, and October 24, 2014, submittals, ADEC included changes to 18 AAC 50.040(i) related to Alaska's nonattainment new source review permitting program. These changes were previously approved on January 7, 2015 (80 FR 832).

C. 18 AAC 50.225—Owner-Requested Limits

The July 1, 2014, submittal included a revised version of 18 AAC 50.225 ''Owner-Requested Limits,'' effective October 6, 2013, that removed paragraph (b)(7). Paragraph (a) of 18 AAC 50.225 specifies that an owner-requested limit under this provision may be requested ''to avoid all permitting obligations under AS 46.14.130 [Stationary sources requiring permits].'' Paragraph (b)(7) of 18 AAC 50.225 stated that, ''if applying all limits does not avoid all permit classifications under AS 46.14 and this chapter, the owner or operator shall submit to the department ''a description, and if necessary an application, for the remaining classifications[.]'' In the July 1, 2014, submittal, ADEC stated that in 18 AAC 50.225, paragraph (b)(7) contradicts paragraph (a) and that the repeal of (b)(7) merely clarifies the requirements for obtaining owner-requested limits. As explained by ADEC, the State's interpretation of 18 AAC 50.225 is that a source is only eligible to apply for an owner-requested limit under 18 AAC 50.225 to avoid all stationary source permitting obligations under AS 46.14.130. AS 46.14.130 ''Stationary sources requiring permits'' is the Alaska statute requiring both title I major new source construction permits and title V major source operating permits.[2] If all obligations for major new source construction permitting cannot be avoided by requesting an emission limit on the source, then the owner or operator may not apply for an owner requested limit (ORL) under 18 AAC 50.225, but could instead request an ORL in a permit issued under 18 AAC 508 ''Minor Permits Requested by the Owner or Operator.'' This provision allows an owner or operator to request a minor permit from the department for ''establishing an owner requested limit (ORL) to avoid one or more permit classifications under AS 46.14.130 at a stationary source that will remain subject to at least one permit classification. . .''

In the July 1, 2014, submittal ADEC asserted that ''there is no relaxation of the regulations, as the two types of ORLs allow the applicant to avoid permitting classifications depending on their particular situation.''

We agree with ADEC that the provision at 18 AAC 50.225(b)(7) is potentially confusing and contradictory and that the repeal of that provision clarifies when each of the two provisions authorizing owner-requested limits (18 AAC 50.225 and 18 AAC 50.508) are applicable to owners and operators of stationary sources seeking an emission limit to avoid major permitting obligations. We therefore propose to approve the revision to 18 AAC 50.225.

D. 18 AAC 50.260—Guidelines for Best Available Retrofit Technology Under the Regional Haze Rule

In the July 1, 2014, submittal, ADEC revised this provision to reference the definition of fugitive emissions in 18 AAC 50.990 ''Definitions'' rather than the statutory definition in AS 46.14.990. The definition of ''fugitive emissions'' at 18 AAC 50.990(40) states that the term has the meaning given in 40 CFR 51.166(b)(20) in the Federal PSD regulations. This definition is approvable because the PSD definition of ''fugitive emissions'' in 40 CFR 51.166(b)(20) is identical to the definition of the same term in 40 CFR 51.301 ''Definitions'' for purposes of 40 CFR part 51, subpart P ''Protection of Visibility.''

E. 18 AAC 50.502—Minor Permits for Air Quality Protection

The October 24, 2014, submittal revised 18 AAC 50.502 ''Minor Permits for Air Quality Protection'' to add

[1] 134 S.Ct. 2427 (2014).

[2] Because the SIP addresses section 110 in title I of the CAA, the permitting obligation an owner or operator may seek to avoid through the SIP-approved rule at 18 AAC 50.225 is the obligation to obtain a major new source construction permit.

paragraph (h)(5). This paragraph defines ''regulated NSR pollutant'' for new sources seeking minor permits under 18 AAC 50.502 by adopting by reference the Federal definition of ''regulated NSR pollutant'' at 40 CFR 52.21(b)(50). This is not a substantive change to Alaska's minor NSR program because this definition was previously included in 18 AAC 50.900.

F. 18 AAC 50.990—Definitions

The July 1, 2014, submittal revised the definition of ''fugitive emissions'' at 18 AAC 50.990(40) to have the meaning given in 40 CFR 51.166(b)(20), as revised as of July 1, 2012. The October 24, 2014, submittal repealed the definition of ''regulated NSR pollutant'' at 18 AAC 50.990(92). This action does not address these changes because we previously approved them on January 7, 2015 (80 FR 832).

The July 1, 2014, submittal also updated the citation date for the incorporation by reference of the Federal definition of ''volatile organic compound'' (VOC). The submittal revised 18 AAC 50.990(121) to define ''VOC'' as the meaning given in 40 CFR 51,100(s) as of April 18, 2013. We note that the Federal definition has been revised since April 18, 2013. Specifically, on October 22, 2013, the EPA removed constituents from the definition of VOC (78 FR 62451). While the definition in Alaska's rule is not identical to the Federal definition, the Alaska definition is more stringent and therefore approvable.

III. Proposed Action

The EPA is proposing to approve and incorporate by reference into the Alaska SIP changes to the following provisions submitted on July 1, 2014 and October 24, 2014:

- 18 AAC 50.015 ''Air Quality Designations, Classifications, and Control Regions'' (State effective 10/6/2013);
- 18 AAC 50.040 ''Federal Standards Adopted by Reference'' (State effective 10/6/2013);
- 18 AAC 50.225 ''Owner-Requested Limits'' (State effective 10/6/2013);
- 18 AAC 50.260 ''Guidelines for Best Available Retrofit Technology under the Regional Haze Rule'' (State effective 10/6/2013);
- 18 AAC 50.502 ''Minor Permits for Air Quality Protection'' (State effective 11/9/2014); and
- 18 AAC 50.990 ''Definitions'' (State effective 11/9/2014).

We have made the preliminary determination that the submitted SIP revisions are approvable because they are consistent with section 110 and part C of title I of the CAA. We note that this action does not address the submitted revisions related to Alaska's nonattainment NSR permitting program because we approved those changes on January 7, 2015 (80 FR 832).

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions described above in Section III. Proposed Action. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 6, 2015.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2015–06216 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0884; FRL–9924–55–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Determination of Attainment of the 2008 8-Hour Ozone National Ambient Air Quality Standard for the Baltimore, Maryland Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to make a determination that the Baltimore, Maryland Moderate Nonattainment Area (Baltimore Area) has attained the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). This

proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data that shows the Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2012–2014 monitoring period. If this proposal becomes final, the requirement for this Area to submit an attainment demonstration, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures related to attainment of the 2008 8-hour ozone NAAQS shall be suspended for so long as the Area continues to attain the 2008 8-hour ozone NAAQS. This action does not constitute a redesignation to attainment. The Baltimore Area will remain nonattainment for the 2008 8-hour ozone NAAQS until such time as EPA determines that the Baltimore Area meets the Clean Air Act (CAA) requirements for redesignation to attainment, including an approved maintenance plan. This action is being taken under the CAA.

DATES: Written comments must be received on or before April 17, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0884 by one of the following methods:

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

B. Email: *fernandez.cristina@epa.gov.*

C. Mail: EPA–R03–OAR–2014–0884, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0884. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (annual fourth-highest daily maximum 8-hour average concentration, averaged over three years) to provide increased protection of public health and the environment. 73 FR 16436 (March 27, 2008).[1] The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. On May 21, 2012 (77 FR 30088), effective July 20, 2012, EPA designated as nonattainment any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data. The Baltimore Area (specifically, Anne Arundel County, Baltimore City, Baltimore County, Carroll County, Harford County, and Howard County) was designated as a moderate ozone nonattainment area. *See* 40 CFR 81.321. Moderate areas are required to attain the 2008 8-hour ozone NAAQS by no later than six years after the effective date of designations, or July 20, 2018. *See* 40 CFR 51.903. Air quality monitoring data from the 2012–2014 monitoring period indicate that the Baltimore Area is now attaining the 2008 8-hour ozone NAAQS.

Under the provisions of EPA's ozone implementation rule (40 CFR 51.918), if EPA issues a determination that an area is attaining the relevant standard (through a rulemaking that includes public notice and comment), it will suspend the area's obligations to submit an attainment demonstration, RACM, RFP, contingency measures and other planning requirements related to attainment of the 2008 8-hour ozone NAAQS for as long as the area continues to attain the standard. This suspension remains in effect until such time, if ever, that EPA (i) redesignates the area to attainment at which time those requirements no longer apply, or (ii) subsequently determines that the area has violated the 2008 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. The determination of attainment is not equivalent to a redesignation under section 107(d)(3) of the CAA. The designation status of the Baltimore Area will remain nonattainment for the 2008 8-hour ozone NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan. Additionally, the determination of attainment is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the Baltimore Area based on any new or revised ozone NAAQS, and it remains in effect regardless of whether EPA designates this Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

II. EPA's Evaluation

For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR part 50, based on three complete, consecutive calendar years of quality-assured ambient air monitoring data. Under EPA regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the

[1] For a detailed explanation of the calculation of the 3-year 8-hour average, *see* 40 CFR part 50, appendix I.

annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.075 ppm. *See* 40 CFR part 50, appendix P. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each monitor within the area, then the area is attaining the NAAQS. Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than or equal to 90 percent (%), and no single year has less than 75% data completeness as determined in appendix P of 40 CFR part 50. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA Air Quality System (AQS).

EPA has reviewed the complete, quality-assured and certified ozone ambient air monitoring data for the monitoring period for 2012–2014 for the Baltimore Area. The design values for each monitor for the years 2012–2014 are less than or equal to 0.075 ppm, and all monitors meet the data completeness requirements (*see* Table 1). Based on this 2012–2014 data from the AQS database and consistent with the requirements contained in 40 CFR part 50, EPA has concluded that this Area attained the 2008 8-hour ozone NAAQS.

TABLE 1—2012–2014 BALTIMORE AREA 2008 8-HOUR OZONE DESIGN VALUES

Monitor ID	Average percent data completeness	2012–2014 Design value (ppm)
24–003–0014	97	0.074
24–005–1007	95	0.072
24–005–3001	99	0.072
24–013–0001	99	0.069
24–025–1001	98	0.075
24–025–9001	96	0.073
24–510–0054	90	0.064

The data in Table 1 are available in EPA's AQS database. The AQS report with this data is available in the docket for this rulemaking under docket number EPA–R03–OAR–2014–0884 and available online at *www.regulations.gov,* docket number EPA–R03–OAR–2014–0884.

III. Proposed Action

EPA is proposing to make a determination that the Baltimore Area has attained the 2008 8-hour ozone NAAQS. This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data that show the Baltimore Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2012–2014 monitoring period. Once this proposal is final, the requirement for this Area to submit an attainment demonstration, RACM, a RFP plan, contingency measures, and other planning requirements related to attainment of the 2008 8-hour ozone NAAQS shall be suspended for so long as the Baltimore Area continues to attain the 2008 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. Finalizing this determination does not constitute a redesignation of the Baltimore Area to attainment for the 2008 8-hour ozone NAAQS under CAA section 107(d)(3). This determination of attainment also does not involve approving any maintenance plan for the Baltimore Area and does not determine that the Baltimore Area has met all the requirements for redesignation under the CAA, including that the attainment be due to permanent and enforceable measures. Therefore, the designation status of the Baltimore Area will remain nonattainment for the 2008 8-hour ozone NAAQS until such time as EPA takes final rulemaking action to determine that such Area meets the CAA requirements for redesignation to attainment. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

This action proposes to make an attainment determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements and would not impose any additional requirements. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, concerning a determination of attainment for the 2008 ozone NAAQS for the Baltimore Area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the State Implementation Plan (SIP) is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 6, 2015.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2015–06220 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR part 52

[EPA–R09–OAR–2015–0187; FRL–9924–48–Region 9]

Revisions to Air Plan; Arizona; Stationary Sources; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of revisions to the Arizona Department of Environmental Quality (ADEQ) portion of the applicable state implementation plan (SIP) for the State of Arizona. These revisions are primarily intended to serve as a replacement of ADEQ's existing SIP-approved rules for the issuance of New Source Review (NSR) permits for stationary sources, including but not limited to review and permitting of major sources and major modifications under the Clean Air Act (CAA or Act). After a lengthy stakeholder process, the State of Arizona developed and submitted a NSR program for SIP approval that satisfies most of the applicable Clean Air Act and NSR regulatory requirements, and will significantly update ADEQ's existing SIP-approved NSR program. It also represents an overall strengthening of ADEQ's SIP-approved NSR program by clarifying and enhancing the NSR permitting requirements for major and minor stationary sources. This proposed action will update the applicable plan and set the stage for remedying certain deficiencies in these rules. We are seeking comment on our proposed action and plan to follow with a final action.

DATES: Any comments must arrive by April 17, 2015.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2015–0187, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions.

2. *Email: R9airpermits@epa.gov.*

3. *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, EPA Region 9, (415) 972–3811, *beckham.lisa@epa.gov.*

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

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.

(iii) The initials *A.R.S.* mean or refer to the Arizona Revised Statutes.

(iv) The initials *BACT* mean or refer to Best Available Control Technology.

(v) The initials *CFR* mean or refer to Code of Federal Regulations.

(vi) The initials *CO* means or refer to carbon monoxide.

(vii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(viii) The initials *FIP* mean or refer to Federal Implementation Plan.

(ix) The initials *GHG* mean or refer to greenhouse gas.

(x) The initials *IBR* mean or refer to incorporation by reference.

(xi) The initials *LAER* mean or refer to Lowest Achievable Emissions Rate.

(xii) The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.

(xiii) The initials *NA–NSR* mean or refer to Nonattainment New Source Review.

(xiv) The initials NO_X mean or refer to nitrogen oxides.

(xv) The initials *NSR* mean or refer to New Source Review.

(xvi) The initials *PAL* mean or refer to Plantwide Applicability Limits.

(xvii) The initials PM_{10} mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (coarse particulate matter).

(xviii) The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 2.5 micrometers (fine particulate matter).

(xix) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

(xx) The initials *PTE* mean or refer to potential to emit.

(xxi) The initials *RACT* mean or refer to reasonable available control technology.

(xxii) The initials *SIP* mean or refer to State Implementation Plan.

(xxiii) The initials *SMC* mean or refer to significant monitoring concentration.

(xxiv) The initials SO_2 mean or refer to sulfur dioxide.

(xxv) The words *State* or *Arizona* mean the State of Arizona, unless the context indicates otherwise.

(xxvi) The initials *TSD* mean or refer to the technical support document for this action.

(xxvii) The initials *VOC* mean or refer to volatile organic compound.

I. The State's Submittals

A. Which rules or statutory provisions did the State submit?

On July 28, 2011 and October 29, 2012, ADEQ submitted revisions to the ADEQ portion of the Arizona SIP. On May 16, 2014, ADEQ supplemented the July 28, 2011 submittal. On September 6, 2013, July 2, 2014, and February 16, 2015, ADEQ supplemented the October 29, 2012 submittal. Collectively, these submittals generally comprise ADEQ's current program for preconstruction review and permitting of new or modified stationary sources under ADEQ's jurisdiction in Arizona (as described below).[1] The NSR SIP revisions that are the subject of this action, [2] referred to herein as the ''NSR SIP submittal'' represent a comprehensive revision to ADEQ's preconstruction review and permitting program and are intended to satisfy the requirements under both part C (prevention of significant deterioration) (PSD) and part D (nonattainment new source review) of title I of the Act as well as the general preconstruction review requirements under section 110(a)(2)(C) of the Act.[3] The preconstruction review and permitting programs are often collectively referred to as ''New Source Review'' (NSR).

The proposed revisions to the SIP that are subject to this action cover those areas of Arizona where ADEQ has jurisdiction. Currently, ADEQ has permitting jurisdiction for the following stationary source categories in all areas of Arizona: Smelting of metal ores, coal-fired electric generating stations, petroleum refineries, Portland cement plants, and portable sources. ADEQ also has permitting jurisdiction for major and minor sources in the following counties: Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Santa Cruz, Yavapai, and Yuma. Finally, ADEQ has permitting jurisdiction over major sources in Pinal County [4] and the Rosemont Copper Mine in Pima County.

Table 1 lists the rules we are proposing for approval in today's action with the corresponding effective dates and submittal dates. The submitted rules are from the Arizona Administrative Code, Title 18—Environmental Quality, Chapter 2—Department of Environmental Quality—Air Pollution Control, Articles 1, 2, 3, and 4. The submitted statutory provision is from Title 49 of the Arizona Revised Statutes, Chapter 1, Article 1.

TABLE 1—SUBMITTED STATUTES AND RULES PROPOSED FOR APPROVAL IN THIS ACTION

Rule or statute	Title	State effective date	Submitted
A.R.S § 49–107	Local delegation of state authority	08/18/1987	07/2/2014
R18–2–101 [only definitions (2), (32), (87), (109), and (122)].	Definitions	08/07/2012	10/29/2014
R18–2–217	Designation and Classification of Attainment Areas	11/15/1993	10/29/2014
R18–2–218	Limitation of Pollutants in Classified Attainment Areas.	08/07/2012	10/29/2014
R18–2–301	Definitions	08/07/2012	10/29/2014
R18–2–302	Applicability; Registration; Classes of Permits	08/07/2012	10/29/2014
R18–2–302.01	Source Registration Requirements	08/07/2012	10/29/2014
R18–2–303	Transition from Installation and Operating Permit Program to Unitary Permit Program; Registration transition; Minor NSR transition.	08/07/2012	10/29/2014
R18–2–304	Permit Application Processing Procedures	08/07/2012	10/29/2014
R18–2–306	Permit Contents	12/20/1999	10/29/2014
R18–2–306.01	Permits Containing Voluntarily Accepted Emission Limitations and Standards.	01/01/2007	10/29/2014
R18–2–306.02	Establishment of an Emissions Cap	09/22/1999	10/29/2014
R18–2–311	Test Methods and Procedures	11/15/1993	07/28/2011

[1] In addition, these submittals and our current action also address two rules and one statutory provision that are not directly related to NSR.

[2] We note that portions of ADEQ's SIP-approved rule R18–2–310, which provides affirmative defenses for excess emissions during malfunctions (R18–2–310(B)) and for excess emissions during startup or shutdown (R18–2–310(C)), are currently the subject of a separate rulemaking action by EPA. In a 2013 notice of proposed rulemaking, and a 2014 supplemental notice of proposed rulemaking that revised certain of the findings described in the 2013 notice, EPA proposed to find R18–2–310(B) and R18–2–310(C) substantially inadequate to meet CAA requirements and proposed to issue a SIP call with respect to these provisions. See 78 FR 12460, 12533–34, Feb. 22, 2013; 79 FR 55920, 55946–47, Sept. 17, 2014. ADEQ's R18–2–310 is not part of the ADEQ SIP submittal that is under consideration in this action, and this rule is not being evaluated or otherwise addressed by EPA as part of our current action on ADEQ's SIP submittal.

[3] Rules R18–2–301 through R18–2–334 (Article 3 rules) also contain requirements to address the CAA title V requirements for operating permit programs, but we are not evaluating these rules for title V purposes at this time. We will evaluate the Article 3 rules for compliance with the requirements of title V of the Act and EPA's implementing regulations in 40 CFR part 70 following receipt of an official part 70 program revision submittal from ADEQ.

[4] ADEQ has delegated implementation of the major source program to the Pinal County Air Quality Control District.

TABLE 1—SUBMITTED STATUTES AND RULES PROPOSED FOR APPROVAL IN THIS ACTION—Continued

Rule or statute	Title	State effective date	Submitted
R18–2–312	Performance Tests	11/15/1993	07/28/2011
R18–2–315	Posting of Permit	11/15/1993	10/29/2014
R18–2–316	Notice by Building Permit Agencies	05/14/1979	10/29/2014
R18–2–319	Minor Permit Revisions	08/07/2012	10/29/2014
R18–2–320	Significant Permit Revisions	08/07/2012	10/29/2014
R18–2–321	Permit Reopenings; Revocation and Reissuance	08/07/2012	10/29/2014
R18–2–323	Permit Transfers	02/03/2007	10/29/2014
R18–2–330	Public Participation	08/07/2012	10/29/2014
R18–2–332	Stack Height Limitation	11/15/1993	10/29/2014
R18–2–334	Minor New Source Review	08/07/2012	10/29/2014
R18–2–401 [excluding definition (3)]	Definitions	08/07/2012	10/29/2014
R18–2–402	General	08/07/2012	10/29/2014
R18–2–403	Permits for Sources Located in Nonattainment Areas.	08/07/2012	10/29/2014
R18–2–404	Offset Standards	08/07/2012	10/29/2014
R18–2–405	Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Nonattainment Areas Classified as Serious or Severe.	08/07/2012	10/29/2014
R18–2–406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas.	08/07/2012	10/29/2014
R18–2–407 [excluding subsection (H)(1)(c)]	Air Quality Impact Analysis and Monitoring Requirements.	08/07/2012	10/29/2014
R18–2–409	Air Quality Models	11/15/1993	10/29/2014
R18–2–412	PALs	08/07/2012	10/29/2014

On December 28, 2012, April 29, 2013, and December 2, 2014, ADEQ's July 28, 2011, October 29, 2012, and July 2, 2014 submittals, respectively, were deemed complete by operation of law to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. Each of these submittals includes evidence of public notice and adoption of the regulation. Our technical support document (TSD) provides additional background information on each of the submitted rules.

B. Are there previous versions of the statutory provisions or rules in the Arizona SIP?

EPA has not approved significant revisions or updates to ADEQ's SIP-approved NSR program since the 1980s. The existing SIP-approved NSR program for new or modified stationary sources under ADEQ's jurisdiction generally consists of the rules identified below in Table 2 that we are proposing to supersede in or delete from the Arizona SIP. Collectively, these regulations established the NSR requirements for both major and minor stationary sources under ADEQ jurisdiction in Arizona, including requirements for the generation and use of emission reduction credits in nonattainment areas.

Consistent with ADEQ's stated intent to have the submitted NSR rules replace the existing NSR program in the SIP, EPA's approval of the regulations identified above in Table 1 generally would have the effect of superseding our prior approval of the current SIP-approved NSR program.[5] Table 2 lists the existing rules in the Arizona SIP that would be superseded or removed from the Arizona SIP as a result of our proposed action. If EPA were to take final action as proposed herein, these rules generally would be replaced in, or otherwise deleted from, the SIP by the submitted set of rules listed in Table 1.

TABLE 2—SIP RULES SUPERSEDED OR REMOVED FROM ARIZONA SIP IN THIS ACTION

Rule or statute	Title	EPA Approval date	**Federal Register** citation
R9–3–101	Definitions	Various	Various
R9–3–217(B)	Attainment Areas: Classification and Standards	04/23/1982	47 FR 17486
R9–3–301, [excluding subsections (I), (K)]	Installation Permits: General	05/03/1983	48 FR 198879
R9–3–302	Installation Permits in Nonattainment Areas	08/10/1988	53 FR 30220
R9–3–303	Offset Standards	08/10/1988	53 FR 30220
R9–3–304, [excluding subsection (H)]	Installation Permits in Attainment Areas	05/03/1983	48 FR 19879
R9–3–305	Air Quality Analysis and Monitoring Requirements	05/03/1983	48 FR 19879
R9–3–306	Source Registration Requirements	05/03/1983	48 FR 19879
R9–3–307	Replacement	05/05/1982	47 FR 19328
R9–3–308	Permit Conditions	04/23/1982	47 FR 17485
R9–3–311	Air Quality Models	04/23/1982	47 FR 17485
R9–3–314	Excess Emissions Reporting	04/23/1982	47 FR 17485
R9–3–315	Posting of Permits	04/23/1982	47 FR 17485

[5] Except for certain sections that ADEQ requested that we not remove from the SIP at this time.

TABLE 2—SIP RULES SUPERSEDED OR REMOVED FROM ARIZONA SIP IN THIS ACTION—Continued

Rule or statute	Title	EPA Approval date	Federal Register citation
R9–3–316	Notice by Building Permit Agencies	04/23/1982	47 FR 17485
R9–3–317	Permit Non-transferrable; Exception	04/23/1982	47 FR 17485
R9–3–318	Denial or Revocation of Installation or Operating Permit.	04/23/1982	47 FR 17485
R8–3–319	Permit Fees	04/23/1982	47 FR 17485
R9–3–322	Temporary Conditional Permits	10/19/1984	49 FR 41026
R9–3–1101	Jurisdiction	05/03/1983	48 FR 19879
Appendix 4	Fee Schedule for Installation and Operating Permits	09/19/1977	42 FR 16926
Appendix 5	Fee Schedule for Conditional Permits	09/19/1977	42 FR 46926

C. What is the purpose of this proposed rule?

The purpose of this proposed rule is to present our evaluation under the CAA and EPA's regulations of rules and statutory provisions submitted by ADEQ on July 28, 2011, October 29, 2012, and July 2, 2014, which are identified in Table 1. We provide our reasoning in general terms below, and include our more detailed analysis in the TSD, which is available in the docket for this proposed rulemaking.

II. EPA's Evaluation

A. How is EPA evaluating the rules and statutory provisions?

EPA has reviewed the provisions submitted by ADEQ that are the subject of this action, including those governing NSR for stationary sources under ADEQ jurisdiction for compliance with the CAA's general requirements for SIPs in CAA section 110(a)(2), EPA's regulations for stationary source permitting programs in 40 CFR part 51, sections 51.160 through 51.166, and the CAA requirements for SIP revisions in CAA section 110(l) and 193.[6]

With respect to procedures, CAA sections 110(a) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing.

Based on our review of the public process documentation included in the July 28, 2011, October 29, 2012 and July 2, 2014 submittals, we find that ADEQ has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to adoption and submittal of these rules to EPA.

With respect to substantive requirements, we have generally reviewed the ADEQ provisions that are the subject of our current action in accordance with the CAA and applicable regulatory requirements, focusing primarily on those that apply to: (1) General preconstruction review programs, including for minor sources, under section 110(a)(2)(C) of the Act; (2) PSD permit programs under part C of title I of the Act; and (3) Nonattainment NSR permit programs under part D of title I of the Act (NA–NSR). For the most part, ADEQ's submittal satisfies applicable CAA requirements, specifically including the applicable requirements for these three preconstruction review programs and would strengthen the applicable SIP by updating the regulations and adding requirements to address new or revised NSR permitting and other requirements promulgated by EPA, but the submitted rules also contain specific deficiencies that prevent full approval. Below, we discuss generally our evaluation of ADEQ's submittal and the deficiencies that are the basis for our proposed action on these rules. Our TSD contains a more detailed evaluation as well as additional recommendations for program improvements.

B. Do the rules meet the evaluation criteria for Minor New Source Review?

Section 110(a)(2)(C) requires each SIP to include a program for the regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). In addition to the permit programs required under parts C and D of the CAA for PSD sources and nonattainment NSR sources, respectively, which are discussed below, EPA's regulations at 40 CFR 51.160–51.164 provide general programmatic requirements to implement this statutory mandate commonly referred to as the ''minor NSR program.'' These minor NSR program regulations impose requirements for SIP approval of State and local programs that are more general in nature as compared with the specific statutory and regulatory requirements for PSD and NA–NSR permitting programs. Under EPA's regulations governing the minor NSR program, States and local air agencies retain a level of discretion to define the types and sizes of sources subject to the program, whereas under the PSD and nonattainment NSR permitting programs, the sources subject to regulation are specified by EPA regulations. The substantive requirements for the preconstruction review and permitting of minor stationary sources under ADEQ jurisdiction are ADEQ rules R18–2–302.01 and R18–2–334. These rules, and other administrative rules included in the minor NSR portion of the SIP submittal, satisfy most of the statutory and regulatory requirements for minor NSR programs, but these rules also contain several deficiencies that form the basis for our proposed limited disapproval, as discussed below.

We are proposing a limited approval and limited disapproval of ADEQ's minor NSR program because it is not fully consistent with the requirements of 40 CFR 51.160, 40 CFR 51.161, 40 CFR 51.163 and 40 CFR 51.164, as described below. We find that approval

[6] CAA section 110(l) requires SIP revisions to be subject to reasonable notice and public hearing prior to adoption and submittal by States to EPA and prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. CAA section 193, which was added by the CAA Amendments of 1990, includes a savings clause that provides, in pertinent part: ''No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990, in any area which is a nonattainment area for any air pollutant may be modified after November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.''

of ADEQ's updated minor NSR program will substantially strengthen the SIP overall, as the submitted minor NSR program generally has more extensive requirements for minor sources and non-major modifications than ADEQ's current SIP-approved program and lower permitting thresholds that will provide additional mechanisms for protecting the NAAQS, as well as updating the SIP with current State regulations for minor sources and non-major modifications. However, specific provisions of the minor NSR program submittal are inconsistent with federal minor NSR program requirements, and these deficiencies must be addressed before we can fully approve ADEQ's minor NSR program into the SIP. The deficiencies that we have identified with ADEQ's minor NSR program that provide the basis for our limited approval and limited disapproval are described below.

1. Legally Enforceable Procedures

40 CFR 51.160 requires that each NSR program contain certain legally enforceable procedures. We have identified several deficiencies with ADEQ's program as it pertains to these requirements.

First, as required by 40 CFR 51.160(a), ADEQ's permitting procedures are not enforceable in all instances. ADEQ's program allows certain sources to begin construction when a ''proposed final permit'' is issued by ADEQ, rather than preventing construction until a final permit has been issued. See R18–2–101(114), R18–2–302(G), R18–2–334(B), R18–2–402(C). The definition for ''proposed final permit'' in R18–2–101 does not specify that such an action is a final decision for NSR purposes. As a result, the program does not provide ADEQ with clear authority to prevent construction or modification before it issues a final decision on the request for authority to construct as is required per 40 CFR 51.160(a) and (b). ADEQ has clarified that, in effect, under ADEQ's rules, a proposed final permit is treated as a final authorization to construct, and that it will treat proposed final permit as a final, appealable agency action under Arizona law.[7] Nevertheless, a revision to ADEQ's NSR program is necessary to ensure that these types of permit actions clearly serve as a final authority to construct in order to satisfy the federal NSR program requirement that the agency be able to prevent construction until and unless it has issued a final decision on the request for authority to construct.

Second, ADEQ's program does not contain adequate enforceable procedures to ensure compliance by sources subject to review under its NSR program with the NAAQS as required by 40 CFR 51.160(a)(2) and (b)(2). Although NAAQS is a defined term in ADEQ's regulations, see R18–2–101(85), ADEQ's NSR program generally does not refer to the NAAQS and instead generally references the State's ambient air standards in Article 2 of ADEQ's air program. See R18–2–302.01, R18–2–334, and R18–2–406.[8] Also, in some instances, ADEQ's NSR regulations simply refer to Arizona ambient air quality standards with no specific reference to Article 2, which makes the applicable standards ambiguous.[9] See R18–2–218, R18–2–406, and R18–2–407. In some instances, ADEQ's NSR program does not ensure that a source would not interfere with attainment or maintenance of the NAAQS in neighboring areas outside ADEQ's permitting jurisdiction, as is required under 40 CFR 51.160(a) and (b), as the State air standards are not generally applicable in neighboring States,[10] and the NSR Program submittal does not demonstrate that they are applicable in neighboring States for purposes of ADEQ's NSR program. See R18–2–302.01(C); R18–2–334(C)(2), (F), and (G); and R18–2–406(A)(5)(a) and (b). Also, for minor sources subject to permitting under R18–2–334, the rule does not meet these federal requirements as it does not require ADEQ to evaluate whether the project under review will interfere with attainment or maintenance of the NAAQS in all cases, and instead allows sources to apply reasonably available control technology (RACT) in lieu of such an evaluation and, in some cases, appears to allow sources with lower levels of emissions to avoid both substantive NAAQS review and RACT requirements. See R18–2–334(C)(1)(a)–(b). ADEQ has not demonstrated that this approach ensures that all sources subject to review under its NSR program will not interfere with attainment or maintenance of the NAAQS. While R18–2–334(G) allows Director's discretion to require a NAAQS analysis on a case-by-case basis, we find this discretion too great to ensure compliance with this requirement. Finally, R18–2–302.01(C)(4) needs to include a reference to ''or maintenance'' of a standard, instead of just ''attainment of a standard.''

Third, for sources subject to ADEQ's registration program at R18–2–302.01, ADEQ has not demonstrated that its NSR program meets the requirement to ensure that sources subject to NSR review comply with the applicable portions of the control strategy as required by 40 CFR 51.160(b)(1).

Fourth, ADEQ's registration program in R18–2–302.01 does not contain enforceable procedures for the owner or operator to submit the necessary information for ADEQ to determine whether a source will violate the applicable control strategy or interfere with attainment or maintenance of the NAAQS as required by 40 CFR 51.160(c). R18–2–302.01(A)(3) requires applicants to calculate a source's uncontrolled potential to emit, but then references provisions in another rule, R18–2–327(C), that are used to calculate ''actual'' emissions. As such, ADEQ's program contains conflicting procedures for calculating potential emissions. In addition, rule R18–2–327, is not in the Arizona SIP, and has not been submitted to EPA for SIP approval.

Fifth, ADEQ's program does not meet the requirement that the applicant submit information related to the nature and amounts of emissions, for certain kinds of emissions units as required by 40 CFR 51.160(c)(1). For Class I and Class II permits, R18–2–304(E)(9) allows sources to avoid providing emission information for ''insignificant activities,'' as defined in R18–2–101(68). The term ''insignificant activities'' is generally associated with the title V program. Many of the activities listed in ADEQ's definition of insignificant activity are activities that would not be expected to emit regulated NSR pollutants. However, this is not true for all activities, such as those listed under R18–2–101(68)(a–c) that include liquid storage tanks, combustion engines, and ''low-emitting processes.''

Sixth, for sources subject to R18–2–302.01, ADEQ's program does not meet the requirement in 40 CFR 51.160(d) that its procedures provide that approval of construction or modification

[7] ADEQ Memo—Proposed Final Permits to be Treated as Appealable Agency Actions, dated February 10, 2015 and ADEQ's February 23, 2015[7] supplement at 2.

[8] ADEQ's list of state air standards does not contain the current $PM_{2.5}$ annual NAAQS of 12 μg/m^3 $PM_{2.5}$. See 78 FR 3086, Jan. 13, 2013. This is not a disapproval issue for ADEQ's minor NSR and NA–NSR programs, which have three years to adopt programs implementing the new NAAQS. However, the new NAAQS is applied immediately upon its effective date to sources subject to the PSD program.

[9] For example, R18–2–407(B) contains ''any such pollutant for which no Arizona ambient air quality standard exists.'' ''Arizona ambient air quality standard'' is not a defined term in ADEQ's regulations.

[10] See, for example, the definition of ''attainment area'' in R18–2–101, limiting attainment areas to those in Arizona. A.R.S. § 49–106 provides, in relevant part: ''The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them.''

will not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy.

Finally, for sources subject to ADEQ's registration program under R18–2–302.01, ADEQ's program does not meet the requirement to use Appendix W to 40 CFR part 51 for air quality modeling as required by 40 CFR 51.160(f)(1).

2. ADEQ's Program Under 40 CFR 51.160(e)

40 CFR 51.160(e) requires ADEQ's submittal to provide a basis for the types and sizes of facilities, buildings, structures, or installations that will be subject to review under 40 CFR 51.160. Such exclusions are appropriate so long as such sources and modifications are not environmentally significant, consistent with the *de minimis* exemption criteria set forth in *Ala. Power Co.* v. *Costle,* 636 F.2d 323, at 360–361 (D.C. Cir. 1979). Here, we discuss our evaluation of the basis provided by ADEQ for the types and sizes of facilities, buildings, structures or installations it will subject to review under its minor NSR program. Historically, ADEQ's minor NSR program required permitting of minor sources and non-major modifications causing an increase in potential emissions of a criteria pollutant at or above the significant emission rates under the PSD program in 40 CFR 51.166(b)(23)(i). In a May 22, 1996 letter to ADEQ, EPA Region 9 indicated that the significant emission rates used by ADEQ for its minor NSR permitting program did not represent an acceptable threshold for applying the basic preconstruction requirements for minor NSR purposes. To address EPA's concerns, ADEQ assessed other potential permitting thresholds for its minor NSR program and selected revised thresholds for its minor NSR program following this assessment. A detailed analysis of ADEQ's assessment is provided in our TSD. ADEQ's new minor NSR program established a minimum preconstruction review threshold for new or modified stationary sources with potential emissions or emissions increases of: 50 tons per year (tpy) of carbon monoxide; 20 tpy of NO_X, SO_2, and VOC; 7.5 tpy for PM_{10}; 5 tpy for $PM_{2.5}$; and 0.3 tpy for lead. We find ADEQ's general approach to meeting 40 CFR 51.160(e) acceptable. We are proposing a limited disapproval of ADEQ's minor NSR program based in part on the following issues concerning the approach:

First, ADEQ's submittal does not provide a clear basis for concluding that the exemption thresholds selected by ADEQ will ensure a sufficient percentage of minor sources are subject to review in nonattainment areas. As ADEQ points out in its submittal, ADEQ's analysis is based on data for Maricopa County [11], which has lower NSR permitting thresholds than the exemption thresholds adopted by ADEQ due to Maricopa County's local air quality problems. In addition, (1) some of the other permitting programs in Table 3 above have lower permitting thresholds in nonattainment areas than those applicable in attainment areas under their jurisdiction; (2) in looking at a similar analysis of minor source emissions for another permitting program in Region 9, which has local air quality problems, the permitting agency generally set thresholds that include a larger percentage of emissions in the NSR program than the percentage included in ADEQ's program [12]; and (3) typically, nonattainment areas have more control requirements that apply to smaller minor sources, as compared to attainment areas. As such, ADEQ's basis does not clearly address how its adopted preconstruction review exemption thresholds adequately address nonattainment areas.[13]

Second, while EPA agrees that, in general, certain types of equipment may be exempted from the minor NSR program, ADEQ must provide a basis under 40 CFR 51.160(e) to demonstrate that regulation of the equipment exempted in R18–2–302(C) and A.R.S. § 49–426(B) is not needed for ADEQ's program to meet federal NSR requirements for attainment and maintenance of the NAAQS or review for compliance with the control strategy. Such demonstration must address: (1) An explanation of whether the regulatory exemption in R18–2–302(C) for ''agricultural equipment used in normal farm operations'' constitutes an interpretation or refinement of the exemption for such sources in A.R.S. § 49–426(B), and how the two provisions apply to ADEQ's NSR program; (2) Identification of the types of equipment ADEQ considers to be ''agricultural equipment used in normal farm operations'' and whether this type of equipment could potentially be expected to occur at a stationary source subject to title V of the Act, 40 CFR parts 60, 61, or 63, or major NSR, and, if so, whether such equipment is subject to NSR review at such sources; (3) ADEQ's basis for determining that ''agricultural equipment used in normal farm operations'' does not need to be regulated as part of ADEQ's minor NSR program under 40 CFR 51.160(e); and (4) ADEQ's interpretation of the exemption for fuel burning equipment in A.R.S. § 49–426(B) and how it does, or does not, apply in the context of its major and minor NSR programs, and, to the extent such equipment is not subject to NSR review, ADEQ's basis for determining that equipment exempted under this provision does not need to be reviewed as part of ADEQ's minor NSR program under 40 CFR 51.160(e).

Finally, ADEQ's minor NSR program sets a permitting exemption threshold for $PM_{2.5}$ of 5 tons per year, but ADEQ's analysis does not provide a basis for this threshold.

3. Public Availability of Information

40 CFR 51.161 requires that each NSR program contain certain procedures related to public participation. We have identified several deficiencies with ADEQ's program as it pertains to these requirements.

First, ADEQ's program does not ensure that NSR review for all minor sources regulated under ADEQ's NSR program, as ADEQ defines it pursuant to 40 CFR 51.160(e), is subject to public notice and comment consistent with 40 CFR 51.161(a). 40 CFR 51.161(a) requires that the program under 51.160 provide for public comment on the information submitted by owners or operators. In addition, the public information must include ADEQ's analysis of the effects of construction or modification on ambient air, including ADEQ's proposed approval or disapproval. ADEQ's program does not meet this requirement because: (1) ''modification'' of existing sources that become subject to the registration program under R18–2–302.01 (currently only ''construction'' of a source) are not subject to public notice (see R18–2–302.01(B)(3)); (2) R18–2–334(G) exempts most modifications from public notice; (3) R18–2–330 does not clearly define which public notice requirements apply to registrations; and (4) public participation does not appear to be

[11] ADEQ does not have jurisdiction for permitting of minor sources in Maricopa County, AZ.

[12] See EPA's Technical Support Document for *Revision of Air Quality Implementation Plan; California; Sacramento Metropolitan Air Quality Management District; Stationary Source Permits,* 78 FR10589, Feb. 2, 2014, at 6–7, describing the thresholds applicable in Sacramento as generally excluding less than 5% of the emissions inventory except for SO_2.

[13] In addressing this deficiency, ADEQ does not necessarily have to consider lower permitting exemption thresholds in nonattainment areas. For example, ADEQ could provide further analysis to demonstrate that the adopted thresholds are appropriate for nonattainment areas or consider a different approach, such as requiring minor sources in nonattainment areas subject to a SIP requirement for the nonattainment pollutant, or its precursors, to obtain a registration, if ADEQ can demonstrate that such an approach would serve to satisfy the requirements of 40 CFR 51.160.

required for a proposed disapproval of an application for any portion of ADEQ's NSR program (registration, minor NSR, or major NSR).

Second, ADEQ's registration program at R18–2–302.01(F) does not contain the necessary enforceable procedures for sources taking ''elective limits'' to limit their potential to emit in a manner that allows the source to avoid the public participation requirements in 40 CFR 51.161(a), while otherwise being subject to the registration program. See R18–2–302.01(B)(3)(b) and R18–2–302(E)(1). While ADEQ's rule contains requirements for monitoring, recordkeeping, and reporting of elective limits, these requirements are not sufficiently enforceable for purposes of limiting the source's potential to emit, and thereby avoiding public notice, as well other substantive requirements of ADEQ's minor NSR program when issuing a registration. In order to meet practical enforceability requirements for limiting the potential to emit (PTE), R18–2–302.01(F) must also contain (1) a technically accurate limitation and the portions of the source subject to the limitation and (2) the time period for the limitations (hourly, daily, monthly, etc.). Further, if the limitation is over a period longer than daily, R18–2–302.01(F) must specify when to compile daily records to show compliance with the elected limit. Additional detail on this issue is provided in our TSD.

Third, ADEQ's NSR program does not ensure, for all sources subject to NSR review, the availability for public inspection, in at least one location in the area affected, of the information submitted by the owner or operator and of ADEQ's analysis on the effect on air quality as required by this federal regulation. R18–2–330(D)(11) requires the public notice to identify the nearest ADEQ office where documents can be inspected, but there are only two department offices for ADEQ. See 40 CFR 51.161(b)(1). We do not interpret this provision as meeting the requirement to make information available in the ''area affected.'' In addition, the public notice requirements do not make reference to providing ADEQ's analysis for public inspection. Potentially, this is covered by ''all other materials available to the Director that are relevant to the permit decision''.[14] But it is not clear that ADEQ would interpret this to mean the Director's own analysis.

Finally, ADEQ's NSR program does provide notice to the necessary parties in 40 CFR 51.161(d) for sources required to obtain registrations under R18–2–302.01.

4. Administrative Procedures

40 CFR 51.163 requires each NSR program to include administrative procedures that will be followed in making the determinations specified in 40 CFR 51.160(a). While ADEQ's program generally meets the requirements of this provision, ADEQ's submittal contains references to other ADEQ rules, R18–2–317 and R18–2–317.02, which are not in the SIP and have not been submitted for SIP approval. See R18–2–306.02(D), R18–2–319(I), R18–2–304(J), R18–2–306(A), and R18–2–306.02(D).

5. Stack Height Procedures

40 CFR 51.164 requires that each NSR program contain certain provisions related to good engineering practice for stack heights. In addition to reviewing ADEQ's submittal as compared with the NSR program requirements of 40 CFR 51.164, we also reviewed ADEQ's submittal as it relates to certain general SIP program requirements in 40 CFR 51.100 and 51.118. The stack height provisions in the NSR program rely on the general stack height provisions in 40 CFR 51.118(b), which in turn references the definitions in 40 CFR 51.100(hh) through (kk). We have identified several deficiencies with ADEQ's program as it pertains to these requirements.

First, ADEQ's submittal does not meet the public hearing requirements in 40 CFR 51.164 and 51.118(a). While R18–2–332(E) contains a reference to holding a public hearing, when required, the provision references ADEQ's public hearing provision in R18–1–402. R18–1–402 is not in the SIP and has not been submitted for SIP approval.

Second, ADEQ's submittal does not contain language that meets the exception in 40 CFR 51.118(b): ''except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed, or for which major modifications, as defined in §§ 51.165(a)(1)(v)(A), 51.166(b)(2)(i) and 52.21(b)(2)(i), were carried out after December 31, 1970.'' In addition, R18–2–332(A)(3) incorrectly references July 1, 1975 instead of July 1, 1957 as that date appears in 40 CFR 51.118(b).

Third, ADEQ's submittal does not contain a requirement that owners or operators seeking to rely on the equation in 40 CFR 51.100(ii)(2)(i) produce evidence that the equation was actually relied on in establishing an emission limitation. See R18–2–332(B)(2).

Finally, ADEQ's submittal contains a provision at R18–2–332(D) that provides additional provisions for sources ''seeking credit because of plume impaction which results in concentrations in violation of national ambient air quality standards or applicable maximum allowable increases.'' This provision is not contained in the federal regulations and appears to allow for the use of stack heights beyond GEP stack height, as defined in 40 CFR 51.100(ii).

In sum, while we have identified several disapproval issues with ADEQ's minor NSR program requirements as they correspond to federal minor NSR program requirements, compared to the existing SIP, approving ADEQ's minor NSR program into the Arizona SIP nonetheless represents a significant overall strengthening of ADEQ's NSR program, as discussed above. Thus, we are proposing a limited approval and limited approval of ADEQ's minor NSR program submittal.

C. Do the rules meet the evaluation criteria for Prevention of Significant Deterioration (PSD)?

Part C of title I of the Act contains the provisions for the prevention of significant deterioration (PSD) of air quality in areas designated ''attainment'' or ''unclassifiable'' for the NAAQS, including preconstruction permit requirements for new major sources or major modifications proposing to construct in such areas. EPA's regulations for SIP-approved PSD permit programs are found in 40 CFR 51.166.

ADEQ rules R18–2–402 and R18–2–406 contain the substantive requirements for review and permitting of PSD sources under ADEQ's jurisdiction. These regulations satisfy most of the statutory and regulatory requirements for PSD permit programs, but these and other rules in the NSR SIP submittal contain several deficiencies that form the basis for our proposed limited disapproval, or proposed disapprovals as discussed below.

Although ADEQ's submittal meets most PSD program requirements, we are proposing to disapprove two specific aspects of ADEQ's PSD program. The ADEQ rule provisions that we are proposing to disapprove are directly comparable to federal PSD rule provisions that have been vacated by federal courts, and we find that they are separable from the remainder of ADEQ's PSD program. Accordingly, we find these provisions suitable for disapproval at this time. These provisions are described below in Sections II.C.8 and 9.

[14] This requirement is met for ADEQ's registration program at R18–2–302.01(B)(3)(a).

For the remainder of ADEQ's PSD program submittal, we are proposing limited approval and limited disapproval. We find that approval of ADEQ's updated PSD program, aside from the two aspects that are separable and will be disapproved as mentioned above, will substantially strengthen the SIP overall, particularly as the current SIP-approved PSD program is significantly out of date when compared with current federal PSD regulatory requirements as well as current State regulations. See our discussion in Section G below. However, specific provisions of the PSD SIP program submittal are inconsistent with PSD program requirements, and these deficiencies must be addressed before we can fully approve ADEQ's PSD program. The deficiencies that we have identified with ADEQ's PSD program that provide the basis for our limited disapproval are described below in Sections II.C.1 through 7.

1. General PSD Program Requirements

First, ADEQ's submittal often refers to Articles 9 and/or 11 of ADEQ's regulations where the federal regulations refer to 40 CFR parts 60, 61, or 63; or, similarly, sections 111 or 112 of the Act. See R18–2–101(53)(a), (122)(b); R18–2–401(10); R18–2–402(G)(2); and R18–2–406(A)(4). Articles 9 and 11 are where ADEQ incorporates by reference the federal regulations in 40 CFR part 60, 61, and 63 (which EPA implements under sections 111 and 112 of the Act). However, these Articles are not in the SIP, have not been submitted for SIP approval, and do not contain provisions equivalent to all of the subparts in parts 60, 61, and 63. See 40 CFR 51.166(b)(1)(iii)(*aa*), (b)(12), (b)(16)(i), (b)(17), (b)(47)(ii)(*c*), (b)(49)(ii), (i)(1)(ii)(*aa*), and (j).

Second, ADEQ's submittal uses the term ''increment'' or ''incremental ambient standard,'' but does not specifically define these terms or otherwise identify what is meant by these terms. While the PSD program does not specifically define the term ''increment'' either, the term is introduced at 40 CFR 51.166(c)—*Ambient air increments and other measures.* (emphasis added) 40 CFR 51.166(c) then goes on to identify the specific increment values as ''maximum allowable increases.'' ADEQ appears to have taken the approach of using the term ''maximum allowable increase'' to refer to the increments, which is acceptable. ADEQ adopted the increments, or maximum allowable increases, in R18–2–218—*Limitation of Pollutants in Classified Attainment Areas.* However, in other rules ADEQ uses ''increment'' or ''incremental ambient standard'' where it appears the intent is to refer to the increments established in R18–2–218 and identified in ADEQ's rules as the ''maximum allowable increases.'' See R18–2–406(E), R18–2–412(G)(b), R18–2–101(51), R18–2–319, R18–2–320.

Third, on January 15, 2013, EPA issued a final rule revising the NAAQS for $PM_{2.5}$ for the annual averaging period, lowering the level of the NAAQS from 15.0 to 12.0 mg/m^3, effective March 18, 2013 (see 78 FR 3086). This new NAAQS is required to be implemented for PSD sources (unless otherwise grandfathered under provisions at 40 CFR 51.166(i)(10)) beginning with the effective date of the NAAQS. However, ADEQ's PSD program does not provide for the review of new or modified sources for compliance with this new NAAQS as required in 40 CFR 51.166(b)(2)(iii)(*i*)(*2*), (b)(35), (d), (g)(3)(iii), (k), and (m)(1). Instead, ADEQ's PSD program currently references state ambient air quality standards, which are set at levels that are equivalent to all of the current NAAQS, except for this newly adopted $PM_{2.5}$ NAAQS. See R18–2–218(F)(b)(ii), R18–2–401(25), R18–2–406(A) and R18–2–407(B). Because of the general approach used in ADEQ's NSR program with respect to incorporating the NAAQS, *i.e.,* the program's reference to state air quality standards instead of the NAAQS, any changes EPA makes to the NAAQS will not be included in ADEQ's program until ADEQ revises its air quality standards rules to adopt the revised NAAQS as state air quality standards. This does not relieve any owner or operator from the requirement to comply with all NAAQS at the time a final PSD permit is issued, including the recently revised new $PM_{2.5}$ NAAQS (unless otherwise grandfathered under 40 CFR 51.166). See CAA section 165(a)(3).

Fourth, R18–2–406(A) contains a reference to R18–2–408, but R18–2–408 is not in the SIP and has not been submitted for SIP approval.

Fifth, ADEQ's submittal allows a source at R18–2–302(G) and R18–2–402(C) to begin actual construction upon the issuance of a proposed final permit. As previously discussed, ADEQ's program is ambiguous as to whether a proposed final permit, as defined in R18–2–101(114), constitutes final action by the Director. While ADEQ has issued guidance clarifying that it treats ''proposed final permits'' as final actions for purposes of preconstruction permitting [15], to obtain full PSD program approval, ADEQ's regulations must make clear that a source may not begin actual construction before a final determination on a PSD permit application is made by the Director.

Sixth, ADEQ's NSR submittal contains provisions that allow for exclusions from increment consumption, for certain temporary emissions, that do not conform to the requirements in the analogous federal rule. First, ADEQ's rule at R18–2–218(F)(5) requires only the ADEQ Director's approval for temporary emissions beyond two years, but the federal program requirements at 40 CFR 51.166(f)(i)(v) and 51.166(f)(4) require the Administrator's approval to allow temporary emissions that exceed two years. In addition, ADEQ's program language does not reference a specific time period beyond two years that it would allow for exclusions from increment consumption, which is not consistent with the federal regulation's requirement at 40 CFR 51.166(f)(4) that the time for such exclusions be specified in the plan. Finally, the provision at R18–2–218(F)(5)(b)(ii), which references the state ambient air quality standards, must be applied to ''any'' air quality control region. As currently written this provision does not clearly apply to areas outside of Arizona where Arizona's standards would not generally apply.

Seventh, ADEQ's submittal contains a provision at R18–2–406(E) providing an exemption for certain portable stationary sources with a prior permit that contains requirements equivalent to the PSD requirements in 40 CFR 51.166 (j) through (r), as allowed by 40 CFR 51.166(i)(1)(iii). However, ADEQ's rule at R18–2–406(E) is worded broadly to also allow an exemption for portable sources that have been permitted under Article 4 of ADEQ's regulations, which also includes nonattainment NSR permits and PAL permits. We do not interpret this federal exemption as generally applying to such permits, as it is not clear that such permits contain requirements ''equivalent'' to those in 40 CFR 51.166(j) through (r).

Eight, ADEQ's submittal contains conditions generally meeting the requirements of 40 CFR 51.166(k)(1) in rule R18–2–406(A)(5)(a). However, R18–2–406(A)(5) contains an ''or'' between subsections (a) and (b) that could be interpreted as allowing a source to demonstrate it will not contribute to an

[15] See ADEQ memo dated February 10, 2015 related to proposed final permits, and ADEQ's February 23, 2015 Supplement at 2.

increase above the significance levels in an adjacent nonattainment area in lieu of the demonstration required by R18–2–406(A)(5)(a). The provisions of subsection (b) relate to requirements under a different portion of the NSR program—specifically under 40 CFR 51.165. As such, it is likely ADEQ would interpret subsections (a) and (b) as separate requirements with which a source must demonstrate compliance. Nevertheless, the potential for misinterpretation of this substantive requirement of the PSD program provides a basis for our limited disapproval of the PSD program submittal. In addition, R18–2–406(A)(5)(a) requires that a person applying for a PSD permit demonstrate that the project would not cause a violation of any maximum allowable increase over the baseline concentration in ''any attainment or unclassifiable area.'' However, ADEQ's definition for ''attainment area'' in the SIP at R18–2–101(19) limits attainment areas to those ''in the state.'' In addition, as discussed previously, it is not clear that ADEQ's references to the state's ambient air standards would apply in areas outside of Arizona.

Ninth, ADEQ's submittal includes R18–2–406(A)(6)(b), which specifies that the use of a modified or substituted model must be subject to public notice and the opportunity for public comment, but neither the rule nor the submittal makes clear the procedures that would be used for notice and comment for this purpose or demonstrates that such procedures would be consistent with 40 CFR 51.102, as required by 40 CFR 51.166(l)(2).

Tenth, ADEQ's PSD SIP submittal does not appear to specifically address the requirements of 40 CFR 51.166(n)(1) and (3), which require that the SIP must require that (1) the owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under procedures established in accordance with 40 CFR 51.166, and (2) upon request of the state, the owner or operator shall also provide specified information concerning air quality impacts and growth. ADEQ's submittal at R18–2–304, R18–2–402(G) and R18–2–407 identifies the information necessary for a complete application under this program and requires applicants to respond to deficiencies in the application, but these provisions do not appear to fully address the requirements of 40 CFR 51.166(n)(1) and (3).

Eleventh, ADEQ's submittal contains an apparent typographical error in R18–2–402(F)(1)(c), which includes a cross-reference to R18–2–401(20)(b)(iii) rather than R18–2–401(20)(b)(iv). See 40 CFR 51.166(r)(6).

Finally, ADEQ's submittal does not require owners or operators to make information required under 40 CFR 51.166(r)(6) available for review upon request by the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii) as is required by 40 CFR 51.166(r)(7).

2. Restrictions on Area Classifications

40 CFR 51.166(e) contains provisions related to restrictions on area classifications (Class I, II, or II). We have identified several deficiencies in ADEQ's program with respect to these provisions.

First, ADEQ's submittal contains requirements for area classifications in R18–2–217. However, ADEQ's submittal does not completely meet the requirements of 40 CFR 51.166(e) and section 162(a) of the Act, which require certain areas in existence on August 7, 1977 to be designated as Class I areas. Such designations apply to any boundary changes made to those Class I areas after August 7, 1977. While ADEQ generally includes this requirement at R18–2–217(B), its rule limits such boundary changes to those made prior to March 12, 1993.

Second, ADEQ's NSR submittal at R18–2–217 does not contain a provision consistent with the federal regulatory requirement for Class I area redesignations prior to August 7, 1977 in rule R18–2–217 or elsewhere as required by 40 CFR 51.166(e)(2). Even if it is the case that there are no areas in Arizona that were redesignated Class I prior to August 7, 1977, ADEQ's program must recognize Class I area designations under this provision that may have been made in other states for which sources within ADEQ may have an impact. See 40 CFR 51.166(e)(2).

Finally, ADEQ's NSR submittal does not include a provision that is fully consistent with 40 CFR 51.166(e)(3). While ADEQ's rules generally meet this requirement at R18–2–217(D), this rule does not fully meet the requirements of 40 CFR 51.166(e)(3) because (1) it is not clear what is meant in ADEQ's rule by ''all other areas'' and (2) it does not contain a provision that ensures that ADEQ recognizes federal legislation that specified the area classification of a particular area.

3. Redesignations

40 CFR 51.166(g) contains provisions allowing certain areas classified as Class I, II, or III to be redesignated to another classification. We have identified several deficiencies in ADEQ's program with these provisions.

First, ADEQ's submittal contains provisions at R18–2–217(A) identifying that attainment and unclassifiable areas in the State shall be designated as Class I, II, or III. However, this portion of the PSD program applies to all areas of the State. That is, all areas of the State must be designated as Class I, II, or III irrespective of their attainment designation under Section 107 of the Act. See 40 CFR 51.166(g)(1).

Second, ADEQ's submittal contains provisions at R18–2–217(E) for allowing the state to redesignate certain areas, but the submittal does not adequately meet the public participation requirements specified in the federal regulation at 40 CFR 51.166(g)(2)(i), which requires a public hearing consistent with the procedures in 40 CFR 51.102. ADEQ's redesignation provisions do not specify the public hearing procedures that will be used. See 40 CFR 51.166(g)(2)(i).

Third, ADEQ's provisions for redesignating areas to Class III do not clearly identify which areas may be designated as Class III as specified in 40 CFR 51.166(g)(3).

Fourth, R18–2–217(E) allows for the redesignation to be approved by the Governor or the Governor's designee. However, the federal program at 40 CFR 51.166(g)(3)(ii) specifically requires the Governor's approval and does not allow for this approval to be delegated. See 40 CFR 51.166(g)(3)(ii).

Fifth, R18–2–217(F)(4) contains a reference to ''maximum allowable concentration'' which appears to refer to R18–2–218(E). However, R18–2–218(E) references the ''ambient air quality standards in this Article.'' The state's ambient air quality standards do not generally apply in areas outside of Arizona, and ADEQ's NSR submittal does not demonstrate that they would apply outside of Arizona for purposes of R18–2–217(F)(4). See 40 CFR 51.166(g)(3)(iii).

Finally, ADEQ's provisions do not clearly require that a permit application that can only be approved if an area is redesignated to Class III, and material submitted as part of that application, must be available for public inspection prior to the public hearing on the redesignation to Class III. See 40 CFR 51.166(g)(3)(iv).

4. Impacts on Class I Areas

40 CFR 51.166(p) contains additional requirements related to protection of Federal Class I areas. We have identified several deficiencies in ADEQ's program with these provisions.

First, ADEQ's submittal does not address the requirements of 40 CFR 51.166(p)(1), but they are generally addressed by existing SIP requirements in R9–3–304(H). However, the existing SIP only requires application information to be submitted to the Federal Land Manager, and does not require that this information be provided to EPA as required by this provision. Consistent with 40 CFR 51.166(p)(2), the Federal Land Manager works in consultation with EPA on the protection of Class I lands.

Second, ADEQ's submittal does not address the requirement under 40 CFR 51.166(p)(3), but it is addressed by the existing SIP requirement in R9–3–304(H)(1). However, the existing SIP contains outdated maximum allowable increases that must be updated. See 40 CFR 51.166(p)(3).

Finally, ADEQ's submittal generally includes the provisions of 40 CFR 51.166(p)(4) at R18–2–406(F)(2), but contains the phrase ''no significant adverse impacts,'' which is inconsistent with the federal regulation which requires a demonstration of ''no adverse impacts.'' The addition of the word ''significant'' is somewhat ambiguous in this context, but appears to allow variances under circumstances not allowed under the analogous federal regulation.

5. Public Participation

40 CFR 51.166(q) contains several specific public participation requirements for issuing PSD permits. We have identified several public participation deficiencies in ADEQ's program.

First, ADEQ's submittal does not ensure that materials available during the public comment period are available in each region in which the proposed source would be constructed as required by 40 CFR 51.166(q)(2)(ii). While ADEQ's program at R18–2–330(D)(11) requires these materials to be available at the nearest Department office, ADEQ only has two Department offices. As such, it is not clear that in all instances the public affected by a proposed project would have reasonable access in their region to the materials specified in 40 CFR 51.166(q)(2)(ii).

Second, ADEQ's submittal does not require ADEQ to notify the public of (1) the degree of increment consumption that is expected from the source or modification, or (2) the Director's preliminary determination, as required by 40 CFR 51.166(q)(2)(iii).

Third, ADEQ's submittal does not require ADEQ to make the public comments and the written notification of its final determination available in the same location as the preliminary documents as required by 40 CFR 51.166(q)(2)(vi) and (viii).

Finally, ADEQ's submittal requires the Director to take final action on an application within one year of receipt of a complete application—R18–2–402(I)(3). See 40 CFR 51.166(q)(2)(vii). However, ADEQ's program also indicates that a source may begin actual construction once a ''proposed final permit'' is obtained. See R18–2–402(C) and R18–2–302(G). ADEQ's regulations are ambiguous as to whether a proposed final permit, as defined in R18–2–101(114), constitutes final action by the Director that is subject to administrative and/or judicial review. As EPA has stated previously in the context of our actions on other State SIP submittals, we interpret the CAA to require an opportunity for judicial review of a decision to grant or deny a PSD permit, whether issued by EPA or by a State under a SIP-approved or delegated PSD program. 77 FR 65305, 65306, Oct. 26, 2012 (EPA's approval of the San Joaquin Valley Unified Air Pollution Control District's PSD program into the California SIP); see also 61 FR 1880, 1882. Jan. 24, 1996 (EPA's proposed disapproval of Virginia's PSD program SIP revision due to State law standing requirements that limited judicial review); 72 FR 72617, 72619, Dec. 21, 2007 (in approving South Dakota's PSD program, EPA stated that it interprets the CAA and regulations to require at minimum an opportunity for state judicial review of PSD permits). EPA continues to interpret the relevant provisions of the Act as described in these prior rulemaking actions. While ADEQ has issued guidance clarifying that it treats ''proposed final permits'' as ''appealable agency actions,'' under Arizona law,[16] in order to obtain full PSD program approval, ADEQ's regulations must make clear that a source may not begin actual construction before a final determination on a PSD permit application is made by the Director, which would be subject to administrative and/or judicial review.

6. Plantwide Applicability Limits

ADEQ's rules contain provisions for using plantwide applicability limits (PALs) in R18–2–412. We have identified the following deficiencies with ADEQ's PALs provisions program as they relate to the PSD program.

First, neither the ADEQ regulatory provisions for PALs at R18–2–412 nor the ADEQ regulatory definitions in R18–2–401 that apply in the context of major sources and major modifications contain a definition for *major emissions unit* as is required by 40 CFR 51.166(w)(2)(iv). (This term is also not included in the definitions at R18–2–101 or R18–2–301 that ADEQ submitted for approval as part of this action.)

Second, ADEQ's PAL provision for calculating baseline emissions at R18–2–412(B)(2) does not specify that baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown and malfunction, as is required by 40 CFR 51.166(w)(3)(ii).

Third, ADEQ's PAL provisions at R18–2–412(H) contain an incorrect reference to (H)(4) instead of the definition for major modification, and R18–2–412(H)(5) uses ''eliminated'' where the federal regulation uses ''established.'' See 40 CFR 51.166(w)(9).

Finally, ADEQ's PAL renewal provisions at R18–2–412(I)(1) must contain a reference to subsection (D) of R18–2–412 instead of (F). In addition, R18–2-(I)(4)(a) must reference subsection (E) of R18–2–412. See 40 CFR 51.166(w)(10).

7. Definitions

ADEQ's submittal contains definitions applicable to the PSD program that do not fully meet the requirements of 40 CFR 51.166(b)(1), which requires each State plan to contain specific definitions for the PSD program. Deviations from the wording are approvable if the State specifically demonstrates that the submitted definition is more stringent, or at least as stringent, in all respects as the corresponding definition in 40 CFR 51.166(b). We have carefully reviewed the definitions used in ADEQ's PSD program as compared with the federal PSD definitions in 40 CFR 51.166(b) and have found that, generally, ADEQ's submittal contains the definitions necessary to implement a PSD program. However, a number of ADEQ's definitions do not meet the requirements of 40 CFR 51.166(b)(1) because their wording deviates from the wording in the corresponding federal regulatory definitions in 40 CFR 51.166(b)(1) in a manner that may be less stringent than the federal definitions, and the State has not demonstrated otherwise.

Major stationary source at 40 CFR 51.166(b)(1)—language from subparagraph 40 CFR 51.166(b)(1)(i)(*c*) not included in the definition at R18–2–101(75). See also discussion below of the definition of ''stationary source'' in 40 CFR 51.166(b)(5).

[16] See ADEQ memo dated February 10, 2015 related to proposed final permits. ADEQ submitted this memo in its February 23, 2015 supplement.

Net emissions increase at 40 CFR 51.166(b)(3)—ADEQ's definition at R18–2–101(87)(c) identifies that an increase or decrease in actual emissions is creditable only to the extent that the Director has not relied on it in issuing a permit. However, this definition is broader than the definition in the PSD program, which only specifies that the reviewing authority has not relied on the increase or decrease in issuing a PSD permit. In some respects this makes ADEQ's definition more stringent (decreases), but in other respects less stringent (increases). In addition, the equivalent of paragraph 40 CFR 51.166(b)(3)(viii) is not included in ADEQ's definition at R18–2–101(87).

Stationary source at 40 CFR 51.166(b)(5)—the federal regulation at 40 CFR 51.166(b)(5) defines this term as ''any building, structure, facility or installation which emits or may emit a regulated NSR pollutant,'' with ''regulated NSR pollutant'' also being a federally defined term at 40 CFR 51.166(b)(49), whereas ADEQ's regulation at R18–2–101(39) defines ''stationary source'' as ''any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49–426(A) which emits or may emit any air pollutant,'' with ''air pollutant'' being an undefined term in ADEQ's regulation. We note that A.R.S. § 49–426(A) provides a cross-reference to certain exemptions from permitting identified in A.R.S. § 49–426(B), specifically agricultural equipment used in normal farm operations and certain fuel burning equipment, which do not appear to be consistent with the federal PSD definition. The federal definition for stationary source is very broad and does not exclude these source categories. We agree that it is acceptable for ADEQ to limit its NSR program to certain kinds of stationary sources, as specified in 40 CFR 51.160(e), but the federal definition for a stationary source in the context of the PSD program is not the appropriate place for such an exclusion, as it does not allow exclusions for certain source categories.

Major source baseline date at 40 CFR 51.166(b)(14)—language equivalent to paragraph 40 CFR 51.166(b)(14)(iv) is not included at ADEQ's definition in R18–2–218(B)(1).

Baseline area 40 CFR 51.166(b)(15)—ADEQ's definition at R18–2–218(D) contains an incorrect reference to R18–2–217 rather than referring to section 107(d)(1)(A)(ii) or (iii) of the Act or the equivalent; also, language equivalent to that in paragraph 40 CFR 51.166(b)(15)(iii) is not included.

Allowable emissions at 40 CFR 51.166(b)(16)—ADEQ's definition at R18–2–101(13)(b) does not include the ''future compliance date'' language that is in 40 CFR 51.166(b)(16)(ii) and ADEQ has not demonstrated that its regulatory language is at least as stringent as the federal definition.

Federally enforceable at 40 CFR 51.166(b)(17)—ADEQ's definition at R18–2–101(53)(d) identifies that requirements included in permits pursuant to R18–2–306.01 or R18–2–306.02 are included in the definition of federally enforceable requirements, but excludes those requirements that are identified as ''enforceable only by the state.'' With this action, we approving R18–2–306.01 and R18–2–306.02 into the SIP, making requirements pursuant to these rules federally enforceable. As such, ADEQ does not have the discretion to identify some of those requirements as only enforceable by the state.

Complete at 40 CFR 51.166(b)(22)—ADEQ's definition at R18–2–401(4) is missing the second sentence of the federal definition.

Significant at 40 CFR 51.166(b)(23)–ADEQ definition at R18–2–101(130)(e) uses ''milligrams'' instead of ''micrograms'' as required in paragraph 40 CFR 51.166(b)(23)(iii).

Projected actual emissions at 40 CFR 51.166(b)(40)—ADEQ's definition at R18–2–401(20)(b)(iii) does not specifically require inclusion of emissions from malfunctions in the determination of projected actual emissions, and exempts emissions from a shutdown associated with a malfunction from such determination, while the federal definition at 40 CFR 51.166(b)(40)(ii)(b) requires that emissions from both shutdowns and malfunctions be included.

Subject to regulation at 40 CFR 51.166(b)(48)—this definition is not included in ADEQ's NSR SIP submittal. ADEQ did not adopt a definition for the term ''subject to regulation'' or include such definition as part of the NSR SIP submittal, presumably because the federal definition of the term contains the requirements of the Greenhouse Gas (GHG) Tailoring Rule, and GHGs cannot be regulated under Arizona state law.[17] We note, however, that while the GHG program requirements are contained as part of the definition of the term ''subject to regulation,'' the federal definition of this term also contains non-GHG-specific program elements for determining when a pollutant is ''subject to regulation.'' As such, ADEQ must add a definition to its PSD regulations to address these elements of the term ''subject to regulation'' in order to obtain full program approval.

Regulated NSR pollutant at 40 CFR 51.166(b)(49)—ADEQ's regulatory definition at R18–2–101(122) does not include the final two sentences of 40 CFR 51.166(b)(49)(i)(a)or the language at 40 CFR 51.166(b)(49)(iv); ADEQ's definition also includes an incorrect cross-reference to hazardous air pollutants listed under R18–2–1101 that is not consistent with the requirements in 40 CFR 51.166(b)(49)(v); and ADEQ's regulatory definition needs to update the July 1, 2010 date in the cross-reference to CAA section 108.

8. $PM_{2.5}$ Significant Monitoring Concentration

On January 22, 2013, the U.S. DC Circuit Court of Appeals in *Sierra Club* v. *EPA,* 705 F.3d 458, vacated the parts of two federal PSD rules (40 CFR 51.166(i)(5)(i)(*c*) and 40 CFR 52.21(i)(5)(i)(*c*)) establishing a $PM_{2.5}$ significant monitoring concentration (SMC), finding that EPA was precluded from using the $PM_{2.5}$ SMC to exempt permit applicants from the statutory requirement to compile and submit preconstruction monitoring data as part of a complete PSD application. On December 9, 2013, revisions to 40 CFR 51.166 and 52.21 were published in the **Federal Register** to remove these vacated rule elements, effective as of that date. See 78 FR 73698.

ADEQ's submittal at R18–2–407(H)(1)(c) contains the equivalent of the $PM_{2.5}$ SMC that was vacated by the Court of Appeals and which has been removed from the federal PSD regulations. As the Court of Appeals found application of this SMC impermissible, and because ADEQ's regulation incorporating this SMC is a separable portion of ADEQ's PSD program, we are proposing a partial disapproval of ADEQ's submitted PSD program, to disapprove R18–2–407(H)(1)(c).

9. Definition for Basic Design Parameter

ADEQ's submittal contains a definition for basic design parameter at R18–2–401(3) that reflects the definition that EPA originally developed as part of its Equipment Replacement Provisions. See 68 FR 61248 Oct. 27, 2003. However, the definition for basic design parameter, and other elements related to the Equipment Replacement Provisions, were vacated by the DC Circuit Court of Appeals in *State of New York* v. *EPA,*

[17] ADEQ is currently subject to a Federal Implementation Plan under the PSD program for GHGs because ADEQ did not adopt a PSD program for the regulation of GHGs. See 40 CFR 52.37. ADEQ's NSR SIP submittal does not attempt to correct this program deficiency, as regulation of GHG emissions currently is not permitted under State law. See A.R.S. § 49–191.

443 F.3d 880 (D.C. Cir. 2006). While the federal PSD regulations still contain a reference to ''basic design parameter,'' this term is no longer specifically defined under the federal PSD regulations, and application of the definition contained in the Equipment Replacement Provisions that were vacated by the Court of Appeals is inconsistent with federal PSD requirements. As the Court of Appeals found this Equipment Replacement Provisions and, therefore, this definition, impermissible, and because ADEQ's regulation incorporating this definition is a separable portion of ADEQ's PSD program, we are proposing a partial disapproval of ADEQ's submitted PSD program, to disapprove R18–2–401(3).

D. Do the rules meet the evaluation criteria for Nonattainment New Source Review?

Part D of title I of the Act contains the general requirements for areas designated ''nonattainment'' for the NAAQS, including preconstruction permit requirements for new major sources or major modifications proposing to construct in such nonattainment areas, commonly referred to as ''Nonattainment New Source Review'' or ''NA–NSR.'' EPA's regulations for NA–NSR permit programs are found in 40 CFR 51.165. Most areas under ADEQ's jurisdiction are currently designated as ''attainment'' or ''unclassifiable/attainment'' for all NAAQS pollutants. However, there are some areas under ADEQ's jurisdiction that are nonattainment and warrant a NA–NSR program. See 40 CFR 81.303.

R18–2–402 through 405 contain the substantive NA–NSR requirements for review and permitting of major sources and major modifications in nonattainment areas under ADEQ jurisdiction in Arizona. These regulations satisfy most of the statutory and regulatory requirements for NA–NSR permit programs, but these rules contain several deficiencies that that do not allow us to fully approve the NA–NSR program submittal that is the subject of this action, as discussed below.

Although ADEQ's NA–NSR program submittal meets most NA–NSR program requirements, we are proposing to disapprove one specific aspect of ADEQ's NA–NSR program relating to the definition of ''basic design parameter.'' The ADEQ rule provision that we are proposing to disapprove is directly comparable to a federal NA–NSR rule provision that has been vacated by a federal court, and we find that it is separable from the remainder of ADEQ's NA–NSR program. Accordingly, we find this provision suitable for disapproval at this time. This issue is described in more detail below in Section II.D.4.

For most of the remainder of ADEQ's NA–NSR program submittal, we are proposing limited approval and limited disapproval. We find that approval of ADEQ's updated NA–NSR program, aside from the aspect that is separable and is proposed for disapproval as mentioned above, will substantially strengthen the SIP overall, particularly as the current SIP-approved NA–NSR program is significantly out of date when compared with current federal NA–NSR regulatory requirements as well as current State regulations. See our discussion in Section G below. However, specific provisions of the NA–NSR SIP program submittal are inconsistent with NA–NSR program requirements, and these deficiencies must be addressed before we can fully approve ADEQ's NA–NSR program into the SIP. The deficiencies that we have identified with ADEQ's NA–NSR program that provide the basis for our limited approval and limited disapproval are described immediately below in Sections II.D.1 through 3.[18]

1. General Nonattainment NSR Program Requirements

First, as discussed above with respect to ADEQ's PSD program submittal, ADEQ's NA–NSR program submittal often refers to Articles 9 and/or 11 of ADEQ's regulations where the federal regulations refer to 40 CFR parts 60, 61, or 63; or, similarly, sections 111 or 112 of the Act. See R18–2–101(122)(b); R18–2–401(10); R18–2–402(G)(2); and R18–2–406(A)(4). Articles 9 and 11 are where ADEQ incorporates by reference the federal regulations in 40 CFR parts 60, 61, and 63 (which EPA implements under sections 111 and 112 of the Act). However, these Articles are not in the SIP, have not been submitted for SIP approval, and do not necessarily contain provisions equivalent to *all* of the subparts in parts 60, 61, and 63. See 40 CFR 51.165(a)(1)(xiii)—lowest achievable emission rate, (a)(1)(xxxvii)—regulated NSR pollutant, and (a)(1)(xl)—best available control technology.

Second, the nonattainment NSR program requirements at 40 CFR 51.165(a)(2) require each plan to have a *preconstruction* review program to satisfy the requirements of sections 172(c) and 173 of the Act. However, as previously discussed in this preamble, ADEQ's submittal allows a source at R18–2–302(G) and R18–2–402(C) to begin actual construction upon the issuance of a proposed final permit. ADEQ's program is ambiguous as to whether a proposed final permit, as defined in R18–2–101(114), constitutes final action by the Director. While ADEQ has issued guidance clarifying that it treats ''proposed final permits'' as final actions for purposes of preconstruction permitting,[19] to obtain full NA–NSR program approval, ADEQ's regulations must make clear that a source may not begin actual construction before a final determination on an NA–NSR permit application is made by the Director.

Third, 40 CFR 51.165(a)(3)(ii)(G) requires that credit for emission reductions can be claimed only to the extent that the reviewing authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51 subpart I or the State has not relied on it in demonstration of attainment or reasonable further progress. ADEQ's NSR submittal generally addresses this requirement at R18–2–404(H), but also needs to include references to rules R18–2–302.01 and R18–2–334, which are to be approved as part of ADEQ's NSR regulations under Subpart I.

Fourth, ADEQ's submittal contains an apparent typographical error in R18–2–402(F)(1)(c), which includes a cross-reference to R18–2–401(20)(b)(iii) rather than R18–2–401(20)(b)(iv). This error must be corrected to ensure that the requirement in 40 CFR 51.165(a)(6)(i)(*c*) for owners and operators to document and maintain a record of certain applicability-related information is satisfied.

Fifth, ADEQ's submittal does not require owners or operators to make information required under 40 CFR 51.165(a)(6) available for review upon request by the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii) as is required by 40 CFR 51.165(a)(7).

Sixth, 40 CFR 51.165(a)(9)(i) requires that increases in emissions shall be offset by reductions in emissions using a ratio of emission decreases to emission increases of at least 1 to 1. ADEQ's NA–NSR submittal contains this requirement at R18–2–404(A), but could

[18] For one other aspect of ADEQ's NA–NSR SIP submittal, we are proposing limited approval at this time. We cannot determine at this time whether ADEQ's NA–NSR SIP submittal adequately addresses all of elements necessary to satisfy the CAA's title I, part D, subpart 4 requirements regarding NSR permitting of $PM_{2.5}$ and PM_{10} precursors under CAA section 189(e). This issue is discussed in detail in Section II.D.5 below.

[19] See ADEQ Memo dated February 10, 2015 related to proposed final permits and ADEQ's February 23, 2015 Supplement at 2.

be interpreted as establishing the ratio as increases to decreases, instead of decreases to increases—''emission increases shall be offset by emission decreases at a ratio of at least 1 to 1.'' In addition, R18–2–404(A) refers to additional offset requirements in R18–2–405, but does not refer to the offset requirement in R18–2–404(J).

Seventh, 40 CFR 51.165(a)(11) requires emission offsets to be obtained for the same regulated NSR pollutant, unless interprecursor offsetting is permitted for a particular pollutant, as further specified in the rule. ADEQ's NA–NSR SIP submittal does not address interprecursor offsets, and it is not required to, but the submittal does not contain a specific requirement that offsets must be for the same regulated pollutant.

Eighth, 40 CFR 51.165(b) requires that ADEQ have a preconstruction program that satisfies the requirements of section 110(a)(2)(D)(i) of the Act for any new major stationary source or major modification that would locate in an attainment area, but would cause or contribute to a violation of a NAAQS in any adjacent area. ADEQ's program contains provisions for 40 CFR 51.165(b) at R18–2–406(A)(5)(a)–(b) that generally meet this requirement. However, ADEQ's regulations at R18–2–406(A)(5)(b) refer to the ''Arizona primary or secondary ambient air quality standards,'' which is not a defined term, whereas the analogous federal program provisions refer to the NAAQS. As a result, ADEQ's program does not fully meet the requirements in 40 CFR 51.165(b)(1) and (2) as ADEQ's regulations do not make clear which standards are being referred to, and the submittal does not demonstrate that such standards would apply to areas outside of Arizona for purposes of ADEQ's NSR review. Similarly, ADEQ's regulation at R18–2–406(A)(5)(a) references the state's ambient air quality standards in Article 2, which would not clearly apply to areas outside of Arizona.

Finally, Section 173(a)(4) of the Act requires that NA–NSR permit programs shall provide that permits to construct and operate may be issued if ''the Administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified.'' However, ADEQ's program does not contain a provision that would prohibit the issuance of NA–NSR permits in areas where the Administrator has made this determination or that requires that ADEQ conduct a review to ensure that this requirement is met. To obtain full program approval, ADEQ must add a provision to its NA–NSR program requirements that ensures compliance with CAA section 173(a)(4).

2. Plantwide Applicability Limits

ADEQ's rules contain provisions for using plantwide applicability limits (PALs) in R18–2–412. We have identified the following deficiencies with ADEQ's PALs provisions program as they relate to the NA–NSR program.

First, ADEQ's provision for PALs does not specify that modifications under a PAL do not need approval through the nonattainment major NSR program. Only the PSD program is mentioned. ADEQ's submittal does not contain a definition for nonattainment major NSR program (see 40 CFR 51.165(a)(1)(xxx)). ADEQ should either add this definition or considering referencing R18–2–403. See 40 CFR 51.165(f)(1)(iii)(B).

Second, neither the ADEQ regulatory provisions for PALs at R18–2–412 nor the ADEQ regulatory definitions in R18–2–401 that apply in the context of major sources and major modifications contain a definition for *major emissions unit* as is required by 40 CFR 51.165(f)(2)(iv).

Third, ADEQ's PAL provision for calculating baseline emissions at R18–2–412(B)(2) does not specify that baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown and malfunction, as is required by 40 CFR 51.165(f)(3)(ii).

Fourth, ADEQ's PAL provisions at R18–2–412(H) contain an incorrect reference to R18–2–412(H)(4) instead of the definition for major modification, and R18–2–412(H)(5) uses ''eliminated'' where the federal regulation uses ''established.'' See 40 CFR 51.165(f)(9).

Finally, ADEQ's program contains incorrect cross-references in meeting the requirements of 40 CFR 51.165(f)(1), as follows: ADEQ's PAL renewal provisions at R18–2–412(I)(1) must contain a reference to subsection (D) of R18–2–412 instead of (F), and R18–2–(I)(4)(a) must reference subsection (E) of R18–2–412.

3. Definitions

ADEQ's submittal contains definitions applicable to the nonattainment NSR program that do not fully meet the requirements of 40 CFR 51.165(a)(1), which requires each State plan to contain specific definitions for the nonattainment NSR program. Deviations from the wording are approvable if the State specifically demonstrates that the submitted definition is more stringent, or at least as stringent, in all respects as the corresponding definition in 40 CFR 51.165(a)(1). We have carefully reviewed the definitions used in ADEQ's nonattainment NSR program as compared with the federal PSD definitions in 40 CFR 51.165(a)(1) and have found that generally, ADEQ's submittal contains the definitions necessary to implement a NA–NSR program. However, a number of ADEQ's definitions do not meet the requirements of 40 CFR 51.165(a)(1) because their wording deviates from the wording in the corresponding federal regulatory definitions in 40 CFR 51.165(a)(1) in a manner that may be less stringent than the federal definitions, and the State has not demonstrated otherwise.

Stationary source at 40 CFR 51.165(a)(1)(i)—the federal regulation at 40 CFR 51.165(a)(1)(i) defines this term as ''any building, structure, facility or installation which emits or may emit a regulated NSR pollutant,'' with ''regulated NSR pollutant'' also being a federally defined term at 40 CFR 51.165(a)(1)(xxxvii), whereas ADEQ's regulation at R18–2–101(139) defines ''stationary source'' as ''any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49–426(A) which emits or may emit any air pollutant,'' with ''air pollutant'' being an undefined term in ADEQ's regulation. However, A.R.S. § 49–426(A) provides a cross-reference to certain exemptions from permitting identified in A.R.S. § 49–426(B), specifically agricultural equipment used in normal farm operations and certain fuel burning equipment, which do not appear to be consistent with federal NA–NSR definition. The federal definition of stationary source at 40 CFR 51.165(a)(1)(i) is very broad and does not exclude these source categories from the definition. We agree that it is acceptable for ADEQ to limit its NSR program to certain kinds of stationary sources, as discussed in detail above with respect to 40 CFR 51.160(e), but the federal definition for a stationary source in the context of the major NA–NSR program is not the appropriate place for such an exclusion, as it does not allow exclusions for certain source categories. ADEQ must demonstrate that its definition of stationary source is at least as stringent as the federal definition at 40 CFR 51.165(a)(1)(i) in all respects.

Major stationary source at 40 CFR 51.165(a)(1)(iv)—language from subparagraph 40 CFR 51.165(a)(1)(iv)(A)(*3*) not included in the definition at R18–2–101(75); also see comments above on definition of

''stationary source'' in 40 CFR 51.165(a)(1)(i).

Net emissions increase at 40 CFR 51.165(a)(1)(vi)—The requirement of paragraph 40 CFR 51.165(a)(1)(vi)(E)(3) is not met because not all requirements to be approved under subpart I are listed (*i.e.,* R18–2–302.01) in the definition at R18–2–101(87). In addition, the equivalent of paragraph 40 CFR 51.165(a)(1)(vi)(G) is not included in ADEQ's definition at R18–2–101(87).

Significant at 40 CFR 51.165(a)(1)(x)—ADEQ's definition at R18–2–101(130)(b) refers to R18–2–405 for determining significant emissions in serious and severe ozone nonattainment areas. The definition for ''significant'' at R18–2–405(B) does not use the term ''net emissions increase,'' which is a term defined by the federal regulations at 40 CFR 51.165(a)(1)(vi).

Allowable emissions at 40 CFR 51.165(a)(1)(xi)—ADEQ's definition at R18–2–101(13)(b) does not include the ''future compliance date'' language that is in 40 CFR 51.165(a)(1)(xi)(B) and (C) and ADEQ has not demonstrated that its regulatory language is at least as stringent as the federal definition.

Federally enforceable at 40 CFR 51.165(a)(1)(xiv)—ADEQ's definition at R18–2–101(53)(d) identifies that requirements included in permits pursuant to R18–2–306.01 or R18–2–306.02 are included in the definition of federally enforceable requirements, but excludes those requirements that are identified as ''enforceable only by the state.'' With this action, we are approving R18–2–306.01 and R18–2–306.02 into the SIP, making requirements pursuant to these rules federally enforceable. As such, ADEQ does not have the discretion to identify some of those requirements as only enforceable by the state.

Regulated NSR pollutant at 40 CFR 51.165(a)(1)(xxxvii)—ADEQ's definition is missing this language from paragraph 40 CFR 51.165(a)(1)(xxxvii)(C): ''provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant'' at R18–2–101(122)(a).

Projected actual emissions at 40 CFR 51.165(a)(1)(xxviii)—ADEQ's definition at R18–2–401(20)(b)(iii) does not specifically require inclusion of emissions from malfunctions in the determination of projected actual emissions, and exempts emissions from a shutdown associated with a malfunction from such determination, while the federal definition at 40 CFR 51.165(a)(1)(xxxvii)(C) requires that emissions from both shutdowns and malfunctions be included.

4. Definition for Basic Design Parameter

ADEQ's submittal contains a definition for basic design parameter at R18–2–401(3) that reflects the definition that EPA originally developed as part of its Equipment Replacement Provisions. See 68 FR 61248, Oct. 27, 2003. However, the definition for basic design parameter, and other elements related to the Equipment Replacement Provisions, were vacated by the DC Circuit Court of Appeals in *State of New York* v. *EPA,* 443 F.3d 880 (D.C. Cir. 2006). While the federal NA–NSR regulations still contain a reference to ''basic design parameter,'' this term is no longer specifically defined under the federal NA–NSR regulations, and application of the definition contained in the Equipment Replacement Provisions that were vacated by the Court of Appeals is inconsistent with federal NA–NSR requirements. As the Court of Appeals found this Equipment Replacement Provisions and, therefore, this definition, impermissible, and because ADEQ's regulation incorporating this definition is a separable portion of ADEQ's NA–NSR program, we are proposing a partial disapproval of ADEQ's submitted NA–NSR program, to disapprove R18–2–401(3).

5. Additional Provisions for Particulate Matter Nonattainment Areas

On January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit, in *Natural Resources Defense Council* v. *EPA*,[20] issued a decision that remanded the EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ NAAQS. EPA's 2008 implementation rule addressed by the court decision, ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (the 2008 NSR $PM_{2.5}$ Rule),[21] promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas (under the NA–NSR program) and attainment/unclassifiable areas (under the PSD program). The Court of Appeals found that EPA erred in implementing the $PM_{2.5}$ NAAQS in these rules for nonattainment areas solely pursuant to the general implementation provisions of subpart 1 of part D of title I of the CAA, rather than pursuant to the additional implementation provisions specific to particulate matter nonattainment areas in subpart 4. The Court of Appeals ordered the EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion.'' 706 F.3d at 437. Although the Court of Appeals declined to establish a deadline for EPA's response to the remand, EPA intends to promulgate new generally applicable implementation regulations for the $PM_{2.5}$ NAAQS in accordance with the requirements of subpart 4. In the interim, however, states and EPA still need to proceed with implementation of the $PM_{2.5}$ NAAQS in a timely and effective fashion in order to meet statutory obligations under the CAA and to assure the protection of public health intended by those NAAQS.

ADEQ's NSR SIP submittal generally includes requirements for the $PM_{2.5}$ NA–NSR program consistent with the provisions promulgated in the 2008 NSR $PM_{2.5}$ Rule. Specifically, ADEQ's NSR SIP submittal includes the $PM_{2.5}$ significant emission rates at R18–2–101(130), regulation of certain $PM_{2.5}$ precursors (SO_2 and NO_X) at R18–2–101(130), the regulation of PM_{10} and $PM_{2.5}$ condensable emissions at R18–2–101(122)(f), and the emissions offset requirements at R18–2–403(A)(3). Separate and aside from the issues identified above that have resulted in our proposing limited approval and limited disapproval of ADEQ's NA–NSR submittal, EPA has determined that it is not prepared at this time to grant full approval to ADEQ's NSR SIP submittal as to the $PM_{2.5}$ NA–NSR program requirements, in light of the Court's remand of the 2008 NSR $PM_{2.5}$ Rule, and for the reasons explained below.

EPA is in the process of evaluating the requirements of subpart 4 as they pertain to NA–NSR. In particular, subpart 4 includes section 189(e) of the CAA, which requires the control of major stationary sources of PM_{10} precursors (and hence under the court decision, $PM_{2.5}$ precursors) ''except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the standard in the area.'' Although ADEQ's NSR SIP submittal does include regulation of SO_2 and NO_X as $PM_{2.5}$ precursors, it does not include the regulation of VOCs or ammonia. Nor does the NSR SIP submittal include a demonstration as to whether or not the regulation of VOCs or ammonia is necessary under section 189(e). The evaluation of which precursors need to be controlled to achieve the standard in a particular area is typically conducted in the context of the state's preparing and the EPA's reviewing an area's attainment plan SIP. In this case, there are two designated $PM_{2.5}$ nonattainment areas in Arizona, the Nogales (portion of Santa Cruz County, AZ) and West Central Pinal (portion of Pinal County, AZ) areas. Both are designated

[20] 706 F.3d 428 (D.C. Cir. 2013).

[21] 73 FR 28321 May 16, 2008.

nonattainment for the 2006 annual $PM_{2.5}$ NAAQS. However, on January 7, 2013 and September 4, 2013, EPA finalized determinations of attainment for these areas, respectively (78 FR 887 and 78 FR 54394), which suspended the requirement for the state to submit, among other things, an attainment plan SIP for the area.[22] Accordingly, $PM_{2.5}$ attainment plans for SIP approval are not currently before Region 9 for these areas. As Region 9 does not have before it the state's analysis as to which precursors need to be controlled in these areas pursuant to section 189(e) of the Act, as would be generally contained in an attainment plan SIP, it cannot fully approve as complying with the CAA a nonattainment NSR SIP that only addresses a subset of the scientific $PM_{2.5}$ precursors recognized by EPA.

On the other hand, while ADEQ's submittal may not yet contain all of the elements necessary to satisfy the CAA requirements when evaluated under subpart 4, the NA–NSR SIP submittal represents a considerable strengthening of the currently approved Arizona SIP, which does not address NSR permitting for $PM_{2.5}$ at all. Therefore, EPA is proposing to grant limited approval to the $PM_{2.5}$ NA–NSR provisions in ADEQ's NSR submittal for the Nogales and West Central Pinal $PM_{2.5}$ nonattainment areas.

For the reasons explained above, EPA is not evaluating at this time whether ADEQ's NA–NSR submittal will require additional revisions relating to $PM_{2.5}$ to satisfy the subpart 4 requirements. Once EPA re-promulgates the Federal $PM_{2.5}$ regulations with respect to NA–NSR permitting in response to the Court's remand, EPA will consider whether a limited disapproval should also be proposed for ADEQ's $PM_{2.5}$ NA–NSR program based on this issue.

In addition, section 189(e) of the CAA requires that ADEQ's NSR program for PM_{10} nonattainment areas apply to major stationary sources of PM_{10} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the standard in the area. As discussed below, we have identified one area under ADEQ's jurisdiction, the West Pinal PM_{10} nonattainment area, for which we are proposing a limited approval with respect to PM_{10} under section 189(e) of the Act.

On September 4, 2013, the West Pinal area was redesignated to nonattainment for the 1987 p.m.$_{10}$ standard. ADEQ's NSR SIP submittal generally includes NA–NSR requirements for PM_{10} nonattainment areas such as the PM_{10} significant emission rate at R18–2–101(130), the regulation of PM_{10} and $PM_{2.5}$ condensable emissions at R18–2–101(122)(f), and the emissions offset requirements at R18–2–403(A)(3). However, separate and aside from the issues identified above that have resulted in our proposing limited approval and limited disapproval of ADEQ's NA–NSR submittal, EPA has determined that it is not prepared at this time to grant full approval to ADEQ's NSR SIP submittal as to the PM_{10} nonattainment NSR program requirements for the West Pinal nonattainment area. The evaluation of which precursors need to be controlled to achieve the standard in a particular area is typically conducted in the context of the state's preparing and the EPA's reviewing of an area's attainment plan SIP. On February 19, 2014, ADEQ withdrew from EPA's consideration the *Arizona State Implementation Plan Revision for the West Pinal County* PM_{10} *Nonattainment Area* (submitted on December 30, 2013). Accordingly, a PM_{10} attainment plan for West Pinal is not currently before Region 9. As such, Region 9 does not have before it the state's analysis as to which precursors need to be controlled in this area pursuant to section 189(e) of the Act, as would be generally contained in an attainment plan SIP, and cannot fully approve as complying with the CAA a nonattainment NSR SIP that does not address scientific PM_{10} precursors recognized by EPA.

While ADEQ's submittal may not yet contain all of the elements necessary to satisfy the CAA NA–NSR requirements when evaluated under subpart 4, the proposed revisions to ADEQ's NA–NSR program represent a considerable strengthening of the currently approved Arizona SIP, which does not address NSR requirements for PM_{10} at all. Therefore, EPA is proposing to grant limited approval to the PM_{10} NA–NSR provisions in ADEQ's NSR submittal as they apply to the West Pinal nonattainment area. Once ADEQ submits a new PM_{10} attainment plan for this area, EPA will consider whether a limited disapproval should also be proposed based on this issue.

E. Review of Non-NSR Related Rules and Statutory Provisions

In addition to ADEQ's NSR SIP submittal, we are taking action on rules R18–2–311 and R18–2–312. These rules were submitted to EPA for SIP approval in a separate submittal on July 28, 2011. We delayed acting on rules R18–2–311 and R18–2–312 in a previous action, and are therefore now evaluating and taking action on the rules. We are also taking action on A.R.S. § 49–107, an Arizona statutory provision concerning local delegation of state authority.

First, ADEQ's rule R18–2–311 specifies the test methods and procedures which can be used to determine compliance with requirements established under ADEQ's air program. On October 19, 1984, EPA approved an earlier version of this rule into the SIP.[23] See 49 FR 41026. The current submittal, adopted effective November 15, 1993, renumbers the earlier rule and expands on the previous version by listing additional test methods that may be used to determine compliance. While the current rule improves on the earlier version, we cannot recommend it for full approval into the SIP. We are proposing a limited disapproval because Section D of the rule allows the State to approve alternatives to the applicable SIP without EPA approval, in conflict with the requirements of CAA sections 110(a)(2)(A) and 110(i).[24]

Second, ADEQ's rule R18–2–312 requires stationary sources to conduct a performance test within 60 days of achieving the capability to operate at its maximum production rate, but no later than 180 days after initial start-up. The rule also specifies that testing shall be conducted under such conditions specified by State, including, but not limited to appropriate test methods, notification to the State, data reduction, records, and number of test runs. On April 23, 1982 (47 FR 17485) EPA approved a version of this rule into the SIP.[25] The current submittal, adopted effective November 15, 1993, renumbers the earlier rule and expands on the previous version by including conditions when a test may be stopped and allows compliance to be determined with continuous emission monitoring as long as the applicable quality assurance procedures are followed. While the current rule improves on the earlier version, we cannot recommend it for full approval into the SIP. We are proposing a limited disapproval because Section B of the rule allows the State to approve the use of equivalent and alternative test methods without EPA approval, in conflict with CAA sections 110(a)(2)(A) and 110(i).[26]

[22] Prior to the Court's decision, EPA would not have reviewed $PM_{2.5}$ attainment plan submittals for compliance with Section 189.

[23] The rule was previously numbered R9–3–310.

[24] See, *e.g.,* ''Guidance Document for Correcting VOC Rule Deficiencies,'' U.S. EPA Region 9, April 1991, revised August 21, 2001 (Little Bluebook).

[25] The rule was previously numbered R9–3–312.

[26] See, *e.g.,* Little Bluebook.

Third, A.R.S. § 49–107 is the current Arizona state law that provides ADEQ with authority to ''delegate to a local environmental agency, county health department, public health services district or municipality any functions, powers or duties which the director believes can be competently, efficiently and properly performed by the local agency if the local agency accepts the delegation and agrees to perform the delegated functions, powers and duties according to the standards of performance required by law and prescribed by the director,'' and other related authorities. This statutory provision establishes that ADEQ has clear authority to delegate various functions under the CAA, including NSR permitting, to county and other local government agencies and, as such, we find it to be approvable and propose to approve it into the SIP. This provision will replace 7–1–8.3(R9–3–803)—*Delegation of Authority,* an older ADEQ currently in the SIP, which we are proposing to remove from the SIP as part of this action.

F. Review of Rules and Statutory Provisions Requested To Be Removed From the SIP

In Table 2 of this preamble we identify the rules and statutory provisions we are proposing to remove or supersede from the SIP as part of this action. ADEQ's existing SIP-approved NSR rules are generally outdated, as we have not acted to approve substantial revisions to ADEQ's NSR rules since the 1980s. Further, the ADEQ NSR rules currently in the SIP have been repealed for purposes of State law by ADEQ. Significant changes have been made to the Act and the underlying implementing federal NSR regulations since our last substantial action on ADEQ's NSR SIP. Therefore, replacing the existing, outdated NSR SIP rules with the updated ADEQ rules in this submittal that we propose to approve into the SIP is appropriate and generally serves as an overall strengthening of Arizona's SIP. In some cases, we approved updated versions of these rules into the SIP in previous rulemaking actions, and a few of the rules proposed for removal are no longer necessary for other reasons. Our TSD provides additional detail.

G. Do the rules meet the evaluation criteria under Section 110(l) and 193 of the Act?

CAA Section 110(l) states: ''Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.''

With respect to the procedural requirements of CAA section 110(l), based on our review of the public process documentation included in the July 28, 2011, October 29, 2012 and July 2, 2014 submittals, we find that ADEQ has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to submittal of this SIP revision and has satisfied these procedural requirements under CAA section 110(l).

With respect to the substantive requirements of section 110(l), as discussed further below, we have determined that our approval of the ADEQ NSR SIP Submittal and the other rules and statutory provisions that we are proposing to act on in this action (including but not limited to the rescission of numerous existing NSR SIP rules), as described above in this preamble, would strengthen the applicable SIP in most respects. Taken in its entirety, we find that the SIP revision represents a strengthening of ADEQ's minor NSR, PSD, and NA–NSR programs as compared to the existing SIP-approved NSR program for ADEQ that was last substantially revised in the SIP in the early 1980s, and that our approval of this SIP submittal would not interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act.

First, this proposed action would correct a number of deficiencies in ADEQ's current SIP-approved NSR program. ADEQ's existing SIP-approved program does not currently contain these significant program elements: (1) Implementation of NSR requirements for PM_{10}; (2) implementation of NSR requirements for $PM_{2.5}$; (3) regulation of NO_X as a precursor to ozone; (4) inclusion of condensable particular matter in NSR permitting for determining PM_{10} and $PM_{2.5}$ emissions; and (5) ensuring that the construction or modification of certain non-major sources and non-major modifications will (1) not interfere with attainment or maintenance of the NAAQS and (2) comply with the applicable SIP.

Further, ADEQ has also updated its program to provide for additional permitting flexibilities that have been added to the federal NSR program, such as PALs and the 2002 NSR Reforms.

Second, most of the deficiencies identified with the ADEQ rule provisions on which we are taking action fit into one of two categories: (1) Deficiencies that relate to an NSR program element that has been added since ADEQ's NSR program was approved into the SIP (*e.g.,* the deficiency related to the omission of the definition for *major emissions unit* in the PALs provisions), or (2) deficiencies that exist in the current SIP that were not identified as deficiencies when the provisions were approved into the SIP (*e.g.,* ensuring protection of the NAAQS in areas outside of Arizona from stationary source emissions regulated under the NSR program). Therefore, in considering whether our proposed approval of the NSR SIP submittal will interfere with attainment or reasonable further progress, we only consider those deficiencies in the first category, as the deficiencies in the second category are already a part of the current applicable requirements for attainment and RFP in the Arizona SIP. In many cases, the deficiencies in the second category occurred because of the numerous changes to the NSR program since ADEQ's NSR rules were last approved into the SIP. That is, language that may have been approvable previously is no longer approvable.

The most significant deficiency that we have identified, as discussed in detail above in this notice, is the absence of provisions that ensure protection of the 2012 $PM_{2.5}$ NAAQS for the PSD program. This deficiency is the most likely to affect the substantive requirements of the overall application of the PSD program, compared to other deficiencies that we do not expect would significantly affect the review of emission impacts (*e.g.,* administrative requirements for permit issuance). However, the 2012 $PM_{2.5}$ NAAQS came into effect after ADEQ submitted the NSR SIP submittal to EPA. In addition, although such standard is currently applicable in the context of the PSD program, the implementation requirements for this standard are not due until 2016. Accordingly, there are no applicable requirements in the existing ADEQ SIP-approved NSR program related to this NAAQS that would be affected by the deficiencies in the submitted NSR rules we are approving.

In addition, ADEQ has relaxed its definition of ''major stationary source.'' ADEQ's previous definition applied the PSD and NA–NSR program requirements to existing non-major sources when a project would cause such a *stationary source* to become a ''major stationary source.'' ADEQ

revised its program to instead subject existing non-major sources to the major NSR program only if the *project* constitutes a ''major stationary source'' in and of itself, consistent with federal NSR program requirements. We do not find this relaxation to interfere with attainment or reasonable further progress because ADEQ is also strengthening its minor NSR program to address emissions from larger modifications that do not qualify as major modifications under ADEQ's revised NSR program. While these modifications would no longer be subject to the major NSR program, ADEQ's minor NSR program would nonetheless apply and ensure the modification does not interfere with attainment or RFP.

In summary, we find that, on balance, the improvements ADEQ is making to its NSR program and other portions of the SIP that are the subject of this section outweigh the deficiencies discussed above as compared to ADEQ's existing SIP-approved NSR program. In addition, we are unaware of any reliance by ADEQ on the continuation of any specific aspect of the permit-related rules currently in the ADEQ portion of the Arizona SIP for the purpose of continued attainment or maintenance of the NAAQS. Given all these considerations, we propose to conclude that our approval of the ADEQ regulations and statute that are the subject of this action into the Arizona SIP would not interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the Act.[27]

Conclusion. For the reasons set forth above, we can approve the ADEQ SIP revision as proposed in this action under section 110(l) of the Act.

Section 193 of the Act, which was added by the CAA Amendments of 1990, includes a savings clause that provides, in pertinent part: ''No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990, in any area which is a nonattainment area for any air pollutant may be modified after November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.''

We find that the provisions included in ADEQ's NSR SIP submittal would ensure equivalent or greater emission reductions compared to the SIP-approved NSR program in the nonattainment areas under ADEQ's jurisdiction. In particular, the NSR provisions in ADEQ's NSR SIP submittal cover stationary sources in areas that are nonattainment for the PM_{10}, $PM_{2.5}$ and 1-hr SO_2 NAAQS. ADEQ's current SIP-approved NSR program was approved prior to EPA establishing these NAAQS and the current NSR provisions in the SIP do not reference the current, recently SIP-approved Arizona air quality standards that are comparable to these NAAQS. In addition, ADEQ's updated NSR rules and our action to approve them into the SIP will expand ADEQ's review of minor sources in nonattainment areas to require review of smaller sources. We therefore conclude that ADEQ's NSR SIP submittal will provide for equivalent or greater emissions reductions as compared to the existing SIP-approved ADEQ NSR program for the nonattainment pollutants PM_{10}, $PM_{2.5}$ and SO_2.

Conclusion. For the reasons set forth above, we can approve the submitted NSR program under section 193 of the Act.

H. Conclusion

For the reasons stated above and explained further in our TSD, we find that the submitted NSR rules satisfy most of the applicable CAA and regulatory requirements for minor NSR, PSD, and nonattainment NSR permit programs under CAA section 110(a)(2)(C) and parts C and D of title I of the Act but also contain certain deficiencies that prevent us from proposing a full approval of the NSR SIP submittal. Therefore, we are proposing a limited approval and limited disapproval of the submitted NSR rules. We do so based also on our finding that, while the rules do not meet all of the applicable requirements, the rules would represent an overall strengthening of the SIP by clarifying and enhancing the NSR permitting requirements for major and minor stationary sources under ADEQ's jurisdiction in Arizona. In addition, we are also proposing to remove the existing statutes and rules listed in Table 2 from the SIP, which are outdated and mostly being superseded by our proposed action. As discussed above, we are proposing a partial disapproval of two elements of ADEQ's program, which have been vacated from the PSD program (and is one case also from the NA–NSR program) by the courts. We are also proposing a limited approval of ADEQ's nonattainment NSR program for the Nogales and West Central Pinal $PM_{2.5}$ nonattainment areas and the West Pinal PM_{10} nonattainment area under section 189(e) of the Act. Finally, we are proposing a limited approval and limited disapproval of two ADEQ rules relating to test methods and procedures and performance tests, and proposing to approve into the SIP an Arizona statutory provision relating to local delegation of state authority.

III. Public Comment and Proposed Action

Pursuant to section 110(k) of the CAA and for the reasons provided above, EPA is proposing a limited approval and limited disapproval of revisions to the ADEQ portion of the Arizona SIP that govern preconstruction review and the issuance of preconstruction permits for stationary sources, including the review and permitting of major sources and major modifications under parts C and D of title I of the CAA. Specifically, EPA is proposing a limited approval and limited disapproval of the new and amended ADEQ regulations listed in Table 1, above, as a revision to the ADEQ portion of the Arizona SIP. We are also proposing to remove the existing statutes and rules listed in Table 2 from the SIP, which are outdated and mostly being superseded by our proposed action. In addition, we are also proposing to partially disapprove two provisions of ADEQ's NSR program that have been vacated by the courts. We are proposing a limited approval of ADEQ's nonattainment NSR program in certain nonattainment areas under section 189 of the Act related to PM_{10} and $PM_{2.5}$ precursors. Finally, we are proposing a limited approval and limited disapproval of two ADEQ rules relating to test methods and procedures and performance tests, and proposing to approve into the SIP an Arizona statutory provision relating to local delegation of state authority.

EPA is proposing this action because, although we find that the new and amended rules meet most of the applicable requirements for such permit programs and that the SIP revisions improve the existing SIP, we have found certain deficiencies that prevent full approval, as explained further in this preamble and in the TSD for this rulemaking. The intended effect of our proposed limited approval and limited disapproval action is to update the applicable SIP with current ADEQ

[27] Our analysis and conclusion here also apply to our approval of R18–2–311 and R18–2–312, which are not generally related to NSR permitting. We note that these rules do not contain any substantive changes in the procedures for performance tests or test methods as compared with the analogous rules in the current SIP. Similarly, our analysis and conclusion here also extends to our approval of A.R.S. § 49–107 into the SIP. The provisions in this state statute relate specifically to local delegation of state authority and thus would not interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the Act.

regulations and to set the stage for remedying deficiencies in these regulations.

If finalized as proposed, our limited disapproval action would trigger an obligation on EPA to promulgate a Federal Implementation Plan unless the State of Arizona corrects the deficiencies, and EPA approves the related plan revisions, within two years of the final action. Additionally, for those deficiencies that relate to the Nonattainment NSR requirements under part D of title I of the Act, the offset sanction in CAA section 179(b)(2) would apply in the ADEQ nonattainment areas 18 months after the effective date of a final limited disapproval, and the highway funding sanctions in CAA section 179(b)(1) would apply in these areas six months after the offset sanction is imposed. Neither sanction will be imposed under the CAA if Arizona submits and we approve, prior to the implementation of the sanctions, SIP revisions that correct the deficiencies that we identify in our final action. The EPA intends to work with ADEQ to correct the deficiencies identified in this action in a timely manner.

We will accept comments from the public on this proposed action for the next 30 days.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the ADEQ rules and Arizona statutory provisions listed in Table 1 of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

This proposed action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals or disapprovals under section 110 and subchapter I of the Clean Air Act do not create any new requirements but simply approve or disapprove requirements that the State is already imposing. Therefore, because EPA's proposed limited approval/limited disapproval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, requires Federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments that might be significantly or uniquely affected by any regulatory requirements. The plan must enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

This proposed rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. Thus, this rule is not subject to the requirements of section 202 or 205 of UMRA. This Federal action proposes to approve and disapprove pre-existing requirements under State or local law, and imposes no new requirements.

This proposed rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This proposed rule does not impose regulatory requirements on any government entity.

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 in the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Under Executive Order 13175 (65 FR 67249, November 9, 2000), EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

This proposed rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. EPA specifically solicits additional comment on this proposed rule from tribal officials. 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.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as

applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it proposes to approve a State rule implementing a Federal standard.

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

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12 (10) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by the VCS bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when the Agency decides not to use available and applicable VCS. EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not change the level of environmental protection for any affected populations.

Dated: March 4, 2015.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2015–06143 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0123; FRL–9924–54–Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri, Construction Permits Required

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) for the State of Missouri submitted on October 2, 2013. This proposed rulemaking will amend the SIP to update the construction permits rule to incorporate by reference recent EPA actions related to plantwide applicability limitations (PALs) for greenhouse gases (GHGs) and to correct the definition of ''regulated NSR pollutant.'' Other revisions include modifying the notification period for initial equipment start-up and clarifying de minimis permit air quality analysis requirements.

DATES: Comments must be received on or before April 17, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0123, by one of the following methods:

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

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2015–0123. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Paula Higbee, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7028 or by email at *Higbee.paula@epa.gov.*

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

I. What is being addressed in this document?
II. Background
III. Have the requirements for approval of a SIP revision been met?

IV. What action is EPA taking?

I. What is being addressed in this document?

EPA is proposing to approve the SIP revision submitted by the state of Missouri for 10 CSR 10–6.060, ''Construction Permits Required''. On October 3, 2013, EPA received a request to amend the SIP to incorporate by reference all sections of title 40 part 52.21 of the Code of Federal Regulations (CFR) except for subsections (a), (q) and (s) through July 1, 2012. Missouri is also requesting to amend the SIP to incorporate by reference EPA's July 12, 2012, final rule finalizing PALs for GHGs (77 FR 41051) and EPA's October 25, 2012, final rule amending the definition of ''Regulated NSR Pollutant'' concerning condensable particulate matter (77 FR 65107). In Missouri's letter to EPA, Missouri also requested to amend the SIP to incorporate EPA's May 18, 2011, rule repealing the grandfathering provisions for particulate matter less than 2.5 micrometers ($PM_{2.5}$) under the PSD program, but because the state has an already approved PSD program which incorporates by reference the provisions of 40 CFR 52.21 through July 1, 2011, Missouri's Federally approved program already incorporates this action. Other revisions to Missouri's rule which we are proposing to take action on include clarifying the requirements for conducting an air quality analysis in section 5, De Minimis Permits and making minor administrative clarifications as well as revising the notification period for initial start-up in section 6, General Permits.

II. Background

Missouri implements its PSD program by incorporating by reference section 52.21 of the CFR in its rule 10 CSR 10–6.060, ''Construction Permits Required''. In a previous action on June 21, 2013, EPA approved the most recent amendment to Missouri's PSD program (78 FR 37457). Missouri's currently approved PSD program incorporates by reference (IBR) the Federal regulations as promulgated July 1, 2011, in the CFR, and incorporates the July 20, 2011, rule ''Deferral for CO2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs'' (''Biomass Deferral'' 76 FR 43490). Missouri's currently approved PSD program contains a number of important required elements, including those related to the 2008 ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR $PM_{2.5}$ Rule; 73 FR 28321). For PSD sources in Missouri, PSD permits must address direct $PM_{2.5}$ emissions as well as precursor emissions (including sulfur dioxide (SO_2) and oxides of nitrogen (NO_X)), establish significant emission rates for $PM_{2.5}$ and precursor emissions, and establish the requirement to account for condensable particulate matter. On January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit), in *Natural Resources Defense Council* v. *EPA,* issued a decision that remanded the EPA's rules implementing the 1997 $PM_{2.5}$ NAAQS.[1] The court's remand of the 2008 NSR $PM_{2.5}$ Rule is relevant to this final rulemaking. This rule promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas (nonattainment NSR) and attainment/unclassifiable areas (PSD). The D.C. Circuit found that EPA erred in implementing the $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of part D of title 1 of the CAA, rather than pursuant to the additional implementation provisions specific to particulate matter nonattainment areas in subpart 4. The Court ordered EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion.'' (*Id.* at 437). However, as the requirements of subpart 4 only pertain to nonattainment areas, it is EPA's position that the portions of the 2008 NSR $PM_{2.5}$ Rule that address requirements for $PM_{2.5}$ in attainment and unclassifiable areas are not affected by the D.C. Circuit's opinion in *NRDC* v. *EPA.* Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated in the 2008 NSR $PM_{2.5}$ Rule in order to comply with the court's decision. Accordingly, EPA's approval of Missouri's SIP as to the PSD requirements promulgated by the 2008 NSR $PM_{2.5}$ Rule does not conflict with the D.C. Circuit's opinion.

On October 20, 2010, EPA promulgated additional PSD regulations relating to $PM_{2.5}$: ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs), and Significant Monitoring Concentrations (SMC)'' (2010 PSD $PM_{2.5}$ Rule, 73 FR 64864). On January 22, 2013, the D.C. Circuit, in *Sierra Club* v. *EPA,* issued a judgment that, *inter alia,* vacated and remanded the SIL provisions at section 52.21(k)(2). Additionally, the D.C. Circuit vacated the SMC provisions at section 52.21(i)(5)(i)(c).[2] In response to the D.C. Circuit's decision, EPA took final action on December 9, 2013, to remove the SIL provisions from the Federal PSD regulations, and to revise the SMC for $PM_{2.5}$ to zero (78 FR 73698). On March 19, 2013, and October 21, 2013, Missouri submitted additional information to amend their September 5, 2012, SIP submission to clarify that they no longer intended to include the $PM_{2.5}$ SILs and SMC provisions (see 78 FR 37457, June 21, 2013, for more information). Specifically, Missouri Department of Natural Resources (MDNR) will not apply either the $PM_{2.5}$ SILs provisions at 40 CFR 51.166(k)(2) and 52.21(k)(2), or the $PM_{2.5}$ SMC provisions at 40 CFR 51.166(i)(5)(i)(c) to pending or future PSD permit actions. It is the state's intent that $PM_{2.5}$ will remain on the list of pollutants but that the associated concentration level would be blank or zero. In other words, pre-construction monitoring will continue to apply but without de minimis thresholds. Therefore, the provisions with which the court took issue are not in effect in Missouri.

On June 23, 2014, the United States Supreme Court, in *Utility Air Regulatory Group* v. *Environmental Protection Agency,* issued a decision addressing the application of PSD permitting requirements to greenhouse gas (GHG) emissions.[3] The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source (or modification thereof) required to obtain a PSD permit. The Court also said that EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT). In order to act consistently with its understanding of the Court's decision pending further judicial action before the D.C. Circuit to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant, (i) that the source emits or has the potential to emit above the major source thesholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from

[1] *See* 706 F.3d 428 (D.C. Cir. 2013).

[2] *See* 705 F.3d 458, 469

[3] 134 S.Ct. 2427.

a modification (*e.g.* 40 CFR 51.166(b)(48)(v)).

EPA anticipates a need to revise Federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. This can be accomplished as soon as EPA revises the Federal PSD rules in states that allow future revisions to the Federal PSD program to be automatically incorporated into the SIP. The timing and content of subsequent EPA actions with respect to the EPA regulations is expected to be informed by additional legal processes before the D.C. Circuit. EPA is not expecting states to have revised their existing PSD program regulations at this juncture, before the D.C. Circuit has addressed these issues and before EPA has revised its regulations at 40 CFR 51.166. However, EPA is evaluating PSD program submissions to assure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

Missouri's existing approved SIP contains the GHG permitting requirements reflected in 40 CFR 52.21 after EPA issued the Tailoring Rule. As a result, the PSD permitting program in Missouri previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT when sources emit or increase greenhouse gases in the amount of 75,000 tons per year (measured as carbon dioxide equivalent). Although the approved Missouri PSD permitting program may also currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not prevent EPA from approving the submission addressed in this rule. Missouri's 2013 SIP submission does not add any GHG permitting requirements that are inconsistent with the Supreme Court decision. While this submission incorporates all of section 52.21 for completeness, except for subsections (a), (q) and (s), the submission mostly reincorporates PSD permitting requirements for GHG's that are already in the Missouri SIP.

This proposed revision does add to the Missouri SIP the elements of EPA's July 12, 2012, rulemaking, Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits, ''Step 3 Tailoring Rule'' (77 FR 41051), which implements Step 3 of the phase in of PSD permitting requirements for GHGs. This rule became effective on August 13, 2012. Specifically, the incorporation of the Step 3 rule provisions will allow GHG-emitting sources to obtain plantwide applicability limits (PALs) for their GHG-emitting sources on a carbon dioxide equivalent (CO2e) basis. The GHG PAL provisions, as currently written, include some provisions that may no longer be appropriate in light of the Supreme Court decision. Since the Supreme Court has determined that sources and modifications may not be defined as ''major'' solely on the basis of the level of GHGs emitted or increased, PALs for GHGs may no longer have value in some situations where a source might have triggered PSD based on GHG emissions alone. However, PALs for GHGs may still have a role to play in determining whether a modification that triggers PSD for a pollutant other than GHGs should also be subject to BACT for GHGs. These provisions, like the other GHG provisions discussed previously, will likely be revised pending further legal action. However, these provisions do not add new requirements for sources or modifications that only emit or increase GHGs above the major source threshold or the 75,000 tpy GHG level in section 52.21(b)(49)(iv). Rather, the PALs provisions provide increased flexibility to sources that wish to address their GHG emissions in a PAL. Since this flexibility may still be valuable to sources in at least one context described above, we believe that it is appropriate to approve these provisions into the Missouri SIP at this juncture.

EPA is proposing to revise Missouri's SIP to incorporate by reference EPA's October 25, 2012 rule, ''Implementation of the New Source Review Program for Condensable Particulate Matter''. This revision is appropriate and necessary to ensure that the inadvertent error which was contained in EPA's 2008 rule, which was previously SIP approved in the Missouri rule (78 FR 37457) is corrected. EPA's 2008 rule, ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$).'' *See* 73 FR 28321 (May 16, 2008), inadvertently included a requirement to consider condensable PM when measuring one of the emissions-related indicators for PM known as ''particulate matter emissions'' in the context of the PSD and NSR regulations. EPA's 2012 rule corrects the error in the 2008 rule and therefore it is appropriate and necessary to incorporate by reference the 2012 rule and related corrections to the definition of ''particulate matter emissions.''

III. Have the requirements for approval of a SIP revision been met?

As stated above, Missouri's incorporation by reference of all sections of title 40 section 52.21 of the CFR except for subsections (a), (q) and (s) and EPA's July 12, 2012, final rule on PALs for GHGs (77 FR 41051) and EPA's October 25, 2012, final rule amending the definition of ''Regulated NSR Pollutant'' concerning condensable particulate matter (77 FR 65107) are appropriate even in light of recent court actions and ensure that the state PSD program is in agreement with Federal requirements. Missouri also requested to amend the SIP to incorporate EPA's May 18, 2011, rule repealing the grandfathering provisions for $PM_{2.5}$ under the PSD program, but because the state has an already approved PSD program which incorporates by reference the provisions of 40 CFR 52.21 through July 1, 2011, Missouri's Federally approved program already incorporates this action.

Additional revisions include, in paragraph (5)(D)(1) of the rule, Missouri is adding subparagraphs A. and B. which provide clear and specific requirements for when an air quality analysis is required for De Minimis permits. In (5)(D)(2) of the rule, Missouri is adding subparagraphs A., B., and C. which provide clear and specific requirements for when the director may require an air quality analysis. These revisions strengthen Missouri's PSD program.

MDNR is making minor administrative edits to subsections (6)(A) and (6)(A)(2). In (6)(E)(1)(A) Missouri is modifying the notification period for initial equipment start-up. This revision shortens the timeframe for which notification is provided to the state prior to initial start-up.

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfies the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. MDNR received five (5) comments from one source: The U.S. Environmental Protection Agency. Missouri responded to each of the comments and made revisions to the rule as appropriate. Overall, these actions strengthen the Missouri SIP, by ensuring the state PSD program incorporates recent Federal PSD updates. These revisions do not

negatively impact air quality, nor relax the SIP.

IV. What action is EPA taking?

EPA is proposing to approve the revisions to the SIP. These revisions update the construction permits rule to incorporate by reference recent EPA actions related to PALs for GHGs, and amend the definition of ''Regulated NSR Pollutant.'' Other revisions include modifying the notification period for initial equipment start-up and clarifying de minimis permit air quality analysis requirements.

We are processing this rule as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

Statutory and Executive Order Reviews

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Missouri 10 CSR 10–6.060 ''Construction Permits Required'' described in the proposed amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).
- 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).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 2015. Filing a petition for reconsideration by the Administrator of this proposed rule does not affect the finality of this rulemaking for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectivess of such future rule or action. This proposed action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 9, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

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

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

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

Subpart AA—Missouri

■ 2. In § 52.1320 the table in paragraph (c) is amended by revising the entry for 10–6.060 to read as follows:

§ 52.1320 Identification of Plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA Approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri				
10 CSR 10–6.060	Construction Permits Required.	10/30/13	3/18/15 [Insert **Federal Register** citation].	Provisions of the 2010 $PM_{2.5}$ PSD—Increments, SILs and SMCs rule (75 FR 64865, October 20, 2010) relating to SILs and SMCs that were affected by the January 22, 2013 U.S. Court of Appeals decision are not SIP approved. Provisions of the 2002 NSR reform rule relating to the Clean Unit Exemption and Pollution Control Projects are not SIP approved. In addition, we have not approve Missouri's rule incorporating EPA's 2007 revision fo the definition of "chemical processing plants" (the "Ethanol Rule," 72 FR 24060 (May 1, 2007). Although exemptions previously listed in 10 CSR 10–6.060 have been transferred to 10 CSR 10–6.061, the Federally-approved SIP continues to include the following exemption, "Livestock and livestock handling systems from which the only potential contaminant is odorous gas." Section 9, pertaining to hazardous air pollutants, is not SIP approved.
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[FR Doc. 2015–06153 Filed 3–17–15; 08:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150227200–5200–01]

RIN 0648–BE79

Fisheries Off West Coast States; West Coast Salmon Fisheries; Management Reference Point Updates for Three Stocks of Pacific Salmon

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes updates to management reference point values for Southern Oregon coastal Chinook salmon, Grays Harbor fall Chinook salmon, and Willapa Bay natural coho, as recommended by the Pacific Fishery Management Council (Council) for use in developing annual management measures beginning in 2015. This update is implemented as part of the 2014 methodology review where the Council and its advisory bodies considered new information on the three stocks of salmon to make a determination on whether changes to reference points for these stocks were warranted.

DATES: Comments on this proposed rule must be received on or before April 2, 2015.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2015–0014, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0014,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206–526–4323.

SUPPLEMENTARY INFORMATION:

Background

The Council manages West Coast ocean salmon fisheries under the Pacific Coast Salmon Fishery Management Plan (FMP). The FMP has long used stock-specific conservation objectives to manage fishery impacts to Council-managed salmon stocks. Conservation objectives are, generally, fixed quantities intended to provide the necessary guidance during the course of the annual preseason planning process to establish salmon fishing seasons that achieve optimum yield. Under the FMP, conservation objectives can be added or

changed either through a plan amendment or notice and comment rulemaking if a comprehensive technical review of the best scientific information available provides evidence that, in the view of the Salmon Technical Team (STT), Scientific and Statistical Committee (SSC), and the Council, justifies a modification (FMP section 3.2.2).

In 2009, NMFS amended the guidelines for National Standard 1 (NS1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) at 50 CFR 600.310 to provide guidance on how to comply with new annual catch limit (ACL) and accountability measure requirements for ending overfishing of fisheries managed by Federal fishery management plans, including status determination criteria (SDC) (74 FR 3204). Amendment 16 to the FMP (76 FR 81851) defined a suite of reference points for salmon, consistent with the revised NS1 guidelines. In the FMP, SDC are defined in terms of quantifiable, biologically-based reference points, or population parameters, including: maximum sustainable yield (MSY), MSY fishing mortality rate (F_{MSY}), MSY spawner abundance (S_{MSY}), minimum stock size threshold (MSST), and maximum fishery mortality threshold (MFMT, generally equal to F_{MSY}). Under the FMP, changes to SDC can be made without a plan amendment if a comprehensive technical review of the best scientific information available provides evidence that, in the view of the STT, SSC, and the Council, a modification of the values of the SDC is justified (FMP section 3.1.7).

As part of the 2014 methodology review, the Council and its advisory bodies considered new information on three stocks of salmon (Southern Oregon coastal Chinook salmon, Grays Harbor fall Chinook salmon, and Willapa Bay natural coho) to make a determination on whether changes to reference points for these stocks were warranted. A joint methodology review was conducted by the STT, SSC, and the Model Evaluation Workgroup at the Council offices in Portland, OR, October 21–23, 2014. The results of the methodology review were presented at the Council meeting in Costa Mesa, CA, November 12–19, 2014. Both the methodology review and the Council meeting were open to the public and were announced in the **Federal Register** (79 FR 59741, October 3, 2014 and 79 FR 63900, October 27, 2014). Documents considered by the Council are available on the Council Web site (*http://www.pcouncil.org/resources/archives/briefing-books/november-2014-briefing-book/#salmonNov2014*). The Council transmitted their recommended changes to NMFS in a letter dated January 23, 2015. This proposed rule describes the reference point updates that are being proposed for implementation in the FMP in developing annual management measures beginning in 2015.

Southern Oregon Coastal Chinook Salmon

The Southern Oregon coastal Chinook salmon stock, a component of the Southern Oregon Northern California Chinook stock complex, is an aggregate of natural and hatchery fall and spring Chinook salmon populations in Oregon streams south of the Elk River (*e.g.,* Rogue River, Pistol River, and Chetco River), plus spring Chinook salmon from the Umpqua River. Rogue River fall Chinook are used to indicate relative abundance of Southern Oregon coastal Chinook salmon. The current conservation objective for this stock is 60–90 fish per mile in three standard index areas. At the 2014 methodology review, the Oregon Department of Fish and Wildlife (ODFW) provided an analysis that was used by the State of Oregon in 2013 to adopt new State management objectives for Rogue River fall Chinook. The analysis used a Ricker spawner-recruit relationship for Rogue River fall Chinook that included smolt survival and mean summer flow covariates. ODFW proposed that the Council adopt their conservation objective and reference points for Southern Oregon coastal Chinook salmon in the FMP, while keeping this stock as a component of the Southern Oregon Northern California stock complex (where Klamath River fall Chinook is the indicator stock). ODFW's spawner-recruit analysis resulted in an S_{MSY} point estimate of 34,992 and F_{MSY} of 54 percent. ODFW used the 75th percentile of the S_{MSY} posterior distribution (36,880 natural-area spawners) as an estimate of S_{MSY} to determine an MSST of 18,440 natural-origin spawners (MSST = 0.5 * 36,880). ODFW also proposed a stock conservation objective of 41,000 naturally-produced adults passing Huntley Park in the Rogue River, near Gold Beach, OR.

The STT and SSC evaluated ODFW's analysis and recommended that the Council adopt ODFW's proposed values as described above. The SSC recommended ODFW's proposed values for S_{MSY} and F_{MSY} but noted that the choice of MSST, above 50 percent of S_{MSY}, was a policy decision. Based on information from the 2014 methodology review and the advisory body recommendations, the Council adopted the following reference point value updates for southern Oregon coastal Chinook salmon and NMFS proposes to implement them:

- Conservation objective: 41,000 naturally-produced adults passing Huntley Park
- S_{MSY} 34,992 natural-area spawners
- MFMT (F_{MSY}): 54 percent
- MSST: 18,440 (20,500 measured at Huntley Park) natural-origin spawners

Grays Harbor Fall Chinook Salmon

During the 2014 methodology review, Washington Department of Fish and Wildlife (WDFW) staff presented a spawner-recruit analysis for Grays Harbor fall Chinook salmon. The analysis produced an estimated S_{MSY} of 13,326 for the Chehalis and Humptulips Rivers combined (9,753 and 3,573, respectively). This estimate is slightly lower than the current management objective of 14,600 natural-area spawners, which was adopted in 1979 based on available spawning habitat. The new S_{MSY} estimate of 13,326 is currently being used by the Pacific Salmon Commission; adoption by the Council provides consistency between the FMP and the Pacific Salmon Treaty. The STT and SSC agreed that WDFW's estimate of S_{MSY} represents the best available science, and recommended that the Council adopt this estimate of S_{MSY}, and associated reference points developed by the STT, for the salmon FMP.

Based on information from the 2014 methodology review and the advisory body recommendations, the Council adopted the recommended stock productivity methodology and the resulting S_{MSY} value. However, the Council's action was not explicit with respect to the values for the associated reference points, specifically MSST and MFMT. The Council and NMFS use MSST to determine if a stock is overfished, and MFMT to determine if overfishing is occurring. Because it is necessary to make determinations as to whether the Grays Harbor fall Chinook salmon stock is overfished or experiencing overfishing in preparation for the development of the 2015 management measures, NMFS is proposing to implement values for MSST and MFMT based on the recommendations of the STT, pursuant to NMFS' independent rulemaking authority (18 U.S.C. 1855(d)). Should the Council choose to adopt a different value for MSST or MFMT, NMFS will determine the appropriate process for considering those values. The FMP states that MSST is generally defined as 0.5 * S_{MSY} or 0.75 * S_{MSY}, although there are some exceptions. Currently,

MSST for Grays Harbor fall Chinook is MSST = 0.5 * S_{MSY}. Applying the same approach to the proposed S_{MSY} value of 13,326 results in an MSST of 6,663 natural-area spawners. Applying the spawner-recruit parameter estimates from WDFW's analysis, as recommended by the STT as the best available science, yields an MFMT of 63 percent. Therefore, based on the recommendation of the Council and the advisory bodies, NMFS proposes the following reference point value updates for Grays Harbor fall Chinook salmon:

- Conservation objective: 13,326 spawners (equal to S_{MSY}, per FMP section 3.2.1)
- S_{MSY}: 13,326 spawners (9,753 in the Chehalis River and 3,573 in the Humptulips River)
- MFMT (F_{MSY}): 63 percent (application of WDFW's spawner-recruit analysis as recommended by the STT)
- MSST: 6,663 natural-area spawners (MSST = 0.5 * S_{MSY}) (application of current policy to updated S_{MSY}).

Willapa Bay Natural Coho

The Willapa Bay natural coho salmon stock was added to the FMP under Amendment 16, but without a conservation objective and other reference point values. WDFW's habitat-based escapement goal (*i.e.,* adult salmon escaping the fishery to return to freshwater habitat for spawning) for this stock is 13,090 natural-origin fish. The STT performed a spawner-recruit analysis, which produced an estimated S_{MSY} of 17,200 natural-area spawners, and an F_{MSY} of 74 percent. The STT recommended that the Council adopt reference points for this stock based on this analysis. The STT's recommendation also included an MFMT of 74 percent, a MSST of 8,600 natural-area spawners (MSST = 0.5 * S_{MSY}), and annual catch limit calculated on the basis of F_{ACL} = 0.95 * F_{MSY} = 71 percent. The SSC supported these recommendations.

Based on information from the 2014 methodology review and the advisory body recommendations, the Council adopted the recommended stock productivity methodology and the resulting S_{MSY} and MFMT values. However, the Council's action was not explicit with respect to the value for MSST. The Council and NMFS use MSST to determine if a stock is overfished. Because it is necessary to determine whether the Willapa Bay natural coho stock is overfished, in preparation for the development of the 2015 management measures, NMFS is proposing to implement a value for MSST based on the recommendations of the STT, pursuant to NMFS' independent rulemaking authority (18 U.S.C. 1855(d)). Should the Council choose to adopt a different value for MSST, it should confer with NMFS regarding the appropriate process for addressing this value. As noted above, the FMP states that MSST is generally defined as 0.5 * S_{MSY} or 0.75 * S_{MSY}. The Council has generally applied a policy of MSST = 0.5* S_{MSY}. Applying this approach to the proposed S_{MSY} value of 17,200 results in an MSST of 8,600 natural-area spawners. Therefore, based on the recommendation of the Council and the advisory bodies, NMFS proposes the following reference point values for Willapa Bay natural coho:

- Conservation objective: 17,200 natural-area spawners (equal to S_{MSY}, per FMP section 3.2.1)
- S_{MSY}: 17,200 natural-area spawners
- MFMT (F_{MSY}): 74 percent
- MSST: 8,600 natural-area spawners (MSST = 0.5 * S_{MSY})

In addition, because Willapa Bay natural coho is not managed under an international agreement, listed under the ESA, or designated as a hatchery stock, the FMP requires that it be managed with an ACL (FMP sections 3.3.3 and 3.3.4). Because it is not part of a stock complex, it will be managed using an individual stock ACL. The Council and NMFS will determine the ACL annually, based on annual abundance projections and the appropriate formula set forth in the FMP (FMP section 3.3.4). Because the Council has recommended, and NMFS proposes to adopt, a directly estimated value for F_{MSY}, Willapa Bay natural coho is a Tier 1 stock for purposes of determining the acceptable biological catch (ABC) and the ACL. According to the FMP, for a Tier 1 stock, F_{ABC} = F_{MSY} * 0.95, F_{ABC} = F_{ACL}, and F_{ACL} is applied to the projected annual abundance to determine the ACL escapement level for the year (FMP sections 3.3.3 and 3.3.4).

As noted earlier, the Council is expected to address the reference points for Willapa Bay natural coho salmon that were not explicit in its prior action at its March meeting. It is possible that it could recommend values for MSST that are different from those proposed above. Were this to occur, the recommended values would likely be 0.75 * S_{MSY} or between that value and 0.5 * S_{MSY}, based on the definition of MSST set forth in the FMP.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pacific Salmon Fishery Management Plan, the MSA, and other applicable law, subject to further consideration after public comment. As described above, NMFS is proposing portions of this rule according to section 305(d) of the MSA.

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

The West Coast Regional Administrator has determined that the actions of this proposed rule qualify for categorical exclusion from further NEPA analysis under NAO 216–6.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The purpose of the Regulatory Flexibility Act (RFA) is to relieve small businesses, small organizations, and small governmental entities of burdensome regulations and record-keeping requirements. Major goals of the RFA are: (1) To increase agency awareness and understanding of the impact of their regulations on small business, (2) to require agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. An initial regulatory flexibility analysis (IRFA) is conducted unless it is determined that an action will not have a ''significant economic impact on a substantial number of small entities.''

The objective of this proposed rule is to update management reference points for three stocks of salmon under the FMP. This proposed rule would impact vessels harvesting salmon from the ocean troll fishery. The following fishery information is found in the Council's Review of 2013 Ocean Salmon Fisheries Stock Assessment and Fisheries Evaluation Document. In 2013, there were 2,270 permits issued for this fishery, with a total ex-vessel value of $34.1 million. Of the 2,270 permits, only 1,177 actually landed salmon all within the states of California, Oregon and Washington. In California, 670 vessels landed salmon for an ex-vessel value of $23.6 million; in Oregon, 399 vessels landed salmon for an ex-vessel value of $7.6 million; and in Washington, 108 vessels landed salmon for an ex-vessel value of $2.8 million. Treaty Indian ocean fisheries landed

salmon with an ex-vessel value of $6.4 million.

On June 12, 2014, the Small Business Administration (SBA) issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33467 (June 12, 2014)). The rule increased the size standard from $19.0 to $20.5 million for finfish fishing, from $5 to $5.5 million for shellfish fishing, and from $7.0 million to $7.5 million for other marine fishing, for-hire businesses, and marinas. Based on this size standard, all 1,177 vessels that landed salmon from the ocean troll fishery are considered small under the Small Business Administration approved definition of a small fish harvester. Therefore, there are no disproportionate impacts between small and large vessels. Furthermore, there are no disproportionate impacts based on homeport, gear type, or vessel size from the promulgation of this proposed rule.

This proposed rule would not result in any immediate impacts on revenues or costs for the small entities participating in the Pacific salmon fishery; the updated management reference point values will be considered within the overall suite of criteria that are used to frame the annual management measures. The management reference points are used to set Council management goals, identify when overfishing is occurring, and identify when a stock is overfished. These values all have the potential to impact how annual salmon management measures are structured, specifically what constraints are needed to manage impacts. However, the salmon fishery impacts a large number of stocks, and the fishery as a whole must be managed to meet management goals for every stock. Depending on abundance projections for a given year, meeting management goals for a few particularly limiting stocks typically results in fisheries that are not limited by management goals for the remaining stocks. Therefore, the proposed changes would only impact fishery revenues in years when any of the three affected salmon stocks are constraining to fisheries, which is unlikely based on historical data.

As a result, an IRFA is not required and none has been prepared. NMFS will conduct the appropriate analyses for any subsequent rulemakings stemming from this proposed rule.

This proposed rule would not establish any new reporting or recordkeeping requirements. This proposed rule does not include a collection of information. No Federal rules have been identified that duplicate, overlap, or conflict with this action.

This action is not expected to have adverse effects on any species listed under the Endangered Species Act (ESA) or designated critical habitat. This action modifies reference points used in the setting of annual management measures for West Coast salmon fisheries. NMFS has current ESA biological opinions that cover fishing under annual regulations adopted under the FMP on all listed salmon species. NMFS reiterates their consultation standards for all ESA-listed salmon and steelhead species in their annual Guidance letter to the Council. Some of NMFS past biological opinions have found no jeopardy, and others have found jeopardy, but provided reasonable and prudent alternatives to avoid jeopardy. The annual management measures are designed to be consistent with the biological opinions that found no jeopardy, and with the reasonable and prudent alternatives in the jeopardy biological opinions. The Council's recommended management measures, which will be consistent with the reference points proposed here, therefore comply with NMFS' consultation standards and guidance for all listed salmon species which may be affected by Council fisheries. In some cases, the recommended measures are more restrictive than NMFS' ESA requirements.

In 2009, NMFS consulted on the effects of fishing under the Salmon FMP on the endangered Southern Resident Killer Whale Distinct Population Segment (SRKW) and concluded the salmon fisheries were not likely to jeopardize SRKW. Annual salmon management measures are designed to be consistent with the terms of that biological opinion.

This proposed rule was developed after meaningful collaboration with the affected tribes, through the Council process. Under the MSA at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian Tribe with Federally recognized fishing rights from the area of the Council's jurisdiction.

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

Dated: March 12, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2015–06144 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 80, No. 52

Wednesday, March 18, 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

National Agricultural Statistics Service

Notice of Meeting of Expert Panel on Federal Statistics on Women and Beginning Farmers in U.S. Agriculture

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The National Agricultural Statistics Service (NASS) announces a meeting of an Expert Panel on Federal Statistics on Women and Beginning Farmers in U.S. Agriculture.

DATES: The Panel meeting will be held from 9 a.m. to 5 p.m. on Thursday April 2 and from 9 a.m. to 5 p.m. Friday April 3, 2015. A public comment period will commence at 9:15 a.m. on April 2, 2015.

ADDRESSES: The Panel meeting will take place in U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW., Room 6309, South Building, Washington, DC 20250. Written comments may be filed before or up to two weeks after the meeting with the contact person identified herein at: U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW., Room 5029, South Building, Washington, DC 20250–2001.

FOR FURTHER INFORMATION CONTACT: Linda J. Young, Director, Research and Development Division, telephone 800–727–9540, Fax: 202–690–2090, or email: *nass@nass.usda.gov.* General information about NASS can also be found at *http://www.nass.usda.gov/About_NASS/index.asp.*

SUPPLEMENTARY INFORMATION: NASS will be convening a panel of subject matter experts covering a broad range of expertise and interests on April 2 and 3. During this meeting, the panel will consider statements provided by the public on data needs for women and beginning farmers and ranchers, discuss the currently available data on women and beginning farmers and ranchers, and consider additional stakeholder data needs in this area. The panel meeting is open to the public on Thursday April 2. The public is asked to preregister for the meeting at least 5 business days prior to the meeting. Your pre-registration must state the names of each person in your group, organization, or interest represented; the number of people planning to give oral comments, if any; and whether anyone in your group requires special accommodations. Submit registrations to *nass@nass.usda.gov* or USDA/NASS, 1400 Independence Avenue SW., Room 6035, South Building, Washington, DC 20250–2001. Members of the public who request to give oral comments to the Panel must arrive at the meeting site by 8:45 a.m. on Thursday April 2, 2015. Oral comments should each be limited to three minutes or less. Two hours have been allotted for public comments. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the meeting. Comments should be limited to 500 words or less. The public may file written comments by mail to USDA/NASS, Room 6035, 1400 Independence Avenue SW., South Building, Washington, DC 20250–2001.

Written comments can also be sent via Fax: 202–690–2090, or email: to *nass@nass.usda.gov.* All comments and pre-registrations need to reference ''Expert Panel on Federal Statistics on Women and Beginning Farmers in U.S. Agriculture.''

All statements will become a part of the official records of the Panel meeting and will be kept on file for public review in the office of the Director, Research and Development Division.

Signed at Washington, DC, March 12, 2015.

Joseph T. Reilly,

Administrator, National Agricultural Statistics Service.

[FR Doc. 2015–06181 Filed 3–17–15; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 12, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Sugar Imported for Exports as Refined Sugar, as a Sugar-Containing Product, or Used in Production of Certain Polyhydric Alcohols.

OMB Control Number: 0551–0015.

Summary of Collection: The regulation at 7 CFR part 1530 authorizes the Foreign Agricultural Service (FAS) to issue import licenses to enter raw cane sugar exempt from the tariff-rate quota (TRQ) for the raw cane sugar imports and related requirements on the condition that an equivalent quantity of refined sugar be: (1) Exported as refined

sugar; (2) exported as an ingredient in sugar containing products; or (3) used in production of certain polyhydric alcohols. The information requirements set forth in the regulation are necessary to enable FAS to administer the licensing program in full compliance with the regulation and to ensure that licensed imports do not enter the commercial sugar market in circumvention of the TRQ for raw cane sugar.

Need and Use of the Information: FAS will collect information to verify that the world-priced sugar is actually exported and not diverted onto the domestic market, thereby undermining the objectives of politically sensitive U.S. sugar policies. This collection enables USDA to monitor participants in an effort to ensure compliance with program parameters. Without the collection, there would be increased opportunity to divert sugar onto the domestic market..

Description of Respondents: Business or other for-profit.

Number of Respondents: 172.

Frequency of Responses: Recordkeeping; Reporting; Quarterly.

Total Burden Hours: 481.

Foreign Agricultural Service

Title: Certificate to Import Specialty Sugars under the Tariff-Rate Quota for Refined Sugar.

OMB Control Number: 0551–0025.

Summary of Collection: The collect of information is necessary to fulfill the legal obligations of the regulation at 15 CFR part 2011 subpart B to issue specialty sugar certificates, letters to importers signed by the Foreign Agricultural Service (FAS) Certifying Authority, and ensuring that U.S. importers comply with the program's requirements. The regulation sets forth the terms and conditions under which the Certifying Authority in FAS issues certificates to importers allowing them to enter specialty sugars under the tariff-rate quota (TRQ) for refined sugar.

Need and Use of the Information: The collected information will be used to: (1) Determine whether applicants for the program meet the regulation's eligibility criteria; (2) ensure that sugar to be imported is specialty sugar and meets the requirements of the regulation; (3) audit participants' compliance with the regulation; and (4) prevent entry of world-priced program sugar from entering the domestic commercial market instead of domestic specialty sugar market. The Certifying Authority needs the information to manage, plan, evaluate, and account for program activities. Less frequent collection or no collection would impede administration of the specialty sugar certificate program and reduce or eliminate imports essential to U.S. organic food and beverages processors.

Description of Respondents: Business or other for-profit.

Number of Respondents: 53.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 58.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–06195 Filed 3–17–15; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed Fee Increase; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Ashley National Forest, USDA Forest Service.

ACTION: Notice of Proposed Fee Increase.

SUMMARY: The Ashley National Forest is proposing to increase the fee for Christmas tree permits from $10.00 to $15.00 per tag. This increase is proposed and will be determined upon further analysis and public comment. Funds from fees would be used for the continued operation of the Christmas tree program, including visitor services, maps, and law enforcement.

DATES: Comments will be accepted through May 30, 2015. Increased fees would begin November 2015.

ADDRESSES: Send comments to: Lesley Tullis, Environmental Coordinator, Ashley National Forest, 355 North Vernal Avenue, Vernal, Utah 84078 (email *comments-intermtn-ashley@fs.fed.us;* please put ''Christmas trees'' in the subject line).

FOR FURTHER INFORMATION CONTACT: Louis Haynes, Public Affairs Officer, at 435–789–1181. Information about proposed fee changes can also be found on the Ashley National Forest Web site: *http://www.fs.usda.gov/ashley.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established.

Once public involvement is complete, the fee increases will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Dated: February 24, 2015.

John R. Erickson,

Forest Supervisor.

[FR Doc. 2015–06156 Filed 3–17–15; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Missouri Advisory Committee for a Meeting To Discuss Matters Related To Its Project on Police—Community Relations in Missouri

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Missouri Advisory Committee (Committee) will hold a meeting on Friday, March 27, 2015, at 12 p.m. until 1 p.m. The purpose of the meeting is to discuss and vote on an advisory memorandum to the Commission based on testimony heard at the February 23, 2015, meeting in St. Louis; discuss the advisory committee survey regarding the February 23 meeting; and begin discussions on the logistics and agenda for the upcoming Kansas City meeting.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–539–3696, conference ID: 6375577. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Member of the public are also entitled to submit written comments; the comments must be received in the regional office by March 27, 2015. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the

Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome

12 p.m. to 12:05 p.m.
S. David Mitchell, Chairman, Missouri Advisory Committee

Discussion and vote on advisory memorandum

12:05 p.m. to 12:30 p.m.

Discussion of advisory committee survey

12:30 p.m. to 12:45 p.m.

Planning for Kansas City meeting

12:45 p.m. to 1 p.m.

Adjournment

1 p.m.

DATES: The meeting will be held on Friday, March 27, 2015, at 12 p.m. CST.

Public Call Information:
Dial: 888–539–3696.
Conference ID: 6375577.

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of technical difficulties occurring in the process of having the meeting notice signed and sent to the **Federal Register**.

Dated: March 13, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–06201 Filed 3–17–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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: Mariner Opinions of the Right Whale Mandatory Ship Reporting System.

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents:

Average Hours per Response:

Burden Hours:

Needs and Uses: This request is for a new information collection.

The North Atlantic right whale (*Eubalaena glacialis*) is an endangered marine mammal found primarily in waters off the northeastern coast of the United States to Canada. Fatal collisions with large ships are the primary threat to the recovery of this species. In 1998 the United States proposed to the International Maritime Organization (IMO) the establishment of two Mandatory Ship Reporting (MSR) systems in key right whale habitat areas. Under the proposed MSR all vessels 300 gross tons or greater are required to send a message to a shore-based station when entering either of two prescribed habitat areas. The IMO endorsed the proposal and the MSR systems were established in July 1999. Each reporting ship is required to provide vessel name, call sign, course, speed, location, destination, and route (*e.g.,* waypoints). An automatically-generated message is sent directly to the reporting vessel that includes information on right whale locations and procedural guidance to help prevent vessel/whale collisions; mariners are also informed about additional regulations established to protect whales from vessel strikes. The two-way exchange is mediated by satellite-linked communications systems.

Although the program has been in effect for over 15 years, the U.S. Government has not assessed the role, if any, that the MSR has in reducing ship collisions with right whales. In addition, mariners have not been polled to assess possible difficulties involved in the reporting itself. The goal of this information collection is to determine if (a) the reporting procedures are adequately clear to the mariner; (b) the reporting itself is onerous or unwieldy (*e.g.,* it may interfere with other vessel operations); and (c) mariners use the information being sent to them and if so, how it is used to avoid collisions with North Atlantic right whales.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

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.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–06219 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Award Amendment Requests and Project Service Maps

AGENCY: Economic Development Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 18, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Philip Saputo, Program Analyst, U.S. Department of Commerce, Economic Development Administration Performance and National Programs Division, 1401 Constitution Avenue NW., Suite 71030, Washington, DC 20230, Phone: 202–400–0662, Email: *PSaputo@eda.gov*

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of the Economic Development Administration (EDA) is to lead the Federal economic agenda by promoting innovation and competitiveness, preparing American

regions for growth and success in the worldwide economy. In order to effectively administer and monitor its economic development assistance programs, EDA collects certain information from applications for, and recipients of, EDA investment assistance.

A recipient must submit a written request to EDA to amend an investment award and provide such information and documentation as EDA deems necessary to determine the merit of altering the terms of an award (*see* 13 CFR 302.7(a) of EDA's regulations). EDA *may* require a recipient to submit a project service map and information from which to determine whether services are provided to all segments of the region being assisted (*see* CFR 302.16(c) of EDA's regulations).

II. Method of Collection

Paper report.

III. Data

OMB Control Number: 0610–0102.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Current recipients of EDA construction (Public Works or Economic Adjustment) assistance, to include (1) cities or other political subdivisions of a state, including a special purpose unit of state or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (2) states; (3) institutions of higher education or a consortium of institutions of higher education; (4) public or private non-profit organizations or associations; (5) District Organizations; and (6) Indian Tribes or a consortia of Indian Tribes and (7) (for training, research, and technical assistance awards only) individuals and for-profit businesses.

Estimated Number of Annual Responses: 632 (600 requests for amendments to construction awards, 30 requests for amendments to non-construction awards, 2 project service maps).

Estimated Time per Response: 2 hours for an amendment to a construction award, 1 hour for an amendment to a non-construction award, 6 hours for a project service map.

Estimated Total Annual Burden Hours: 1,242.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 13, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–06191 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD810

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Russian River Estuary Management Activities

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the Sonoma County Water Agency (SCWA) for authorization to take marine mammals incidental to Russian River estuary management activities. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to SCWA to incidentally take marine mammals, by Level B harassment only, during the specified activity.

DATES: Comments and information must be received no later than April 17, 2015.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Laws@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of SCWA's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental.htm.* In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

National Environmental Policy Act (NEPA)

NMFS has prepared an Environmental Assessment (EA; 2010) and associated Finding of No Significant Impact (FONSI) in accordance with NEPA and the regulations published by the Council on Environmental Quality. These documents are posted at the aforementioned Internet address. Information in SCWA's application, NMFS' EA (2010), and this notice collectively provide the environmental information related to proposed issuance of this IHA for public review and comment. We will review all comments submitted in response to this notice as we complete the NEPA process, including a decision of whether to reaffirm the existing FONSI, prior to a final decision on the incidental take authorization request.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow,

upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment, serious injury, death, or a combination thereof, requires that regulations be established. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The establishment of these prescriptions requires notice and opportunity for public comment.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On January 21, 2015, we received an adequate and complete request from SCWA for authorization of the taking of marine mammals incidental to Russian River estuary management activities in Sonoma County, California. SCWA proposes to manage the naturally-formed barrier beach at the mouth of the Russian River in order to minimize potential for flooding adjacent to the estuary and to enhance habitat for juvenile salmonids, as well as to conduct biological and physical monitoring of the barrier beach and estuary. Flood control-related breaching of barrier beach at the mouth of the river may include artificial breaches, as well as construction and maintenance of a lagoon outlet channel. The latter activity, an alternative management technique conducted to mitigate impacts of flood control on rearing habitat for Endangered Species Act (ESA)-listed salmonids, occurs only from May 15 through October 15 (hereafter, the ''lagoon management period''). Artificial breaching and monitoring activities may occur at any time during the one-year period of validity of the proposed IHA.

Breaching of naturally-formed barrier beach at the mouth of the Russian River requires the use of heavy equipment (*e.g.,* bulldozer, excavator) and increased human presence, and monitoring in the estuary requires the use of small boats. As a result, pinnipeds hauled out on the beach or at peripheral haul-outs in the estuary may exhibit behavioral responses that indicate incidental take by Level B harassment under the MMPA. Species known from the haul-out at the mouth of the Russian River or from peripheral haul-outs, and therefore anticipated to be taken incidental to the specified activity, include the harbor seal (*Phoca vitulina richardii*), California sea lion (*Zalophus californianus*), and northern elephant seal (*Mirounga angustirostris*).

This would be the sixth such IHA, if issued. SCWA was first issued an IHA, valid for a period of one year, effective on April 1, 2010 (75 FR 17382), and was subsequently issued one-year IHAs for incidental take associated with the same activities, effective on April 21, 2011 (76 FR 23306), April 21, 2012 (77 FR 24471), April 21, 2013 (78 FR 23746), and April 21, 2014 (79 FR 20180).

Description of the Specified Activity

Overview

The proposed action involves management of the estuary to prevent flooding while preventing adverse modification to critical habitat for ESA-listed salmonids. Requirements related to the ESA are described in further detail below. During the lagoon management period, this involves construction and maintenance of a lagoon outlet channel that would facilitate formation of a perched lagoon. A perched lagoon, which is an estuary closed to tidal influence in which water surface elevation is above mean high tide, would reduce flooding while maintaining beneficial conditions for juvenile salmonids. Additional breaches of barrier beach may be conducted for the sole purpose of reducing flood risk. SCWA's proposed activity was described in detail in our notice of proposed authorization prior to the 2011 IHA (76 FR 14924; March 18, 2011); please see that document for a detailed description of SCWA's estuary management activities. Aside from minor additions to SCWA's biological and physical estuary monitoring measures, the specified activity remains the same as that described in the 2011 document.

Dates and Duration

The specified activity may occur at any time during the one-year timeframe (April 21, 2015, through April 20, 2016) of the proposed IHA, although construction and maintenance of a lagoon outlet channel would occur only during the lagoon management period. In addition, there are certain restrictions placed on SCWA during the harbor seal pupping season. These, as well as periodicity and frequency of the specified activities, are described in further detail below.

Specific Geographic Region

The estuary is located about 97 km (60 mi) northwest of San Francisco in Sonoma County, near Jenner, California (see Figure 1 of SCWA's application). The Russian River watershed encompasses 3,847 km^2 (1,485 mi^2) in Sonoma, Mendocino, and Lake Counties. The mouth of the Russian River is located at Goat Rock State Beach (see Figure 2 of SCWA's application); the estuary extends from the mouth upstream approximately 10 to 11 km (6–7 mi) between Austin Creek and the community of Duncans Mills (Heckel and McIver, 1994).

Detailed Description of Activities

Within the Russian River watershed, the U.S. Army Corps of Engineers (Corps), SCWA and the Mendocino County Russian River Flood Control and Water Conservation Improvement District (District) operate and maintain federal facilities and conduct activities in addition to the estuary management,

including flood control, water diversion and storage, instream flow releases, hydroelectric power generation, channel maintenance, and fish hatchery production. The Corps, SCWA, and the District conducted these activities for many years before salmonid species in the Russian River were protected under the ESA. Upon determination that these actions were likely to affect ESA-listed salmonids, as well as designated critical habitat for these species, formal consultation under section 7 of the ESA was initiated. In 2008, NMFS issued a Biological Opinion (BiOp) for Water Supply, Flood Control Operations, and Channel Maintenance conducted by the Corps, SCWA, and the District in the Russian River watershed (NMFS, 2008). This BiOp found that the activities—including SCWA's estuary management activities—authorized by the Corps and undertaken by SCWA and the District, if continued in a manner similar to recent historic practices, were likely to jeopardize the continued existence of ESA-listed salmonids and were likely to adversely modify critical habitat.

If a project is found to jeopardize a species or adversely modify its critical habitat, NMFS must develop and recommend a non-jeopardizing Reasonable and Prudent Alternative (RPA) to the proposed project, in coordination with the federal action agency and any applicant. A component of the RPA described in the 2008 BiOp requires SCWA to collaborate with NMFS and modify their estuary water level management in order to reduce marine influence (*i.e.,* high salinity and tidal inflow) and promote a higher water surface elevation in the estuary in order to enhance the quality of rearing habitat for juvenile salmonids. A program of potential incremental steps prescribed to reach that goal includes adaptive management of the outlet channel. SCWA is also required to monitor the response of water quality, invertebrate production, and salmonids in and near the estuary to water surface elevation management in the estuary-lagoon system.

The analysis contained in the BiOp found that maintenance of lagoon conditions was necessary only for the lagoon management period. See NMFS' BiOp (2008) for details of that analysis. As a result of that determination, there are three components to SCWA's estuary management activities: (1) Lagoon outlet channel management, during the lagoon management period only, required to accomplish the dual purposes of flood risk abatement and maintenance of juvenile salmonid habitat; (2) traditional artificial breaching, with the sole goal of flood risk abatement; and (3) physical and biological monitoring. The latter activity, physical and biological monitoring, will remain the same as in past years but with the addition of a new monitoring activity. In 2014, acoustic telemetry of tagged steelhead was added to the fisheries monitoring activities. As is the case for other monitoring activities in the estuary, this activity involves at least two crew members in a small motorized boat travelling throughout the estuary. Therefore, as for other such activities in the estuary, the potential exists for disturbance of pinnipeds hauled-out at peripheral haul-outs. Please see the previously referenced **Federal Register** notice (76 FR 14924; March 18, 2011) for detailed discussion of lagoon outlet channel management, artificial breaching, and other physical and biological monitoring activities.

NMFS' BiOp determined that salmonid estuarine habitat may be improved by managing the Russian River estuary as a perched, freshwater lagoon and, therefore, stipulates as a RPA to existing conditions that the estuary be managed to achieve such conditions between May 15th and October 15th. In recognition of the complexity and uncertainty inherent in attempting to manage conditions in a dynamic beach environment, the BiOp stipulates that the estuarine water surface elevation RPA be managed adaptively, meaning that it should be planned, implemented, and then iteratively refined based on experience gained from implementation. The first phase of adaptive management, which has been implemented since 2010, is limited to outlet channel management (ESA PWA, 2014). The second phase, begun in 2014, requires study of and consideration of alternatives to a historical, dilapidated jetty present at Goat Rock State Beach (*e.g.,* complete removal, partial removal).

The plan for study of the jetty is described in greater detail in SCWA's ''Feasibility of Alternatives to the Goat Rock State Beach Jetty for Managing Lagoon Water Surface Elevations—A Study Plan'' (ESA PWA, 2011), and was also described in detail in our notice of proposed authorization prior to the 2013 IHA (78 FR 14985; March 8, 2013). Implementation of the study plan began in March 2014 with installation of wells monitoring water seepage through the barrier beach and geophysical mapping of the submerged substrate and structures. Visits to the well sites are not anticipated to disturb seals, as the wells are not located near the haul-out.

Description of Marine Mammals in the Area of the Specified Activity

Harbor seals are the most common species inhabiting the haul-out at the mouth of the Russian River (Jenner haul-out) and fine-scale local abundance data for harbor seals have been recorded extensively since 1972. California sea lions and northern elephant seals have also been observed infrequently in the project area. In addition to the primary Jenner haul-out, there are eight peripheral haul-outs nearby (see Figure 4 of SCWA's application). These include North Jenner and Odin Cove to the north; Pocked Rock, Kabemali, and Rock Point to the south; and Penny Logs, Patty's Rock, and Chalanchawi upstream within the estuary.

This section briefly summarizes the range, population status, threats and human-caused mortality, and range-wide as well as local abundance of these species. We have reviewed SCWA's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Sections 3 and 4 of SCWA's application instead of reprinting the information here. The following information is summarized largely from NMFS Stock Assessment Reports, which may be accessed at *www.nmfs.noaa.gov/pr/sars/species.htm.*

Harbor Seals

Harbor seals inhabit coastal and estuarine waters and shoreline areas of the northern hemisphere from temperate to polar regions. The eastern North Pacific subspecies is found from Baja California north to the Aleutian Islands and into the Bering Sea. Multiple lines of evidence support the existence of geographic structure among harbor seal populations from California to Alaska (Carretta *et al.,* 2014). However, because stock boundaries are difficult to meaningfully draw from a biological perspective, three separate harbor seal stocks are recognized for management purposes along the west coast of the continental U.S.: (1) Inland waters of Washington, (2) outer coast of Oregon and Washington, and (3) California (Carretta *et al.,* 2014). Multiple stocks are recognized in Alaska. Placement of a stock boundary at the California-Oregon border is not based on biology but is considered a political and jurisdictional convenience (Carretta *et al.,* 2014). In addition, harbor seals may occur in Mexican waters, but these animals are not considered part of the California stock. Only the California stock is expected to be found in the project area.

California harbor seals are not protected under the ESA or listed as depleted under the MMPA, and are not considered a strategic stock under the MMPA because annual human-caused mortality (43) is significantly less than the calculated potential biological removal (PBR; 1,641) (Carretta *et al.,* 2015). The population appears to be stabilizing at what may be its carrying capacity and the fishery mortality is declining.

The best abundance estimate of the California stock of harbor seals is 30,968 and the minimum population size of this stock is 27,348 individuals (Carretta *et al.,* 2015). The entire population cannot be counted because some individuals are always away from haul-out sites. In addition, complete pup counts are not possible as for other species of pinniped because pups are precocious and enter the water almost immediately after birth. Therefore, the best abundance estimate is estimated by counting the number of seals ashore during the peak haul-out period (May to July) and by multiplying this count by a correction factor equal to the inverse of the estimated fraction of seals on land (Carretta *et al.,* 2014). The current abundance estimate, as well as the minimum population size, is based off of haul-out counts from 2012.

Counts of harbor seals in California increased from 1981 to 2004, with a calculated annual net productivity rate of 9.2 percent for the period 1983–1994 (Carretta *et al.,* 2014). However, maximum net productivity rates cannot be estimated because measurements were not made when the stock size was very small, and the default maximum net productivity rate for pinnipeds (12 percent per year) is considered appropriate for harbor seals (Carretta *et al.,* 2014).

Prior to state and federal protection and especially during the nineteenth century, harbor seals along the west coast of North America were greatly reduced by commercial hunting, with only a few hundred individuals surviving in a few isolated areas along the California coast (Carretta *et al.,* 2014). However, in the last half of this century, the population has increased dramatically. Data from 2004–09 indicate that 18 (CV = 0.73) California harbor seals are killed annually in commercial fisheries. In addition, California stranding database records for 2005–09 show an annual average of 12 such events, which is likely an underestimate because most carcasses are not recovered. Two Unusual Mortality Events (UME) of harbor seals in California occurred in 1997 and 2000 with the causes considered to be infectious disease (see *www.nmfs.noaa.gov/pr/health/mmume/*; accessed January 30, 2014). All west coast harbor seals that have been tested for morbilliviruses were found to be seronegative, indicating that this disease is not endemic in the population and that this population is extremely susceptible to an epidemic of this disease (Ham-Lammé *et al.,* 1999).

Harbor seal pupping normally occurs at the Russian River from March until late June, and sometimes into early July. The Jenner haul-out is the largest in Sonoma County. A substantial amount of monitoring effort has been conducted at the Jenner haul-out and surrounding areas. Concerned local residents formed the Stewards' Seal Watch Public Education Program in 1985 to educate beach visitors and monitor seal populations. State Parks Volunteer Docents continue this effort towards safeguarding local harbor seal habitat. On weekends during the pupping and molting season (approximately March-August), volunteers conduct public outreach and record the numbers of visitors and seals on the beach, other marine mammals observed, and the number of boats and kayaks present.

Ongoing monthly seal counts at the Jenner haul-out were begun by J. Mortenson in January 1987, with additional nearby haul-outs added to the counts thereafter. In addition, local resident E. Twohy began daily observations of seals and people at the Jenner haul-out in November 1989. These datasets note whether the mouth at the Jenner haul-out was opened or closed at each observation, as well as various other daily and annual patterns of haul-out usage (Mortenson and Twohy, 1994). Recently, SCWA began regular baseline monitoring of the haul-out as a component of its estuary management activity. Table 1 shows average daily numbers of seals observed at the mouth of the Russian River from 1993–2005 and from 2009–14.

TABLE 1—AVERAGE DAILY NUMBER OF SEALS OBSERVED AT RUSSIAN RIVER MOUTH FOR EACH MONTH, 1993–2005; 2009–14

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1993	140	219	269	210	203	238	197	34	8	38	78	163
1994	138	221	243	213	208	212	246	98	26	31	101	162
1995	133	270	254	261	222	182	216	74	37	24	38	148
1996	144	175	261	247	157	104	142	65	17	29	76	139
1997	154	177	209	188	154	119	186	58	20	29	30	112
1998	119	151	192	93	170	213	232	53	33	21	93	147
1999	161	170	215	210	202	128	216	98	57	20	74	123
2000	151	185	240	180	158	245	256	63	46	50	86	127
2001	155	189	161	168	135	212	275	75	64	20	127	185
2002	117	12	20	154	134	213	215	89	43	26	73	126
2003	—	1	26	161	164	222	282	100	43	51	109	116
2004	2	5	39	180	202	318	307	35	40	47	68	61
2005	0	7	42	222	220	233	320	145	—	—	—	—
Mean, 1993–2005	118	137	167	191	179	203	238	76	36	32	79	134
2009	—	—	—	—	—	—	219	117	17	22	96	80
2010	66	84	129	136	109	136	267	111	59	25	89	26
2011	116	92	162	124	128	145	219	98	31	53	92	48
2012	108	74	115	169	164	166	156	128	100	71	137	51
2013	51	108	158	112	162	139	411	175	77	58	34	94
2014	98	209	243	129	145	156	266	134	53	15	27	172
Mean, 2012–14 [1]	89	131	173	137	157	154	158	146	78	50	66	106

Data from 1993–2005 adapted from Mortenson and Twohy (1994) and E. Twohy (unpublished data). Data from 2009–14 collected by SCWA. Months represented by dash indicate periods where data were missing or incomplete.

[1] Mean calculated as a weighted average to account for unequal sample sizes between years. See SCWA application, Table 4.

The number of seals present at the Jenner haul-out generally declines during bar-closed conditions (Mortenson, 1996). SCWA's pinniped monitoring efforts from 1996 to 2000 focused on artificial breaching activities and their effects on the Jenner haul-out. Seal counts and disturbances were recorded from one to two days prior to breaching, the day of breaching, and the day after breaching (MSC, 1997, 1998, 1999, 2000; SCWA and MSC, 2001). In each year, the trend observed was that harbor seal numbers generally declined during a beach closure and increased the day following an artificial breaching event. Heckel and McIver (1994) speculated that the loss of easy access to the haul-out and ready escape to the sea during bar-closed conditions may account for the lower numbers. Table 2 shows average daily seal counts recorded during SCWA monitoring of breaching events from 1996–2000 and 2009–14, representing bar-closed conditions, when seal numbers decline.

TABLE 2—AVERAGE NUMBER OF HARBOR SEALS OBSERVED AT THE MOUTH OF THE RUSSIAN RIVER DURING BREACHING EVENTS (I.E., BAR-CLOSED CONDITIONS) BY MONTH

1996–2000	—	—	—	173	103	100	75	17	5	22	11	—
2009–14	41	90	130	80	80	97	117	—	33	24	36	51

Dashes represent months when no estuary management events occurred.

Mortenson (1996) observed that pups were first seen at the Jenner haul-out in late March, with maximum counts in May. In this study, pups were not counted separately from other age classes at the haul-out after August due to the difficulty in discriminating pups from small yearlings. From 1989 to 1991, Hanson (1993) observed that pupping began at the Jenner haul-out in mid-April, with a maximum number of pups observed during the first two weeks of May. This corresponds with the peaks observed at Point Reyes, where the first viable pups are born in March and the peak is the last week of April to early May (SCWA, 2014). Based on this information, pupping season at the Jenner haul-out is conservatively defined here as March 15 to June 30.

California Sea Lions

California sea lions range from the Gulf of California north to the Gulf of Alaska, with breeding areas located in the Gulf of California, western Baja California, and southern California. Five genetically distinct geographic populations have been identified: (1) Pacific Temperate, (2) Pacific Subtropical, (3) Southern Gulf of California, (4) Central Gulf of California and (5) Northern Gulf of California (Schramm *et al.,* 2009). Rookeries for the Pacific Temperate population are found within U.S. waters and just south of the U.S.-Mexico border, and animals belonging to this population may be found form the Gulf of Alaska to Mexican waters off Baja California. Animals belonging to other populations (*e.g.,* Pacific Subtropical) may range into U.S. waters during non-breeding periods. For management purposes, a stock of California sea lions comprising those animals at rookeries within the U.S. is defined (*i.e.,* the U.S. stock of California sea lions) (Carretta *et al.,* 2014). Pup production at the Coronado Islands rookery in Mexican waters is considered an insignificant contribution to the overall size of the Pacific Temperate population (Lowry and Maravilla-Chavez, 2005).

California sea lions are not protected under the ESA or listed as depleted under the MMPA. Total annual human-caused mortality (389) is substantially less than the PBR (estimated at 9,200 per year); therefore, California sea lions are not considered a strategic stock under the MMPA. There are indications that the California sea lion may have reached or is approaching carrying capacity, although more data are needed to confirm that leveling in growth persists (Carretta *et al.,* 2014).

The best abundance estimate of the U.S. stock of California sea lions is 296,750 and the minimum population size of this stock is 153,337 individuals (Carretta *et al.,* 2014). The entire population cannot be counted because all age and sex classes are never ashore at the same time; therefore, the best abundance estimate is determined from the number of births and the proportion of pups in the population, with censuses conducted in July after all pups have been born. Specifically, the pup count for rookeries in southern California from 2008 was adjusted for pre-census mortality and then multiplied by the inverse of the fraction of newborn pups in the population (Carretta *et al.,* 2014). The minimum population size was determined from counts of all age and sex classes that were ashore at all the major rookeries and haul-out sites in southern and central California during the 2007 breeding season, including all California sea lions counted during the July 2007 census at the Channel Islands in southern California and at haul-out sites located between Point Conception and Point Reyes, California (Carretta *et al.,* 2014). An additional unknown number of California sea lions are at sea or hauled out at locations that were not censused and are not accounted for in the minimum population size.

Trends in pup counts from 1975 through 2008 have been assessed for four rookeries in southern California and for haul-outs in central and northern California. During this time period counts of pups increased at an annual rate of 5.4 percent, excluding six El Nino years when pup production declined dramatically before quickly rebounding (Carretta *et al.,* 2014). The maximum population growth rate was 9.2 percent when pup counts from the El Niño years were removed. However, the apparent growth rate from the population trajectory underestimates the intrinsic growth rate because it does not consider human-caused mortality occurring during the time series; the default maximum net productivity rate for pinnipeds (12 percent per year) is considered appropriate for California sea lions (Carretta *et al.,* 2014).

Historic exploitation of California sea lions include harvest for food by Native Americans in pre-historic times and for oil and hides in the mid-1800s, as well as exploitation for a variety of reasons more recently (Carretta *et al.,* 2014). There are few historical records to document the effects of such exploitation on sea lion abundance (Lowry *et al.,* 1992). Data from 2003–09 indicate that a minimum of 337 (CV = 0.56) California sea lions are killed annually in commercial fisheries. In addition, a summary of stranding database records for 2005–09 shows an annual average of 65 such events, which is likely a gross underestimate because most carcasses are not recovered. California sea lions may also be removed because of predation on endangered salmonids (17 per year, 2008–10) or incidentally captured during scientific research (3 per year, 2005–09) (Carretta *et al.,* 2014). Sea lion mortality has also been linked to the algal-produced neurotoxin domoic acid

(Scholin *et al.,* 2000). There is currently a UME declaration in effect for California sea lions. Future mortality may be expected to occur, due to the sporadic occurrence of such harmful algal blooms. Beginning in January 2013, elevated strandings of California sea lion pups have been observed in Southern California, with live sea lion strandings nearly three times higher than the historical average. The causes of this UME are under investigation (*www.nmfs.noaa.gov/pr/health/mmume/californiasealions2013.htm;* accessed January 29, 2014).

Solitary California sea lions have occasionally been observed at or in the vicinity of the Russian River estuary (MSC, 1999, 2000), in all months of the year except June. Male California sea lions are occasionally observed hauled out at or near the Russian River mouth in most years: once in August 2009, January and December 2011, January 2012, December 2013, and February 2014. Other individuals were observed in the surf at the mouth of the river or swimming inside the estuary. Juvenile sea lions were observed during the summer of 2009 at the Patty's Rock haul-out, and some sea lions were observed during monitoring of peripheral haul-outs in October 2009. The occurrence of individual California sea lions in the action area may occur year-round, but is infrequent and sporadic.

Northern Elephant Seals

Northern elephant seals gather at breeding areas, located primarily on offshore islands of Baja California and California, from approximately December to March before dispersing for feeding. Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, while females feed at sea south of 45°N (Stewart and Huber, 1993; Le Boeuf *et al.,* 1993). Adults then return to land between March and August to molt, with males returning later than females, before dispersing again to their respective feeding areas between molting and the winter breeding season. Populations of northern elephant seals in the U.S. and Mexico are derived from a few tens or hundreds of individuals surviving in Mexico after being nearly hunted to extinction (Stewart *et al.,* 1994). Given the recent derivation of most rookeries, no genetic differentiation would be expected. Although movement and genetic exchange continues between rookeries, most elephant seals return to their natal rookeries when they start breeding (Huber *et al.,* 1991). The California breeding population is now demographically isolated from the Baja California population and is considered to be a separate stock.

Northern elephant seals are not protected under the ESA or listed as depleted under the MMPA. Total annual human-caused mortality (8.8) is substantially less than the PBR (estimated at 4,882 per year); therefore, northern elephant seals are not considered a strategic stock under the MMPA. Modeling of pup counts indicates that the population has reached its Maximum Net Productivity Level, but has not yet reached carrying capacity (Carretta *et al.,* 2014).

The best abundance estimate of the California breeding population of northern elephant seals is 179,000 and the minimum population size of this stock is 81,368 individuals (Carretta *et al.,* 2015). The entire population cannot be counted because all age and sex classes are never ashore at the same time; therefore, the best abundance estimate is determined by counting the number of pups produced and multiplying by the inverse of the expected ratio of pups to total animals (McCann, 1985). Specifically, the estimated number of pups born in California in 2010 (40,684) was used to extrapolate via a multiplier of 3.5 suggested by Boveng (1988) and Barlow *et al.* (1993) for a rapidly growing population. The minimum population size was estimated by doubling the observed pup count (to account for the pups and their mothers) (Carretta *et al.,* 2015). An additional unknown number of northern elephant seals are at sea or hauled out at locations that were not censused and are not accounted for in the minimum population size.

Trends in pup counts from 1958 through 2005 show that northern elephant seal colonies are continuing to grow in California, but appear to be stable or slowly decreasing in Mexico (Stewart *et al.,* 1994; Carretta *et al.,* 2014). Although growth rates as high as 16 percent per year have been documented for elephant seal rookeries in the U.S. from 1959 to 1981 (Cooper and Stewart, 1983), much of this growth was supported by immigration from Mexico. The highest growth rate measured for the whole U.S./Mexico population was 8.3 percent between 1965 and 1977. A generalized logistic growth model indicates that the maximum population growth rate is 11.7 percent (Carretta *et al.,* 2014).

Data from 2000–05 indicate that a minimum of 8.8 (CV = 0.4) northern elephant seals are killed annually in commercial fisheries, including hook-and-line, gillnet, and trawl fisheries. In addition, drift gillnet fisheries exist along the entire Pacific coast of Baja California and may take animals from this population, although few quantitative data and no species-specific information are available (Carretta *et al.,* 2014). A summary of stranding database records for 2000–04 shows an annual average of 1.6 non-fishery related mortalities, which is likely a gross underestimate because most carcasses are not recovered.

Censuses of pinnipeds at the mouth of the Russian River have been taken at least semi-monthly since 1987. Elephant seals were noted from 1987–95, with one or two elephant seals typically counted during May censuses, and occasional records during the fall and winter (Mortenson and Follis, 1997). A single, tagged northern elephant seal sub-adult was present at the Jenner haul-out from 2002–07. This individual seal, which was observed harassing harbor seals also present at the haul-out, was generally present during molt and again from late December through March. A single juvenile elephant seal was observed at the Jenner haul-out in June 2009 and, in recent years, a sub-adult seal was observed in late summer of 2013–14. The occurrence of individual northern elephant seals in the action area has generally been infrequent and sporadic in the past 10 years.

Potential Effects of the Specified Activity on Marine Mammals

A significant body of monitoring data exists for pinnipeds at the mouth of the Russian River. In addition, pinnipeds have co-existed with regular estuary management activity for decades, as well as with regular human use activity at the beach, and are likely habituated to human presence and activity. Nevertheless, SCWA's estuary management activities have the potential to disturb pinnipeds present on the beach or at peripheral haul-outs in the estuary. During breaching operations, past monitoring has revealed that some or all of the seals present typically move or flush from the beach in response to the presence of crew and equipment, though some may remain hauled-out. No stampeding of seals—a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus—has been documented since SCWA developed protocols to prevent such events in 1999. While it is likely impossible to conduct required estuary management activities without provoking some response in hauled-out animals, precautionary mitigation measures, described later in this document, ensure that animals are gradually apprised of human approach.

Under these conditions, seals typically exhibit a continuum of responses, beginning with alert movements (*e.g.,* raising the head), which may then escalate to movement away from the stimulus and possible flushing into the water. Flushed seals typically re-occupy the haul-out within minutes to hours of the stimulus. In addition, eight other haul-outs exist nearby that may accommodate flushed seals.

In the absence of appropriate mitigation measures, it is possible that pinnipeds could be subject to injury, serious injury, or mortality, likely through stampeding or abandonment of pups. However, based on a significant body of site-specific data, harbor seals are unlikely to sustain any harassment that may be considered biologically significant. Individual animals would, at most, flush into the water in response to maintenance activities but may also simply become alert or move across the beach away from equipment and crews. During 2013, SCWA observed that harbor seals are less likely to flush from the beach when the primary aggregation of seals is north of the breaching activity (please refer to Figure 2 of SCWA's application), meaning that personnel and equipment are not required to pass the seals. Four artificial breaching events were implemented in 2013, with two of these events occurring north of the primary aggregation and two to the south (at approximately 800 and 150 ft distance) (SCWA, 2014). In both of the former cases, all seals present eventually flushed to the water, but when breaching activity remained to the south of the haul-out, only 11 and 53 percent of seals, respectively, were flushed.

California sea lions and northern elephant seals have been observed as less sensitive to stimulus than harbor seals during monitoring at numerous other sites. For example, monitoring of pinniped disturbance as a result of abalone research in the Channel Islands showed that while harbor seals flushed at a rate of 69 percent, California sea lions flushed at a rate of only 21 percent. The rate for elephant seals declined to 0.1 percent (VanBlaricom, 2010). In the event that either of these species is present during management activities, they would be expected to display a minimal reaction to maintenance activities—less than that expected of harbor seals.

Although the Jenner haul-out is not known as a primary pupping beach, pups have been observed during the pupping season; therefore, we have evaluated the potential for injury, serious injury, or mortality to pups. There is a lack of published data regarding pupping at the mouth of the Russian River, but SCWA monitors have observed pups on the beach. No births were observed during recent monitoring, but may be inferred based on signs indicating pupping (*e.g.,* blood spots on the sand, birds consuming possible placental remains). Pup injury or mortality would be most likely to occur in the event of extended separation of a mother and pup, or trampling in a stampede. As discussed previously, no stampedes have been recorded since development of appropriate protocols in 1999. Any California sea lions or northern elephant seals present would be independent juveniles or adults; therefore, analysis of impacts on pups is not relevant for those species.

Similarly, the period of mother-pup bonding, critical time needed to ensure pup survival and maximize pup health, is not expected to be impacted by estuary management activities. Harbor seal pups are extremely precocious, swimming and diving immediately after birth and throughout the lactation period, unlike most other phocids which normally enter the sea only after weaning (Lawson and Renouf, 1985; Cottrell *et al.,* 2002; Burns *et al.,* 2005). Lawson and Renouf (1987) investigated harbor seal mother-pup bonding in response to natural and anthropogenic disturbance. In summary, they found that the most critical bonding time is within minutes after birth. As described previously, the peak of pupping season is typically concluded by mid-May, when the lagoon management period begins. As such, it is expected that mother-pup bonding would likely be concluded as well. The number of management events during the months of March and April has been relatively low in the past, and the breaching activities occur in a single day over several hours. In addition, mitigation measures described later in this document further reduce the likelihood of any impacts to pups, whether through injury or mortality or interruption of mother-pup bonding.

In summary, and based on extensive monitoring data, we believe that impacts to hauled-out pinnipeds during estuary management activities would be behavioral harassment of limited duration (*i.e.,* less than one day) and limited intensity (*i.e.,* temporary flushing at most). Stampeding, and therefore injury or mortality, is not expected—nor been documented—in the years since appropriate protocols were established (see ''Mitigation'' for more details). Further, the continued, and increasingly heavy (Figure 4; SCWA, 2015), use of the haul-out despite decades of breaching events indicates that abandonment of the haul-out is unlikely.

Anticipated Effects on Habitat

The purposes of the estuary management activities are to improve summer rearing habitat for juvenile salmonids in the Russian River estuary and/or to minimize potential flood risk to properties adjacent to the estuary. These activities would result in temporary physical alteration of the Jenner haul-out, but are essential to conserving and recovering endangered salmonid species, as prescribed by the BiOp. These salmonids are themselves prey for pinnipeds. In addition, with barrier beach closure, seal usage of the beach haul-out declines, and the three nearby river haul-outs may not be available for usage due to rising water surface elevations. Breaching of the barrier beach, subsequent to the temporary habitat disturbance, likely increases suitability and availability of habitat for pinnipeds. Biological and water quality monitoring would not physically alter pinniped habitat. Please see the previously referenced **Federal Register** notice (76 FR 14924; March 18, 2011) for a more detailed discussion of anticipated effects on habitat.

During SCWA's pinniped monitoring associated with artificial breaching activities from 1996 to 2000, the number of harbor seals hauled out declined when the barrier beach closed and then increased the day following an artificial breaching event (MSC, 1997, 1998, 1999, and 2000; SCWA and MSC, 2001). This response to barrier beach closure followed by artificial breaching has remained consistent in recent years and is anticipated to continue. However, it is possible that the number of pinnipeds using the haul-out could decline during the extended lagoon management period, when SCWA would seek to maintain a shallow outlet channel rather than the deeper channel associated with artificial breaching. Collection of baseline information during the lagoon management period is included in the monitoring requirements described later in this document. SCWA's previous monitoring, as well as Twohy's daily counts of seals at the sandbar (Table 1) indicate that the number of seals at the haul-out declines from August to October, so management of the lagoon outlet channel (and managing the sandbar as a summer lagoon) would have little effect on haul-out use during the latter portion of the lagoon management period. The early portion of the lagoon management period coincides with the pupping season. Past monitoring during this period, which

represents some of the longest beach closures in the late spring and early summer months, shows that the number of pinnipeds at the haul-out tends to fluctuate, rather than showing the more straightforward declines and increases associated with closures and openings seen at other times of year (MSC, 1998). This may indicate that seal haul-out usage during the pupping season is less dependent on bar status. As such, the number of seals hauled out from May through July would be expected to fluctuate, but is unlikely to respond dramatically to the absence of artificial breaching events. Regardless, any impacts to habitat resulting from SCWA's management of the estuary during the lagoon management period are not in relation to natural conditions, but rather in relation to conditions resulting from SCWA's discontinued approach of artificial breaching during this period.

In summary, there will be temporary physical alteration of the beach. However, natural opening and closure of the beach results in the same impacts to habitat; therefore, seals are likely adapted to this cycle. In addition, the increase in rearing habitat quality has the goal of increasing salmonid abundance, ultimately providing more food for seals present within the action area. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

SCWA has proposed to continue the following mitigation measures, as implemented during the previous IHA, designed to minimize impact to affected species and stocks:

- SCWA crews would cautiously approach the haul-out ahead of heavy equipment to minimize the potential for sudden flushes, which may result in a stampede—a particular concern during pupping season.
- SCWA staff would avoid walking or driving equipment through the seal haul-out.
- Crews on foot would make an effort to be seen by seals from a distance, if possible, rather than appearing suddenly, again preventing sudden flushes.
- During breaching events, all monitoring would be conducted from the overlook on the bluff along Highway 1 adjacent to the haul-out in order to minimize potential for harassment.
- A water level management event may not occur for more than two consecutive days unless flooding threats cannot be controlled.

In addition, SCWA proposes to continue mitigation measures specific to pupping season (March 15–June 30), as implemented in the previous IHAs:

- SCWA will maintain a one week no-work period between water level management events (unless flooding is an immediate threat) to allow for an adequate disturbance recovery period. During the no-work period, equipment must be removed from the beach.
- If a pup less than one week old is on the beach where heavy machinery would be used or on the path used to access the work location, the management action will be delayed until the pup has left the site or the latest day possible to prevent flooding while still maintaining suitable fish rearing habitat. In the event that a pup remains present on the beach in the presence of flood risk, SCWA would consult with NMFS to determine the appropriate course of action. SCWA will coordinate with the locally established seal monitoring program (Stewards' Seal Watch) to determine if pups less than one week old are on the beach prior to a breaching event.
- Physical and biological monitoring will not be conducted if a pup less than one week old is present at the monitoring site or on a path to the site.

For all activities, personnel on the beach would include up to two equipment operators, three safety team members on the beach (one on each side of the channel observing the equipment operators, and one at the barrier to warn beach visitors away from the activities), and one safety team member at the overlook on Highway 1 above the beach. Occasionally, there would be two or more additional people (SCWA staff or regulatory agency staff) on the beach to observe the activities. SCWA staff would be followed by the equipment, which would then be followed by an SCWA vehicle (typically a small pickup truck, the vehicle would be parked at the previously posted signs and barriers on the south side of the excavation location). Equipment would be driven slowly on the beach and care would be taken to minimize the number of shut-downs and start-ups when the equipment is on the beach. All work would be completed as efficiently as possible, with the smallest amount of heavy equipment possible, to minimize disturbance of seals at the haul-out. Boats operating near river haul-outs during monitoring would be kept within posted speed limits and driven as far from the haul-outs as safely possible to minimize flushing seals.

We have carefully evaluated SCWA's proposed mitigation measures and considered their effectiveness in past implementation to preliminarily determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

- Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
- A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).
- A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).
- A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only).
- Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of

habitat during a biologically important time.

• For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of SCWA's proposed measures and on SCWA's record of management at the mouth of the Russian River including information from monitoring of SCWA's implementation of the mitigation measures as prescribed under the previous IHAs, we have preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within defined zones of effect (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

2. An increase in our understanding of how many marine mammals are likely to be exposed to stimuli that we associate with specific adverse effects, such as behavioral harassment or hearing threshold shifts;

3. An increase in our understanding of how marine mammals respond to stimuli expected to result in incidental take and how anticipated adverse effects on individuals may impact the population, stock, or species (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

• Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict pertinent information, *e.g.,* received level, distance from source);

• Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict pertinent information, *e.g.,* received level, distance from source);

• Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; or

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

SCWA submitted a marine mammal monitoring plan as part of the IHA application. It can be found on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* The plan, which has been successfully implemented by SCWA under previous IHAs, may be modified or supplemented based on comments or new information received from the public during the public comment period. The purpose of this monitoring plan, which is carried out collaboratively with the Stewards of the Coasts and Redwoods (Stewards) organization, is to detect the response of pinnipeds to estuary management activities at the Russian River estuary. SCWA has designed the plan both to satisfy the requirements of the IHA, and to address the following questions of interest:

1. Under what conditions do pinnipeds haul out at the Russian River estuary mouth at Jenner?

2. How do seals at the Jenner haul-out respond to activities associated with the construction and maintenance of the lagoon outlet channel and artificial breaching activities?

3. Does the number of seals at the Jenner haul-out significantly differ from historic averages with formation of a summer (May 15 to October 15) lagoon in the Russian River estuary?

4. Are seals at the Jenner haul-out displaced to nearby river and coastal haul-outs when the mouth remains closed in the summer?

Proposed Monitoring Measures

In summary, past monitoring includes the following, which is proposed to continue should an IHA be issued:

Baseline Monitoring—Seals at the Jenner haul-out are counted twice monthly for the term of the IHA. This baseline information will provide SCWA with details that may help to plan estuary management activities in the future to minimize pinniped interaction. This census begins at local dawn and continues for eight hours. All seals hauled out on the beach are counted every thirty minutes from the overlook on the bluff along Highway 1 adjacent to the haul-out using spotting scopes. Monitoring may conclude for the day if weather conditions affect visibility (*e.g.,* heavy fog in the afternoon). Counts are scheduled for two days out of each month, with the intention of capturing a low and high tide each in the morning and afternoon. Depending on how the sandbar is formed, seals may haul out in multiple groups at the mouth. At each thirty-minute count, the observer indicates where groups of seals are hauled out on the sandbar and provides a total count for each group. If possible, adults and pups are counted separately.

In addition to the census data, disturbances of the haul-out are recorded. The method for recording disturbances follows those in Mortenson (1996). Disturbances would be recorded on a three-point scale that represents an increasing seal response to the disturbance (Table 3). The time, source, and duration of the disturbance, as well as an estimated distance between the source and haul-out, are recorded. It should be noted that only responses falling into Mortenson's Levels 2 and 3 will be considered as harassment under the MMPA, under the terms of this proposed IHA.

TABLE 3—SEAL RESPONSE TO DISTURBANCE

Level	Type of response	Definition
1	Alert	Seal head orientation in response to disturbance. This may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, or changing from a lying to a sitting position.
2	Movement	Movements away from the source of disturbance, ranging from short withdrawals over short distances to hurried retreats many meters in length.

TABLE 3—SEAL RESPONSE TO DISTURBANCE—Continued

Level	Type of response	Definition
3	Flight	All retreats (flushes) to the water, another group of seals, or over the beach.

Weather conditions are recorded at the beginning of each census. These include temperature, percent cloud cover, and wind speed (Beaufort scale). Tide levels and estuary water surface elevations are correlated to the monitoring start and end times.

In an effort towards understanding possible relationships between use of the Jenner haul-out and nearby coastal and river haul-outs, several other haul-outs on the coast and in the Russian River estuary are monitored as well (see Figure 4 of SCWA's application). The peripheral haul-outs are visited for ten-minute counts twice during each baseline monitoring day. All pinnipeds hauled out were counted from the same vantage point(s) at each haul-out using a high-powered spotting scope or binoculars.

Estuary Management Event Monitoring, Lagoon Outlet Channel—Should the mouth close during the lagoon management period, SCWA would construct a lagoon outlet channel as required by the BiOp. Activities associated with the initial construction of the outlet channel, as well as the maintenance of the channel that may be required, would be monitored for disturbances to the seals at the Jenner haul-out.

A one-day pre-event channel survey would be made within one to three days prior to constructing the outlet channel. The haul-out would be monitored on the day the outlet channel is constructed and daily for up to the maximum two days allowed for channel excavation activities. Monitoring would also occur on each day that the outlet channel is maintained using heavy equipment for the duration of the lagoon management period. Monitoring of outlet channel construction and maintenance would correspond with that described under the ''Baseline'' section previously, with the exception that management activity monitoring duration is defined by event duration, rather than being set at eight hours. On the day of the management event, pinniped monitoring begins at least one hour prior to the crew and equipment accessing the beach work area and continues through the duration of the event, until at least one hour after the crew and equipment leave the beach.

In an attempt to understand whether seals from the Jenner haul-out are displaced to coastal and river haul-outs nearby when management events occur, other nearby haul-outs are monitored concurrently with monitoring of outlet channel construction and maintenance activities. This provides an opportunity to qualitatively assess whether these haul-outs are being used by seals displaced from the Jenner haul-out during lagoon outlet channel excavation and maintenance. This monitoring would not provide definitive results regarding displacement to nearby coastal and river haul-outs, as individual seals are not marked or photo-identified, but is useful in tracking general trends in haul-out use during lagoon outlet channel excavation and maintenance. As volunteers are required to monitor these peripheral haul-outs, haul-out locations may need to be prioritized if there are not enough volunteers available. In that case, priority would be assigned to the nearest haul-outs (North Jenner and Odin Cove), followed by the Russian River estuary haul-outs, and finally the more distant coastal haul-outs.

Estuary Management Event Monitoring, Artificial Breaching Events—In accordance with the Russian River BiOp, SCWA may artificially breach the barrier beach outside of the summer lagoon management period, and may conduct a maximum of two such breachings during the lagoon management period, when estuary water surface elevations rise above seven feet. In that case, NMFS may be consulted regarding potential scheduling of an artificial breaching event to open the barrier beach and reduce flooding risk.

Pinniped response to artificial breaching will be monitored at each such event during the term of the IHA. Methods would follow the census and disturbance monitoring protocols described in the ''Baseline'' section, which were also used for the 1996 to 2000 monitoring events (MSC, 1997, 1998, 1999, 2000; SCWA and MSC, 2001). The exception, as for lagoon management events, is that duration of monitoring is dependent upon duration of the event. On the day of the management event, pinniped monitoring begins at least one hour prior to the crew and equipment accessing the beach work area and continues through the duration of the event, until at least one hour after the crew and equipment leave the beach.

For all counts, the following information would be recorded in thirty-minute intervals: (1) Pinniped counts, by species; (2) behavior; (3) time, source and duration of any disturbance; (4) estimated distances between source of disturbance and pinnipeds; (5) weather conditions (*e.g.,* temperature, wind); and (5) tide levels and estuary water surface elevation.

Monitoring During Pupping Season—The pupping season is defined as March 15 to June 30. Baseline, lagoon outlet channel, and artificial breaching monitoring during the pupping season will include records of neonate (pups less than one week old) observations. Characteristics of a neonate pup include: Body weight less than 15 kg; thin for their body length; an umbilicus or natal pelage present; wrinkled skin; and awkward or jerky movements on land. SCWA will coordinate with the Seal Watch monitoring program to determine if pups less than one week old are on the beach prior to a water level management event.

If, during monitoring, observers sight any pup that might be abandoned, SCWA would contact the NMFS stranding response network immediately and also report the incident to NMFS' West Coast Regional Office and Office of Protected Resources within 48 hours. Observers will not approach or move the pup. Potential indications that a pup may be abandoned are no observed contact with adult seals, no movement of the pup, and the pup's attempts to nurse are rebuffed.

Staffing—Monitoring is conducted by qualified individuals, which may include professional biologists employed by NMFS or SCWA or volunteers trained by the Stewards' Seal Watch program (Stewards). All volunteer monitors are required to attend classroom-style training and field site visits to the haul-outs. Training covers the MMPA and conditions of the IHA, SCWA's pinniped monitoring protocols, pinniped species identification, age class identification (including a specific discussion regarding neonates), recording of count and disturbance observations (including completion of datasheets), and use of equipment. Pinniped identification includes the harbor seal, California sea lion, and northern elephant seal, as well as other pinniped species with potential

to occur in the area. Generally, SCWA staff and volunteers collect baseline data on Jenner haul-out use during the twice-monthly monitoring events. A schedule for this monitoring would be established with Stewards once volunteers are available for the monitoring effort. SCWA staff monitors lagoon outlet channel excavation and maintenance activities and artificial breaching events at the Jenner haul-out, with assistance from Stewards volunteers as available. Stewards volunteers monitor the coastal and river haul-out locations during lagoon outlet channel excavation and maintenance activities.

Training on the MMPA, pinniped identification, and the conditions of the IHA is held for staff and contractors assigned to estuary management activities. The training includes equipment operators, safety crew members, and surveyors. In addition, prior to beginning each water surface elevation management event, the biologist monitoring the event participates in the onsite safety meeting to discuss the location(s) of pinnipeds at the Jenner haul-out that day and methods of avoiding and minimizing disturbances to the haul-out as outlined in the IHA.

Reporting

SCWA is required to submit a report on all activities and marine mammal monitoring results to the Office of Protected Resources, NMFS, and the West Coast Regional Administrator, NMFS, ninety days prior to the expiration of the IHA if a renewal is sought, or within ninety days of the expiration of the IHA otherwise. This annual report will also be distributed to California State Parks and Stewards, and would be available to the public on SCWA's Web site. This report will contain the following information:

- The number of pinnipeds taken, by species and age class (if possible);
- Behavior prior to and during water level management events;
- Start and end time of activity;
- Estimated distances between source and pinnipeds when disturbance occurs;
- Weather conditions (*e.g.,* temperature, wind, etc.);
- Haul-out reoccupation time of any pinnipeds based on post-activity monitoring;
- Tide levels and estuary water surface elevation; and
- Pinniped census from bi-monthly and nearby haul-out monitoring.

The annual report includes descriptions of monitoring methodology, tabulation of estuary management events, summary of monitoring results, and discussion of problems noted and proposed remedial measures.

Summary of Previous Monitoring

SCWA complied with the mitigation and monitoring required under all previous authorizations. In accordance with the 2014 IHA, SCWA submitted a Report of Activities and Monitoring Results, covering the period of January 1 through December 31, 2014. Previous monitoring reports (available at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*) provided additional analysis of monitoring results from 2009–13. A barrier beach was formed eleven times during 2014, but SCWA was required to implement artificial breaching for only six of these closure events. The Russian River outlet was closed to the ocean for a total of 110 days in 2014, including extended closures totaling 29 days during the lagoon management period. However, these closures all culminated in natural breaches and no outlet channel management events were required. During 2013, five artificial breaching events occurred (SCWA, 2014). In January 2012, the barrier beach was artificially breached after two days of breaching activity. There were also several periods over the course of the year where the barrier beach closed or became naturally perched and then subsequently breached naturally (SCWA, 2013). In 2011, no water level management activities occurred (SCWA, 2012). In 2010, one lagoon management event and two artificial breaching events occurred (SCWA, 2011). Pinniped monitoring occurred no more than 3 days before, the day of, and the day after each water level management activity. In addition, SCWA conducted biological and physical monitoring as described previously. During the course of these activities, SCWA did not exceed the take levels authorized under the relevant IHAs.

Baseline Monitoring

Baseline monitoring was performed to gather additional information about the population of harbor seals utilizing the Jenner haul-out including population trends, patterns in seasonal abundance and the influence of barrier beach condition on harbor seal abundance. The effect of tide cycle and time of day on the abundance of seals at the Jenner haul-out was explored in detail in a previous report (SCWA, 2012); data collected in 2013–14 did not change the interpretation of these findings. Baseline monitoring at the mouth of the Russian River was conducted concurrently with monitoring of the peripheral haul-outs, and was scheduled for two days out of each month with the intention of capturing a low and high tide each in the morning and afternoon. A total of 23 baseline surveys were conducted in 2014. Figure 3 of SCWA's 2014 report shows the mean number of harbor seals during twice-monthly baseline monitoring events from 2010–14.

Peak seal abundance, as determined by the single greatest count of harbor seals at the Jenner haul-out, was on March 6 (424 seals), and overall mean seal abundance at Jenner was greatest in July (mean = 266 ± 2.1 s.e.). Seal abundance was significantly greater in July and March compared to all other months except February. The July peak in abundance occurred during the summer molting period, while the March peak in abundance occurred prior to the start of pupping. Similar to previous years, seal abundance declined in the fall. The reduction in seal abundance during the fall months, while not atypical, may have been more severe for 2014 due to the long periods of barrier beach closures during those months.

No distressed or abandoned pups were reported in 2014. Pup production at the Jenner haul-out was 23.2 percent of total seals as calculated from the peak pup count recorded on April 29 and the number of adult harbor seals present at the same time. Although lower than in 2013, this level of production is more typical of past years as compared to 2012, where 13.8 percent of seals were pups at the time of the peak pup count. The average of pups observed (when pups were present) during April and May have been similar between years, ranging from 12.9–15.4 for 2011–14. Comparison of count data between the Jenner and peripheral haul-outs did not show any obvious correlations (*e.g.,* the number of seals occupying peripheral haul-outs compared to the Jenner haul-out did not necessarily increase or decrease as a result of disturbance caused by beach visitors). Please review SCWA's report for a more detailed discussion.

Water Level Management Activity Monitoring

Six each pre-breaching, breaching, and post-breaching surveys were conducted in 2014. Artificial breaching events occurred on January 2, January 30, March 24, October 22, November 17, and November 26. No injuries or mortalities were observed during 2014, and harbor seal reactions ranged from merely alerting to crew presence to flushing from the beach. No California sea lions were observed during water level management activities or during

biological and physical monitoring of the beach and estuary. A juvenile elephant seal was observed on several occasions.

Total observed incidences of marine mammal take, by Level B harassment only, from water level management activity and biological and physical monitoring, was 2,116 harbor seals (detailed in Table 4) and two northern elephant seals (one each disturbed during activity indicated on July 22 and August 6 below). No California sea lions were observed during water level management activities or during biological and physical monitoring of the beach and estuary. While the observed take was significantly lower than the level authorized, it is possible that incidental take in future years could approach the level authorized. Actual take is dependent largely upon the number of water level management events that occur, which is unpredictable. Take of species other than harbor seals depends upon whether those species, which do not consistently utilize the Jenner haul-out, are present. The authorized take, though much higher than the actual take, was justified based on conservative estimated scenarios for animal presence and necessity of water level management. No significant departure from the method of estimation is used for the proposed IHA (see ''Estimated Take by Incidental Harassment'') for the same activities in 2015.

TABLE 4—OBSERVED INCIDENTAL HARASSMENT (LEVEL B HARASSMENT ONLY) OF HARBOR SEALS DURING RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES, 2013

Date	Event type	Observed take	
		Age class [a]	Number
Jan 2	Artificial breaching	Adult	80
Jan 16	Beach topographic survey	Adult	54
Jan 30	Artificial breaching	Adult	163
Feb 6	Beach topographic survey	Adult	35
Feb 20	Baseline monitoring	Adult	12
Mar 5	Jetty study	Adult	53
Mar 20	Beach topographic survey	Adult	172
Mar 23	Pre-breaching survey	Adult	2
Mar 24	Artificial breaching	Adult	110
Apr 9	Beach topographic survey	Adult	10
May 29	Fish seining	Adult	12
Jun 5	Beach topographic survey	Adult, pup	142 + 5
Jul 3	Beach topographic survey	Adult	228
Jul 22	Jetty study	Adult	186
Jul 29	Jetty study	Adult	33
Aug 6	Beach topographic survey		169
Sep 18	Beach topographic survey		165
Sep 30	Jetty study		3
Oct 16	Beach topographic survey		129
Oct 22	Artificial breaching		47
Nov 14	Pre-breaching survey		46
Nov 17	Artificial breaching		103
Nov 26	Artificial breaching		162
Total			2,116

[a] Pups are counted separately through June, after which all seals are counted as adults as it becomes more difficult to accurately age individuals.

It should be noted that one of the primary reasons for the increase in observed incidences of incidental take in 2013–14 (1,351 and 2,116) compared with prior years (208 in 2012, 42 in 2011, 290 in 2010) was a change in protocol for the beach topographic surveys (although realized level of activity would be expected to remain a primary determinant in future years). Due to the frequent and prolonged river mouth closures in 2013—including closures of 25 days in June/July and 21 days in September/October—there was an increased need to gather complete information about the topography and sand elevation of the beach to best inform water level management activities.

This necessitated the survey crew to access the entire beach, including any area where seals were hauled out. Therefore, beginning on May 30, 2013, the methods for conducting the monthly topographic surveys of the barrier beach were changed. Previously, monitors at a distance would inform survey crews via radio if harbor seals became alert to their presence. Survey crews would then retreat or avoid certain areas as necessary to avoid behavioral harassment of the seals. According to the revised protocol, and provided that no neonates or nursing pups were on the haul-out, the survey crew would continue their approach. The survey crews would proceed in a manner that allowed for the seals to gradually vacate the beach before the survey proceeded, thereby reducing the intensity of behavioral reactions as much as possible, but the numbers of incidences of behavioral harassment nevertheless increased. SCWA expects that this revised protocol would remain in place for the coming year.

SCWA continued to investigate the relative disturbance caused by their activities versus that caused by other sources (see Figures 5–6 of SCWA's monitoring report as well as SCWA, 2014). The data recorded during 2014 do not differ from the findings reported in SCWA (2014). Harbor seals are most frequently disturbed by people on foot, with an increase in frequency of people present during bar-closed conditions (see Figures 5–6 of SCWA's monitoring report). Kayakers are the next most frequent source of disturbance overall, also with an increase during bar-closed conditions. For any disturbance event it is often only a fraction of the total haul-

out that responds. Some sources of disturbance, though rare, have a larger disturbing effect when they occur. For example, disturbances from dogs occur less frequently, but these incidents often disturb over half of the seals hauled out.

Conclusions

The following section provides a summary of information available in SCWA's monitoring report. The primary purpose of SCWA's Pinniped monitoring plan is to detect the response of pinnipeds to estuary management activities at the Russian River estuary. However, as described previously, the questions listed below are also of specific interest. The limited data available thus far precludes drawing definitive conclusions regarding the key questions in SCWA's monitoring plan, but we discuss preliminary conclusions and available evidence below.

1. Under what conditions do pinnipeds haul out at the Russian River estuary mouth at Jenner?

A summary of baseline pinniped monitoring provided in SCWA (2012) concluded that time of year, tidal state, and time of day all influenced harbor seal abundance at the Jenner haul-out. Baseline data collected from 2009–13 indicate that the highest numbers of pinnipeds are observed at the Jenner haul-out in July (during the molting season; see Figure 3 of SCWA's monitoring report), as would be expected on the basis of harbor seal biological and physiological requirements (Herder, 1986; Allen *et al.,* 1989; Stewart and Yochem, 1994; Hanan, 1996; Gemmer, 2002). Most notable for 2014 was the increase in the number of seals observed during February, March, and December. Although multiple factors likely influence harbor seal presence at the haul-out, SCWA believes that barrier beach condition (*i.e.,* open or closed) may be significant. Daily average abundance of seals was lower during bar-closed conditions compared to bar-open conditions. This effect is likely due to a combination of factors, including increased human disturbance, reduced access to the ocean from the estuary side of the barrier beach, and the increased disturbance from wave action when seals utilize the ocean side of the barrier beach. While earlier results suggested there may have been a relationship between the level of disturbance and river mouth condition (SCWA, 2013, 2014), in 2014 there was no evidence that there was a significant increase in the number of people near the haul-out or the number of disturbance events during mouth closed conditions.

Overall, seals appear to utilize the Jenner haul-out throughout the tidal cycle. Seal abundance is significantly lower during the highest of tides when the haul-out is subject to an increase in wave overwash. Time of day had some effect on seal abundance at the Jenner haul-out, as abundance was greater in the afternoon hours compared to the morning hours. More analysis exploring the relationship of ambient temperature, incidence of disturbance, and season on time of day effects would help to explain why these variations in seal abundance occur. It is likely that a combination of multiple factors (*e.g.,* season, tides, wave heights, level of beach disturbance) influence when the haul-out is most utilized.

2. How do seals at the Jenner haul-out respond to activities associated with the construction and maintenance of the lagoon outlet channel and artificial breaching activities?

SCWA has, thus far, implemented the lagoon outlet channel only once (July 8, 2010). The response of harbor seals at the Jenner haul-out to the outlet channel implementation activities was similar to responses observed during past artificial breaching events (MSC, 1997, 1998, 1999, 2000; SCWA and MSC, 2001). The harbor seals typically alert to the sound of equipment on the beach and leave the haul-out as the crew and equipment approach. Individuals then haul out on the beach while equipment is operating, leaving the beach again when equipment and staff depart, and typically begin to return to the haul-out within thirty minutes of the work ending. Because the barrier beach reformed soon after outlet channel implementation and subsequently breached on its own following the 2010 event, maintenance of the outlet channel was not necessary and monitoring of the continued response of pinnipeds at the Jenner haul-out to maintenance of the outlet channel and management of the lagoon for the duration of the lagoon management period has not yet been possible. As noted previously, when breaching activities were conducted south of the haul-out location seals often remained on the beach during all or some of the breaching activity. This indicates that seals are less disturbed by activities when equipment and crew do not pass directly past their haul-out.

3. Does the number of seals at the Jenner haul-out significantly differ from historic averages with formation of a summer lagoon in the Russian River estuary?

The duration of closures in recent years has not generally been dissimilar from the duration of closures that have been previously observed at the estuary, and lagoon outlet channel implementation has occurred only once, meaning that there has been a lack of opportunity to study harbor seal response to extended lagoon conditions. A barrier beach has formed during the lagoon management period twelve times since SCWA began implementing the lagoon outlet channel adaptive management plan, with an average duration of nine days. However, the additional sustained river outlet closures observed in 2014 during the lagoon management period (maximum 29 days) provide some information regarding the abundance of seals during the formation of a summer lagoon. While seal abundance was lower overall during bar-closed conditions, overall there continues to be a slight increasing trend in seal abundance. These observations may indicate that, while seal abundance exhibits a short-term decline following bar closure, the number of seals utilizing the Jenner haul-out overall during such conditions is not affected. Short-term fluctuations in abundance aside, it appears that the general trends of increased abundance during summer and decreased abundance during fall, which coincide with the annual molt and likely foraging dispersal, respectively, are not affected. Such short-term fluctuations are likely not an indicator that seals are less likely to use the Jenner haul-out at any time.

4. Are seals at the Jenner haul-out displaced to nearby river and coastal haul-outs when the mouth remains closed in the summer?

Initial comparisons of peripheral (river and coastal) haul-out count data to the Jenner haul-out counts have been inconclusive (see Table 2 and Figures 7–8 of SCWA's monitoring report), and further information from estuary management activities is needed.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has

the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

SCWA has requested, and NMFS proposes, authorization to take harbor seals, California sea lions, and northern elephant seals, by Level B harassment only, incidental to estuary management activities. These activities, involving increased human presence and the use of heavy equipment and support vehicles, are expected to harass pinnipeds present at the haul-out through disturbance only. In addition, monitoring activities prescribed in the BiOp may harass additional animals at the Jenner haul-out and at the three haul-outs located in the estuary (Penny Logs, Patty's Rock, and Chalanchawi). Estimates of the number of harbor seals, California sea lions, and northern elephant seals that may be harassed by the proposed activities is based upon the number of potential events associated with Russian River estuary management activities and the average number of individuals of each species that are present during conditions appropriate to the activity. As described previously in this document, monitoring effort at the mouth of the Russian River has shown that the number of seals utilizing the haul-out declines during bar-closed conditions. Tables 5 and 6 detail the total number of estimated takes.

Events associated with lagoon outlet channel management would occur only during the lagoon management period, and are split into two categories: (1) Initial channel implementation, which would likely occur between May and September, and (2) maintenance and monitoring of the outlet channel, which would continue until October 15. In addition, it is possible that the initial outlet channel could close through natural processes, requiring additional channel implementation events. Based on past experience, SCWA estimates that a maximum of three outlet channel implementation events could be required. Outlet channel implementation events would only occur when the bar is closed; therefore, it is appropriate to use data from bar-closed monitoring events in estimating take (Table 2). Construction of the outlet channel is designed to produce a perched outflow, resulting in conditions that more closely resemble bar-closed than bar-open with regard to pinniped haul-out usage. As such, bar-closed data is appropriate for estimating take during all lagoon management period maintenance and monitoring activity. As dates of outlet channel implementation cannot be known in advance, the highest daily average of seals per month—the March average for 2009–14—is used in estimating take. For maintenance and monitoring activities associated with the lagoon outlet channel, which would occur on a weekly basis following implementation of the outlet channel, the average number of harbor seals for each month was used.

Artificial breaching activities would also occur during bar-closed conditions. Data collected specifically during bar-closed conditions may be used for estimating take associated with artificial breaching (Table 2). The number of estimated artificial breaching events is also informed by experience, and is equal to the annual average number of bar closures recorded for a given month from 1996–2013.

Prior to 2014, for monthly topographic surveys on the barrier beach, SCWA estimated that only ten percent of seals hauled out would be likely to be disturbed by this activity, which involves two people walking along the barrier beach with a survey rod. During those surveys a pinniped monitor was positioned at the Highway 1 overlook and would notify the surveyors via radio when any seals on the haul-out begin to alert to their presence. This enabled the surveyors to retreat slowly away from the haul-out, typically resulting in no disturbance. However, protocol for this monitoring activity has been changed (*i.e.,* surveyors will continue cautiously rather than retreat when seals alert—this is necessary to collect required data) and the resulting incidences of take are now estimated as one hundred percent of the seals expected to be encountered. The exception to this change is during the pupping season, when surveyors would continue to avoid seals to reduce harassment of pups and/or mothers with neonates. For the months of March-May, the assumption that only ten percent of seals present would be harassed is retained. The number of seals expected to be encountered is based on the average monthly number of seals hauled out as recorded during baseline surveys conducted by SCWA in 2012–14 (Table 1).

For biological and physical habitat monitoring activities in the estuary, it was assumed that pinnipeds may be encountered once per event and flush from a river haul-out. The potential for harassment associated with these events is limited to the three haul-outs located in the estuary. In past experience, SCWA typically sees no more than a single harbor seal at these haul-outs, which consist of scattered logs and rocks that often submerge at high tide.

TABLE 5—ESTIMATED NUMBER OF HARBOR SEAL TAKES RESULTING FROM RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES

Number of animals expected to occur [a]	Number of events [b c]	Potential total number of individual animals that may be taken
Lagoon Outlet Channel Management (May 15 to October 15)		
Implementation: 117 [d] Maintenance and Monitoring: May: 80 June: 97 July: 117 Aug: 17 Sept: 33 Oct: 24	Implementation: 3 Maintenance: May: 1 June-Sept: 4/month Oct: 1 Monitoring: June-Sept: 2/month Oct: 1	Implementation: 351. Maintenance: 1,160. Monitoring: 552. Total: 2,063.
Artificial Breaching		
Oct: 24	Oct: 2	Oct: 48.

TABLE 5—ESTIMATED NUMBER OF HARBOR SEAL TAKES RESULTING FROM RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES—Continued

Number of animals expected to occur [a]	Number of events [b c]	Potential total number of individual animals that may be taken
Nov: 36 Dec: 51 Jan: 41 Feb: 90 Mar: 130 Apr: 80 May: 80	Nov: 2 Dec: 2 Jan: 1 Feb: 1 Mar: 1 Apr: 1 May: 2 12 events maximum	Nov: 72. Dec: 102. Jan: 41. Feb: 90. Mar: 130. Apr: 80. May: 160. Total: 723
Topographic and Geophysical Beach Surveys		
Jan: 89 Feb: 131. Mar: 173. Apr: 137 May: 157 Jun: 154 Jul: 158 Aug: 146 Sep: 78 Oct: 50 Nov: 66 Dec: 106	1 topographic survey/month; 100 percent of animals present Jun-Feb; 10 percent of animals present Mar-May	Jan: 89 Feb: 131 Mar: 17 Apr: 14. May: 16. Jun: 154 Jul: 158 Aug: 146 Sep: 78 Oct: 50 Nov: 66 Dec: 106. Total: 1,025
Biological and Physical Habitat Monitoring in the Estuary		
1 [e]	165	165
Total		3,976

[a] For Lagoon Outlet Channel Management and Artificial Breaching, average daily number of animals corresponds with data from Table 2. For Topographic and Geophysical Beach Surveys, average daily number of animals corresponds with 2012–14 data from Table 1.

[b] For implementation of the lagoon outlet channel, an event is defined as a single, two-day episode. It is assumed that the same individual seals would be hauled out during a single event. For the remaining activities, an event is defined as a single day on which an activity occurs. Some events may include multiple activities.

[c] Number of events for artificial breaching derived from historical data. The average number of events for each month was rounded up to the nearest whole number; estimated number of events for December was increased from one to two because multiple closures resulting from storm events have occurred in recent years during that month. These numbers likely represent an overestimate, as the average annual number of events is six.

[d] Although implementation could occur at any time during the lagoon management period, the highest daily average per month from the lagoon management period was used.

[e] Based on past experience, SCWA expects that no more than one seal may be present, and thus have the potential to be disturbed, at each of the three river haul-outs. Number of events includes addition of acoustic telemetry surveys.

TABLE 6—ESTIMATED NUMBER OF CALIFORNIA SEA LION AND ELEPHANT SEAL TAKES RESULTING FROM RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES

Species	Number of animals expected to occur [a]	Number of events [a]	Potential total number of individual animals that may be taken
Lagoon Outlet Channel Management (May 15 to October 15)			
California sea lion (potential to encounter once per event)	1	6	6
Northern elephant seal (potential to encounter once per event)	1	6	6
Artificial Breaching			
California sea lion (potential to encounter once per month, Oct-May)	1	8	8
Northern elephant seal (potential to encounter once per month, Oct-May)	1	8	8
Topographic and Geophysical Beach Surveys			
California sea lion (potential to encounter once per month year-round for topographical surveys)	1	12	12
Northern elephant seal (potential to encounter once per month year-round for topographical surveys)	1	12	12

TABLE 6—ESTIMATED NUMBER OF CALIFORNIA SEA LION AND ELEPHANT SEAL TAKES RESULTING FROM RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES—Continued

Species	Number of animals expected to occur [a]	Number of events [a]	Potential total number of individual animals that may be taken
Biological and Physical Habitat Monitoring in the Estuary			
California sea lion (potential to encounter once per month, Jul-Feb)	1	8	8
Northern elephant seal (potential to encounter once per month, Jul-Feb)	1	8	8
Total			
California sea lion			34
Elephant seal			34

[a] SCWA expects that California sea lions and/or northern elephant seals could occur during any month of the year, but that any such occurrence would be infrequent and unlikely to occur more than once per month.

Analyses and Preliminary Determinations

Negligible Impact Analysis

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, we consider other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

Although SCWA's estuary management activities may disturb pinnipeds hauled out at the mouth of the Russian River, as well as those hauled out at several locations in the estuary during recurring monitoring activities, impacts are occurring to a small, localized group of animals. While these impacts can occur year-round, they occur sporadically and for limited duration (*e.g.,* a maximum of two consecutive days for water level management events). Seals will likely become alert or, at most, flush into the water in reaction to the presence of crews and equipment on the beach. While disturbance may occur during a sensitive time (during the March 15-June 30 pupping season), mitigation measures have been specifically designed to further minimize harm during this period and eliminate the possibility of pup injury or mother-pup separation.

No injury, serious injury, or mortality is anticipated, nor is the proposed action likely to result in long-term impacts such as permanent abandonment of the haul-out. Injury, serious injury, or mortality to pinnipeds would likely result from startling animals inhabiting the haul-out into a stampede reaction, or from extended mother-pup separation as a result of such a stampede. Long-term impacts to pinniped usage of the haul-out could result from significantly increased presence of humans and equipment on the beach. To avoid these possibilities, we have worked with SCWA to develop the previously described mitigation measures. These are designed to reduce the possibility of startling pinnipeds, by gradually apprising them of the presence of humans and equipment on the beach, and to reduce the possibility of impacts to pups by eliminating or altering management activities on the beach when pups are present and by setting limits on the frequency and duration of events during pupping season. During the past fifteen years of flood control management, implementation of similar mitigation measures has resulted in no known stampede events and no known injury, serious injury, or mortality. Over the course of that time period, management events have generally been infrequent and of limited duration.

No pinniped stocks for which incidental take authorization is proposed are listed as threatened or endangered under the ESA or determined to be strategic or depleted under the MMPA. Recent data suggests that harbor seal populations have reached carrying capacity; populations of California sea lions and northern elephant seals in California are also considered healthy.

In summary, and based on extensive monitoring data, we believe that impacts to hauled-out pinnipeds during estuary management activities would be behavioral harassment of limited duration (*i.e.,* less than one day) and limited intensity (*i.e.,* temporary flushing at most). Stampeding, and therefore injury or mortality, is not expected—nor been documented—in the years since appropriate protocols were established (see ''Mitigation'' for more details). Further, the continued, and increasingly heavy (Figure 4; SCWA, 2015), use of the haul-out despite decades of breaching events indicates that abandonment of the haul-out is unlikely. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, we preliminarily find that the total marine mammal take from SCWA's estuary management activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

The proposed number of animals taken for each species of pinnipeds can be considered small relative to the population size. There are an estimated 30,968 harbor seals in the California stock, 296,750 California sea lions, and 179,000 northern elephant seals in the California breeding population. Based on extensive monitoring effort specific to the affected haul-out and historical data on the frequency of the specified

activity, we are proposing to authorize take, by Level B harassment only, of 3,976 harbor seals, 34 California sea lions, and 34 northern elephant seals, representing 12.8, 0.01, and 0.02 percent of the populations, respectively. However, this represents an overestimate of the number of individuals harassed over the duration of the proposed IHA, because these totals represent much smaller numbers of individuals that may be harassed multiple times. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we preliminarily find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

No species listed under the ESA are expected to be affected by these activities. Therefore, we have determined that a section 7 consultation under the ESA is not required. As described elsewhere in this document, SCWA and the Corps consulted with NMFS under section 7 of the ESA regarding the potential effects of their operations and maintenance activities, including SCWA's estuary management program, on ESA-listed salmonids. As a result of this consultation, NMFS issued the Russian River Biological Opinion (NMFS, 2008), including Reasonable and Prudent Alternatives, which prescribes modifications to SCWA's estuary management activities. The effects of the proposed activities and authorized take would not cause additional effects for which section 7 consultation would be required.

National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, we prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from issuance of the original IHA to SCWA for the specified activities and found that it would not result in any significant impacts to the human environment. We signed a Finding of No Significant Impact (FONSI) on March 30, 2010. We have reviewed SCWA's application for a renewed IHA for ongoing estuary management activities for 2015 and the 2014 monitoring report. Based on that review, we have determined that the proposed action follows closely the IHAs issued and implemented in 2010–14 and does not present any substantial changes, or significant new circumstances or information relevant to environmental concerns which would require a supplement to the 2010 EA or preparation of a new NEPA document. Therefore, we have preliminarily determined that a new or supplemental EA or Environmental Impact Statement is unnecessary, and will, after review of public comments determine whether or not to reaffirm its FONSI. The 2010 EA is available for review at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

Proposed Authorization

As a result of these preliminary determinations, we propose to issue an IHA to SCWA for conducting the described estuary management activities in Sonoma County, California, for one year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

The Sonoma County Water Agency (SCWA), California, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to harass marine mammals incidental to conducting estuary management activities in the Russian River, Sonoma County, California.

1. This Incidental Harassment Authorization (IHA) is valid from April 21, 2015 through April 20, 2016.

2. This IHA is valid only for activities associated with estuary management activities in the Russian River, Sonoma County, California, including:

(a) Lagoon outlet channel management;

(b) Artificial breaching of barrier beach;

(c) Geophysical surveys and other work associated with a jetty study; and

(d) Physical and biological monitoring of the beach and estuary as required.

3. General Conditions:

(a) A copy of this IHA must be in the possession of SCWA, its designees, and work crew personnel operating under the authority of this IHA.

(b) SCWA is hereby authorized to incidentally take, by Level B harassment only, 3,976 harbor seals (*Phoca vitulina richardii*), 34 California sea lions (*Zalophus californianus*), and 34 northern elephant seals (*Mirounga angustirostris*).

(c) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(d) If SCWA observes a pup that may be abandoned, it shall contact the National Marine Fisheries Service (NMFS) West Coast Regional Stranding Coordinator immediately (562–980–3230; *Justin.Viezbicke@noaa.gov*) and also report the incident to NMFS Office of Protected Resources (301–427–8425; *Benjamin.Laws@noaa.gov*) within 48 hours. Observers shall not approach or move the pup.

4. Mitigation Measures:

In order to ensure the least practicable impact on the species listed in condition 3(b), the holder of this Authorization is required to implement the following mitigation measures:

(a) SCWA crews shall cautiously approach the haul-out ahead of heavy equipment to minimize the potential for sudden flushes, which may result in a stampede—a particular concern during pupping season.

(b) SCWA staff shall avoid walking or driving equipment through the seal haul-out.

(c) Crews on foot shall make an effort to be seen by seals from a distance, if possible, rather than appearing suddenly at the top of the sandbar, again preventing sudden flushes.

(d) During breaching events, all monitoring shall be conducted from the overlook on the bluff along Highway 1 adjacent to the haul-out in order to minimize potential for harassment.

(e) A water level management event may not occur for more than two consecutive days unless flooding threats cannot be controlled.

(f) Equipment shall be driven slowly on the beach and care will be taken to minimize the number of shut-downs and start-ups when the equipment is on the beach.

(g) All work shall be completed as efficiently as possible, with the smallest

amount of heavy equipment possible, to minimize disturbance of seals at the haul-out.

(h) Boats operating near river haul-outs during monitoring shall be kept within posted speed limits and driven as far from the haul-outs as safely possible to minimize flushing seals.

In addition, SCWA shall implement the following mitigation measures during pupping season (March 15-June 30):

(i) SCWA shall maintain a one week no-work period between water level management events (unless flooding is an immediate threat) to allow for an adequate disturbance recovery period. During the no-work period, equipment must be removed from the beach.

(j) If a pup less than one week old is on the beach where heavy machinery will be used or on the path used to access the work location, the management action shall be delayed until the pup has left the site or the latest day possible to prevent flooding while still maintaining suitable fish rearing habitat. In the event that a pup remains present on the beach in the presence of flood risk, SCWA shall consult with NMFS and CDFG to determine the appropriate course of action. SCWA shall coordinate with the locally established seal monitoring program (Stewards of the Coast and Redwoods) to determine if pups less than one week old are on the beach prior to a breaching event.

(k) Physical and biological monitoring shall not be conducted if a pup less than one week old is present at the monitoring site or on a path to the site.

5. Monitoring:

The holder of this Authorization is required to conduct baseline monitoring and shall conduct additional monitoring as required during estuary management activities. Monitoring and reporting shall be conducted in accordance with the approved Pinniped Monitoring Plan.

(a) Baseline monitoring shall be conducted twice-monthly for the term of the IHA. These censuses shall begin at dawn and continue for eight hours, weather permitting; the census days shall be chosen to ensure that monitoring encompasses a low and high tide each in the morning and afternoon. All seals hauled out on the beach shall be counted every thirty minutes from the overlook on the bluff along Highway 1 adjacent to the haul-out using high-powered spotting scopes. Observers shall indicate where groups of seals are hauled out on the sandbar and provide a total count for each group. If possible, adults and pups shall be counted separately.

(b) In addition, peripheral haul-outs shall be visited for ten-minute counts twice during each baseline monitoring day.

(c) During estuary management events, monitoring shall occur on all days that activity is occurring using the same protocols as described for baseline monitoring, with the difference that monitoring shall begin at least one hour prior to the crew and equipment accessing the beach work area and continue through the duration of the event, until at least one hour after the crew and equipment leave the beach. In addition, a one-day pre-event survey of the area shall be made within one to three days of the event and a one-day post-event survey shall be made after the event, weather permitting.

(d) Monitoring of peripheral haul-outs shall occur concurrently with event monitoring, when possible.

(e) For all monitoring, the following information shall be recorded in thirty-minute intervals:

i. Pinniped counts by species;

ii. Behavior;

iii. Time, source and duration of any disturbance, with takes incidental to SCWA actions recorded only for responses involving movement away from the disturbance or responses of greater intensity (*e.g.,* not for alerts);

iv. Estimated distances between source of disturbance and pinnipeds;

v. Weather conditions (*e.g.,* temperature, percent cloud cover, and wind speed); and

vi. Tide levels and estuary water surface elevation.

(a) All monitoring during pupping season shall include records of any neonate pup observations. SCWA shall coordinate with the Stewards' monitoring program to determine if pups less than one week old are on the beach prior to a water level management event.

6. Reporting:

The holder of this Authorization is required to:

(a) Submit a report on all activities and marine mammal monitoring results to the Office of Protected Resources, NMFS, and the West Coast Regional Administrator, NMFS, 90 days prior to the expiration of the IHA if a renewal is sought, or within 90 days of the expiration of the permit otherwise. This report must contain the following information:

i. The number of seals taken, by species and age class (if possible);

ii. Behavior prior to and during water level management events;

iii. Start and end time of activity;

iv. Estimated distances between source and seals when disturbance occurs;

v. Weather conditions (*e.g.,* temperature, wind, etc.);

vi. Haul-out reoccupation time of any seals based on post-activity monitoring;

vii. Tide levels and estuary water surface elevation;

viii. Seal census from bi-monthly and nearby haul-out monitoring; and

ix. Specific conclusions that may be drawn from the data in relation to the four questions of interest in SCWA's Pinniped Monitoring Plan, if possible.

(b) Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, SCWA shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

C. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

D. Description of all marine mammal observations in the 24 hours preceding the incident;

E. Species identification or description of the animal(s) involved;

F. Fate of the animal(s); and

G. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with SCWA to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SCWA may not resume their activities until notified by NMFS.

i. In the event that SCWA discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), SCWA shall immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with SCWA to determine whether additional mitigation measures or modifications to the activities are appropriate.

ii. In the event that SCWA discovers an injured or dead marine mammal, and

the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SCWA shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. SCWA shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

iii. Pursuant to sections 6(b)(ii–iii), SCWA may use discretion in determining what injuries (*i.e.,* nature and severity) are appropriate for reporting. At minimum, SCWA must report those injuries considered to be serious (*i.e.,* will likely result in death) or that are likely caused by human interaction (*e.g.,* entanglement, gunshot). Also pursuant to sections 6(b)(ii–iii), SCWA may use discretion in determining the appropriate vantage point for obtaining photographs of injured/dead marine mammals.

7. Validity of this Authorization is contingent upon compliance with all applicable statutes and permits, including NMFS' 2008 Biological Opinion for water management in the Russian River watershed. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if the authorized taking is having a more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analysis, the draft authorization, and any other aspect of this Notice of Proposed IHA for SCWA's estuary management activities. Please include with your comments any supporting data or literature citations to help inform our final decision on SCWA's request for an MMPA authorization.

Dated: March 13, 2015.

Perry Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–06236 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–911]

Circular Welded Carbon-Quality Steel Pipe From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the countervailing duty (CVD) order on circular welded carbon-quality steel pipe (CWP) from the People's Republic of China (PRC) for the period January 1, 2013, through December 31, 2013.

DATES: *Effective Date:* March 18, 2015.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1785.

Background

On August 29, 2014, the Department initiated an administrative review of the CVD order on CWP from the PRC with respect to Baoshan Iron & Steel Co., Ltd., Beijing Jia Mei AO Trade Co., Ltd., Beijing Jinghua Global Trading Co., Benxi Northern Steel Pipes, Co. Ltd., CNOOC Kingland Pipeline Co., Ltd., ETCO (China) International Trading Co., Ltd., Guangzhou Juyi Steel Pipe Co., Ltd., Huludao City Steel Pipe Industrial, Jiangsu Changbao Steel Tube Co., Ltd., Jiangsu Yulong Steel Pipe Co., Ltd., Liaoning Northern Steel Pipe Co., Ltd., Pangang Chengdu Group Iron & Steel Co., Ltd., Shanghai Zhongyou TIPO Steel Pipe Co., Ltd., Tianjin Haoyou Industry Trade Co., Tianjin Longshenghua Import & Export, Tianjin Shuangjie Steel Pipe Co., Ltd., Weifang East Steel Pipe Co., Ltd., WISCO & CRM Wuhan Materials & Trade., and Zhejiang Kingland Pipeline Industry Co., Ltd., covering the period January 1, 2013, through December 31, 2013, based on a request by Wheatland Tube Company (hereinafter, the petitioner).[1] On November 21, 2014, the petitioner timely withdrew its request for an administrative review of the above-listed companies.[2] No other party requested a review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, the petitioner withdrew its request within the 90-day deadline, and no other party requested an administrative review of the CVD order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the administrative review of CWP from the PRC covering the period January 1, 2013, through December 31, 2013, in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess CVDs on all entries of CWP from the PRC made during the period of review at rates equal to the cash deposit of estimated CVDs required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notifications

This notice serves as a final 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(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: March 11, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–06237 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 51548 (August 29, 2014); *see also* Letter from petitioner, Re: ''Circular Welded Carbon Quality Steel Pipe From The People's Republic of China: Request For Administrative Review'' (July 31, 2014).

[2] *See* Letter from petitioner, Re: ''Circular Welded Carbon Quality Steel Pipe From The People's Republic of China: Withdrawal of Request For Administrative Review'' (November 21, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

United States Manufacturing Council: Meeting of the United States Manufacturing Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Manufacturing Council (Council) will hold the first meeting of the current members' term on Wednesday, April 1, 2015. The Council was established in April 2004 to advise the Secretary of Commerce on matters relating to the manufacturing industry.

The purpose of the meeting is to brief Council members on current manufacturing initiatives throughout the Federal government. The Council will receive briefings from various leaders across the Department who are actively engaged in different aspects of manufacturing policy. The Council will also receive briefings from senior officials of related government agencies such as the Department of Labor. The Secretary of Commerce has been invited to welcome the Council and provided introductory remarks. Following the briefings, the Council members will be asked to discuss their views on major priorities facing the manufacturing industry and issues that they propose for the Council to advise on during their appointment term. The agenda may change to accommodate Council business. The final agenda will be posted on the Department of Commerce Web site for the Council at *http://trade.gov/manufacturingcouncil,* at least one week in advance of the meeting.

DATES: Wednesday, April 1, 2015, 8:30 a.m.–11:30 a.m. The deadline for members of the public to register, including requests to make comments during the meetings and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5 p.m. EDT on March 23, 2015.

ADDRESSES: U.S. Manufacturing Council, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, *mc@trade.gov*. Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Niara Phillips, the United States Manufacturing Council, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *niara.phillips@trade.gov*.

SUPPLEMENTARY INFORMATION:

Background: The Council advises the Secretary of Commerce on matters relating to the U.S. manufacturing industry.

Public Participation: The meeting will be open to the public and will be physically accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. The meeting room will be provided upon registration. Seating is limited and will be on a first come, first served basis. Requests for sign language interpretation or other auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration along with a brief statement of the general nature of the comments, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to bring at least 25 copies of their oral comments for distribution to the members of the Manufacturing Council and to the public at the meeting.

In addition, any member of the public may submit pertinent written comments concerning the Council's affairs at any time before or after the meeting. Comments may be submitted to Niara Phillips at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on March 23, 2015, to ensure transmission to the Council prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting. Copies of Council meeting minutes will be available within 90 days of the meeting.

Dated: March 11, 2015.

Niara Phillips,

Executive Secretary, United States Manufacturing Council.

[FR Doc. 2015–06111 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 14–00004]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review to DFA of California, Application no. 14–00004.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (''OTEA'') of the International Trade Administration, Department of Commerce, issued an Export Trade Certificate of Review to DFA of California on March 2, 2015.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Members (within the meaning of 15 CFR 325.2(1))

1. Alpine Pacific Nut Company (Hughson, CA)
2. Andersen & Sons Shelling (Vina, CA)
3. Avanti Nut Company, Inc. (Stockton, CA)
4. Berberian Nut Company, LLC (Chico, CA)
5. Carriere Family Farms, Inc. (Glenn, CA)
6. Continente Nut LLC (Oakley, CA)
7. Crain Walnut Shelling, Inc. (Los Molinos, CA)
8. Crisp California Walnuts (Stratford, CA)
9. Diamond Foods, Inc. (Stockton, CA)
10. Empire Nut Company (Colusa, CA)
11. Gold River Orchards, Inc. (Escalon, CA)
12. Grower Direct Nut Company (Hughson, CA)
13. GSF Nut Company (Orosi, CA)
14. Guerra Nut Shelling Company (Hollister, CA)

15. Hill View Packing Company Inc. (Gustine, CA)
16. Linden Nut Company (Linden, CA)
17. Mariani Nut Company (Winters, CA)
18. Mariani Packing Company, Inc. (Vacaville, CA)
19. Mid Valley Nut Company Inc. (Hughson, CA)
20. National Raisin Company (Fowler, CA)
21. Poindexter Nut Company (Selma, CA)
22. Prima Noce Packing (Linden, CA)
23. Sacramento Packing, Inc. (Yuba City, CA)
24. Sacramento Valley Walnut Growers, Inc. (Yuba City, CA)
25. San Joaquin Figs, Inc. (Fresno, CA)
26. Shoei Foods USA, Inc. (Olivehurst, CA)
27. Stapleton-Spence Packing (Gridley, CA)
28. Sunsweet Growers Inc. (Yuba City, CA)
29. T.M. Duche Nut Company, Inc. (Orland, CA)
30. Wilbur Packing Company, Inc. (Live Oak, CA)
31. Valley Fig Growers (Fresno, CA)

Description of Certified Conduct

DFA of California (''DFA'') is certified to engage in the Export Trade Activities and Methods of Operation described below in the following Export Trade and Export Markets.

Export Trade

Products: California Figs, Prunes, and Walnuts in processed and unprocessed form.

Export Trade Facilitation Services (as They Relate to the Export of Products): All export trade-related facilitation services, including but not limited to: development of trade strategy; sales, marketing, and distribution; foreign market development; export promotion; and services related to trade documentation, foreign exchange, customs, duties, taxes, inspection, and quality control.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operations

For purposes of the Certificate of Review, ''members'' and ''membership'' refer to members of and membership in DFA of California; and ''Members'' and ''Membership'' refer to Members under the Certificate within the meaning of 15 CFR 325.2(1).

1. To engage in Export Trade in the Export Markets, DFA and Members may, subject to the Terms and Conditions below, exchange and discuss the following information:

a. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, transmodal or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties and taxes;

b. Information about U.S. and foreign legislation and regulations, including federal marketing order programs, affecting sales of Products for the Export Markets;

c. Information about DFA's or its Members' export operations, including without limitation, sales and distribution networks established by DFA or its Members in the Export Markets;

d. Information about the credit terms extended to, and credit history of, export customers.

2. To engage in Export Trade in the Export Markets, DFA and its Members may, subject to the Terms and Conditions below, and further subject to the condition that the information is either (1) publicly available, or (2) if not publicly available, then compiled and distributed only in aggregate and summary form, by a person who is not employed by, nor affiliated with, a Processor or Packer, and in a manner that does not disclose either directly or by inference information about a transaction of any specific Member, exchange and discuss the following information:

a. With respect to the Export Markets, information about sales and marketing efforts, activities and opportunities for sales of Products, selling strategies, sales contracts, pricing, projected demand, customary terms of sale, and specifications for Products by customers in the Export Markets;

b. With respect to Products available from Members for export, information about price, quality, and quantity; and

c. Information about prior export sales by Members, including export prices.

3. DFA and its Members may meet to engage in the activities described in paragraphs 1 and 2 above.

4. DFA and its Members may prescribe the following conditions for admission and termination of members of DFA as participants in the Export Trade Activities and Methods of Operation and as Members of the Certificate (within the meaning of 15 CFR 325.2(1)) (''Membership''):

a. DFA may limit Membership to Fig, Prune, or Walnut Processors or Packers as defined under ''Definitions.''

b. DFA may terminate Membership on the occurrence of one or more of the following events:

i. Withdrawal or resignation of a Member;

ii. Expulsion approved by a majority of all Members for a material violation of DFA's by-laws, after prior written notice to the Member proposed to be expelled and an opportunity of such Member to appear and be heard before a meeting of the Members;

iii. Death or permanent disability of a Member who is an individual or the dissolution of a Member other than an individual; or

iv. The bankruptcy of a Member, as provided in DFA's by-laws.

5. DFA and its Members may establish the following Minimum Qualifications for Members to participate in the DFA's Export Committees for Figs, Natural Condition Prunes, Prune Processors and Walnuts. There are no additional requirements for participation in the Fig and Walnut Export Committees.

a. A participant in any of the Export Committees must be:

i. A DFA Member;

ii. Owner of a commercially viable processing facility;

iii. In good standing with DFA credit terms (Payment net 30); and

iv. With personal and business conduct consistent with the highest industry standards as necessary to protect the integrity of the committee.

b. Fig Export Committee: A participant must meet the Minimum Qualifications.

c. Natural Condition Prune Export Committee: In addition to meeting the Minimum Qualifications, participation in this export committee requires that the Member be a packer of natural condition prunes for export.

d. Prune Processor Export Committee:

i. In addition to meeting the Minimum Qualifications, participation in this export committee requires that the Member be a processor of processed prunes for export;

ii. Participation also requires that the Member has the capability to thermally process and pack fruit into a consumer-ready product to a minimum 25% moisture level suitable for end user consumption.

e. Walnut Export Committee: A participant must meet the Minimum Qualifications.

6. Export Committees can elect to have guest speakers (such as

economists, university professors, or researchers) present relevant industry information during the meetings.

Definition

1. ''Processor or Packer'' means a person or entity that processes or packs figs, prunes or walnuts grown in California.

2. ''Member'' means the Members of DFA listed in Attachment A and any other members of DFA added as Members under the Certificate through amendment of the Certificate.

3. ''Natural Condition Prunes'' means prunes (with pits) in the condition in which they are normally delivered from a dry yard or dehydrator and may include:

a. Prunes which have been washed but which retain natural condition;

b. Prunes which will permit normal bulk storage without adding a preservative;

c. Prunes which will permit normal bulk storage without adding a preservative;

d. Prunes which have been size graded;

e. Prunes which may have been processed and re-dried to acceptable natural condition moisture content; and

f. Prunes in which the average moisture content of a lot is 21% or less.

4. ''Processed Prunes'' means prunes which have been thermally processed *(e.g.,* treated with hot water or steam) in the course of their preparation for packaging to the extent that their condition no longer meets the definition of ''natural condition.''

Terms and Conditions of the Certificate

1. Neither DFA nor any Member shall intentionally disclose, directly or indirectly, to DFA or to any other Member any information about its own or any other Member's costs, output, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, U.S. business plans, strategies, or methods that is (1) not already generally available to the trade or public; or (2) made in connection with the administration of a United States Department of Agriculture marketing order for any Product.

2. Meetings at which DFA Members discuss the information under paragraphs 1 of the Export Trade Activities and Methods of Operations above shall not be open to the public.

3. Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member. A Member may withdraw from Membership under this Certificate at any time by giving a written notice to DFA, a copy of which DFA shall promptly transmit to the Secretary of Commerce and the Attorney General.

4. DFA and its Members will comply with requests made by the Secretary of Commerce, on behalf of the Secretary or the Attorney General, for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Dated: March 12, 2015.

Anne Flatness,

Acting Director, Office of Trade and Economic Analysis, International Trade Administration.

[FR Doc. 2015–06248 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD831

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Scientific and Statistical Committee (SSC) subcommittee to review and discuss the revisions of false killer whale stock boundaries and bycatch proration method for incidental take in the Hawaii longline fishery.

DATES: The SSC subcommittee meeting will be held on March 31, 2015 at 1 p.m.

ADDRESSES: The SSC subcommittee meeting will be held at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment opportunity will be provided. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the SSC Subcommittee Meeting

1. Welcome and Introductions
2. Approval of the Agenda
3. False Killer Whale Stock Boundary and Bycatch Proration
   A. Revised Stock Boundaries for False Killer Whales in Hawaiian Waters
   B. Revised Bycatch Proration
   C. Discussions
4. Public Comment
5. Discussion and Recommendations

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: March 13, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–06200 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–15–2015]

Foreign-Trade Zone (FTZ) 44—Mount Olive, New Jersey; Notification of Proposed Production Activity, Givaudan Fragrances Corporation, (Fragrance Compounds), Mount Olive, New Jersey

Givaudan Fragrances Corporation (Givaudan), an operator of FTZ 44, submitted a notification of proposed production activity to the FTZ Board for its facility located in Mount Olive, New Jersey. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 4, 2015.

Givaudan already has authority to produce fragrance compounds within Site 1 of FTZ 44. The current request would add foreign-status materials to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Givaudan from customs duty payments on the foreign status materials used in export production. On

its domestic sales, Givaudan would be able to choose the duty rate during customs entry procedures that applies to fragrance compounds (free) for the foreign status materials noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: lactic acid salts and esters; tartaric acid salts and esters; and, acridine and indole (duty rate ranges from free to 4.4%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is April 27, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* (202) 482–1346.

Dated: March 12, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–06271 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

President's Advisory Council on Doing Business in Africa: Meeting of the President's Advisory Council on Doing Business in Africa

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Open Meeting.

SUMMARY: The President's Advisory Council on Doing Business in Africa (Council) will hold a meeting to deliberate on recommendations related to strengthening commercial engagement between the United States and Africa. Topics may include: mobilizing capital, risk mitigation, trade facilitation, cold chain development, renewal of the African Growth and Opportunity Act (AGOA), infrastructure development, and developing and marketing export resources for U.S. small- and medium-sized businesses. The final agenda will be posted at least one week in advance of the meeting on the Council's Web site at *http://trade.gov/pac-dbia*.

DATES: April 8, 2015 at 9:30 a.m. (ET)

ADDRESSES: The President's Advisory Council on Doing Business in Africa meeting will be broadcast via live webcast on the Internet at *http://whitehouse.gov/live*.

FOR FURTHER INFORMATION CONTACT: Tricia Van Orden, Executive Secretary, President's Advisory Council on Doing Business in Africa, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–5876, email: *dbia@trade.gov*.

SUPPLEMENTARY INFORMATION:

Background: President Barack Obama directed the Secretary of Commerce to establish the President's Advisory Council on Doing Business in Africa by Executive Order No. 13675 dated August 5, 2014. The Council was established by Charter on November 3, 2014, to advise the President, through the Secretary of Commerce, on strengthening commercial engagement between the United States and Africa, with a focus on advancing the President's Doing Business in Africa Campaign as described in the U.S. Strategy Toward Sub-Saharan Africa of June 14, 2012. This Council is established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

Public Submissions: The public is invited to submit written statements to the President's Advisory Council on Doing Business in Africa. Statements must be received by COB April 3, 2015, by either of the following methods:

a. Electronic Submissions

Submit statements electronically to Tricia Van Orden, Executive Secretary, President's Advisory Council on Doing Business in Africa, via email: *dbia@trade.gov*.

b. Paper Submissions

Send paper statements to Tricia Van Orden, Executive Secretary, President's Advisory Council on Doing Business in Africa, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230.

Statements will be provided to the members in advance of the meeting for consideration and also will be posted on the President's Advisory Council on Doing Business in Africa Web site (*http://trade.gov/pac-dbia*) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make publicly available.

Meeting minutes: Copies of the Council's meeting minutes will be available within ninety (90) days of the meeting on the Council's Web site at *http://trade.gov/pac-dbia*.

Dated: March 10, 2015.

Tricia Van Orden,

Executive Secretary, President's Advisory Council on Doing Business in Africa.

[FR Doc. 2015–06173 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Requirements for Approved Construction Investments

AGENCY: Economic Development Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 18, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Philip Saputo, Program Analyst, U.S. Department of Commerce, Economic Development Administration Performance and National Programs Division, 1401 Constitution Avenue NW., Suite 71030, Washington, DC 20230, Phone: 202–400–0662, Email: *PSaputo@eda.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of the Economic Development Administration (EDA) is to lead the Federal economic agenda by promoting innovation and competitiveness, preparing American

regions for growth and success in the worldwide economy. In order to effectively administer and monitor its economic development assistance programs, EDA collects certain information from applications for, and recipients of, EDA investment assistance.

The *Summary of EDA Construction Standards* (commonly referred to as the ''bluebook'') and the *Standard Terms and Conditions for Construction Projects,* as well as any special conditions incorporated into the terms and conditions at the time of award, supplement the requirements that apply to EDA-funded construction projects. The information collected is used to monitor recipients' compliance with EDA's statutory and regulatory requirements and specific terms and conditions relating to individual awards. EDA also uses the information requested to analyze and evaluate program performance.

II. Method of Collection

Paper and electronic submissions.

III. Data

OMB Control Number: 0610–0096.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Current recipients of EDA construction (Public Works or Economic Adjustment) assistance, to include (1) cities or other political subdivisions of a state, including a special purpose unit of state or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (2) states; (3) institutions of higher education or a consortium of institutions of higher education; (4) public or private non-profit organizations or associations; (5) District Organizations; and (6) Indian Tribes or a consortia of Indian Tribes.

Estimated Number of Annual Responses: 4,200.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 8,400.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 13, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–06192 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Property Management

AGENCY: Economic Development Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 18, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Philip Saputo, Program Analyst, U.S. Department of Commerce, Economic Development Administration Performance and National Programs Division, 1401 Constitution Avenue NW., Suite 71030, Washington, DC 20230, Phone: 202–400–0662, Email: *PSaputo@eda.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of the Economic Development Administration (EDA) is to lead the Federal economic agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. In order to effectively administer and monitor its economic development assistance programs, EDA collects certain information from applications for, and recipients of, EDA investment assistance.

A recipient must request in writing EDA's approval to undertake an incidental use of property acquired or improved with EDA's investment assistance (*see* 13 CFR 314.3 of EDA's regulations). This collection of information allows EDA to determine whether an incidental use of property acquired or improved with EDA investment assistance is appropriate. If a recipient wishes EDA to release its real property or tangible personal property interests before the expiration of the property's estimated useful life, the recipient must submit a written request to EDA and disclose to EDA the intended future use of the real property or the tangible personal property for which the release is requested (*see* 13 CFR 314.10 of EDA's regulations). This collection of information allows EDA to determine whether to release its real property or tangible personal property interests.

II. Method of Collection

Paper and electronic submissions.

III. Data

OMB Control Number: 0610–0103.

Form Number(s): None.

Type of Review: Ad hoc submission (only when a recipient makes a request).

Affected Public: Current recipients of EDA construction (Public Works or Economic Adjustment) assistance, to include (1) cities or other political subdivisions of a state, including a special purpose unit of state or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (2) states; (3) institutions of higher education or a consortium of institutions of higher education; (4) public or private non-profit organizations or associations; (5) District Organizations; and (6) Indian Tribes or a consortia of Indian Tribes.

Estimated Number of Annual Responses: 150 (54 incidental use requests; 96 for requests to release EDA's Property interest).

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 413.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 13, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–06193 Filed 3–17–15; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Model Demonstration Projects To Improve Adolescent Literacy for Students with Disabilities in Middle and High Schools, Grades 6–12

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information: Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—Model Demonstration Projects to Improve Adolescent Literacy for Students with Disabilities in Middle and High Schools, Grades 6–12.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326M.

DATES: *Applications Available:* March 18, 2015.

Deadline for Transmittal of Applications: May 4, 2015.

Deadline for Intergovernmental Review: July 1, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute or otherwise authorized in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1463, 1481(d).

Absolute Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—Model Demonstration Projects to Improve Adolescent Literacy for Students with Disabilities in Middle and High Schools, Grades 6–12.

Background: The purpose of this priority is to fund three cooperative agreements to establish and operate model demonstration projects that are designed to improve adolescent literacy for students with disabilities in middle and high school grades 6 through 12, who score below grade level in reading, or who have identified reading goals and objectives on their individualized education program. Results from the National Assessment of Educational Progress (NAEP) demonstrate that there is a persistent gap in reading achievement between students with disabilities and those without disabilities. In 2013, the average scaled scores of eighth graders with disabilities, excluding those with a 504 plan, were 42 points lower than their non-disabled peers. Sixty-five percent of eighth graders with disabilities scored below basic level on the reading assessment compared with 19 percent of eighth graders without disabilities (U.S. Department of Education, 2014).

Adolescents must possess the ability to read for understanding across a wide variety of content in order to meet college- and career-ready standards. Elements of literacy at the middle and secondary level include the ability to recognize and decode words and how students engage in reading as well as writing and oral communication skills.

To improve adolescent literacy, as defined for the purpose of this priority, models should be designed to implement evidence-based adolescent literacy interventions that are based on strong theory or evidence of promise for improving reading, and locating, understanding, interpreting, evaluating, and using written information across multiple content areas. Intensive reading intervention to improve adolescent literacy should also include a mix of effective instruction, modeling, professional development, and evidence-based teaching practices that are appropriate for classroom and small group settings. Evidence also suggests the implementation of reading interventions requires well trained professionals who are prepared to incorporate these interventions within instruction across subjects in middle and high school grades (Faggella-Luby, Ware, & Capozzoli, 2009). Therefore, adolescent literacy models should also include professional development as a component of the model. In addition, such models need to be replicable across content areas in classrooms and small group settings in multiple school sites, with a goal of scaling-up the intervention for wider use.

Priority: The purpose of this priority is to fund three cooperative agreements to establish and operate model demonstration projects that are designed to improve the literacy of adolescents with disabilities in middle and high school grades. For purposes of this priority, the target population includes: Students with disabilities in grades 6 through 12 who score below grade level in reading, or who have identified reading goals and objectives on their individualized education program. For purposes of this priority, the term ''adolescent literacy'' refers to the skills needed by individuals with disabilities in middle or high school grades to locate, read, understand, interpret, evaluate, and use written information across multiple content areas.

(a) Model demonstration projects funded under this priority must direct their efforts at improving adolescent literacy interventions in content areas using effective whole-class and small group instructional approaches for students with disabilities;

(b) Models must also include—

(1) A professional development component to teach educators how to implement the interventions with fidelity across a variety of content areas.

(2) Strategies for replicating interventions used by educators so they are effective when brought to scale across multiple classrooms within the participating local educational agency (LEA).

(c) Each model must include a plan to implement at least one evidence-based adolescent literacy intervention that applies strong theory or evidence of promise. In addition, these models must be implemented at multiple school sites and include professional development for all content area teachers at all middle and high school grades targeted to receive the intervention.

To be considered for funding under this absolute priority, applicants must meet the application requirements contained in this priority. Each project funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Application Requirements. An applicant must include in its application—

(a) A detailed review of the research evidence that supports the effectiveness of the proposed model, its components, and processes to improve outcomes for adolescents with disabilities in middle and high school grades;

(b) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed model demonstration project. The logic model must describe how LEAs and participating schools involved in the project would contribute to the activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project;

Note: While section 77.1(c) of EDGAR contains a definition for ''logic model,'' OSEP, based upon its experience in this area, has been using the above definition as standard language for the OSEP TA&D priorities. OSEP's definition establishes a difference between logic models and conceptual frameworks whereas 34 CFR 77.1(c) considers the model to be one and the same. The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.tadnet.org/pages/589.*

(c) A description of the activities of the proposed model demonstration project to improve literacy for adolescents with disabilities in subject areas taught in middle and high schools. The description must include:

(1) Intervention components, including:

(i) Evidence-based literacy instruction and interventions that are provided to the adolescents with disabilities, and are replicable across a variety of content areas by each participating school within a participating LEA;

(ii) An explanation of the culturally responsive principles [1] to be incorporated within the interventions;

(iii) An explanation of the professional development materials and activities that would be provided to school and LEA personnel to ensure that they implement the evidence-based intervention with fidelity; and

(iv) A data plan that outlines the process for collecting, assessing, and analyzing [2] data for participating adolescents with disabilities. The data plan should include a description of how these data will be used to improve the instructional interventions.

(2) Components that will be implemented in each participating school and LEA and that—

(i) Identify the methods and criteria that will be used to select [3] and recruit [4] at least three middle or high schools and describe the schools and LEAs that will participate in the project, including their populations and whether the LEAs or the schools that are participating are high-poverty, high-need,[5] rural,[6] urban, or suburban; and

Note: Applicants are encouraged to identify, to the extent possible, LEAs and schools willing to participate in the applicant's model demonstration. Final site selection will be determined in consultation with the OSEP project officer following the kick-off meeting described in paragraph (d)(1) of these application requirements.

(ii) Provide initial and ongoing professional development, including coaching, for educators involved in implementing the models; and

(3) Evaluation components, including:—

(i) How the applicant will measure the extent to which project activities maintain fidelity to the proposed model;

(ii) How the applicant will measure the social validity of the model—in other words, measuring the satisfaction of stakeholders' (*i.e.,* educators', parents', and students') with the model components, processes, and outcomes;

(iii) A formative evaluation plan, consistent with the project's logic model and the data-collection plan that will include, as appropriate, periodic collection of student performance and achievement data, as well as the data collection systems that will be used to measure the fidelity of the implementation activities to the proposed model, stakeholder satisfaction, and descriptions of the settings where the intervention will take place. The plan must outline how these data will be reviewed by project staff, when they will be reviewed, and how they will be used during the course of the project to adjust the model or its implementation to increase the model's usefulness, generalizability, and potential for sustainability; and

(iv) The timeline and plan to collect summative evaluation data on the

[1] Culturally responsive principles promote redesigning the learning environments to support the development and success of all students. Some examples of incorporating culturally responsive principles into learning environments include communicating high expectations to all students, incorporating students' cultural and home experiences into lessons by reshaping the curriculum to reflect students' experiences, and engaging students in activities where they can converse with one another on topics that tap into their background knowledge and experiences (Gay, 2000; King, Artiles, & Kozleski, 2009).

[2] Applicants must ensure the confidentiality of individual data, consistent with the requirements of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the ''Family Educational Rights and Privacy Act'' (FERPA), and State laws or regulations concerning the confidentiality of individual records. Final FERPA regulatory changes became effective January 3, 2012, and include requirements for data sharing. Applicants are encouraged to review the final FERPA regulations published on December 2, 2011 (76 FR 75604). Questions can be sent to the Family Policy Compliance Office (*www.ed.gov/fpco*) at (202) 260–3887 or *FERPA@ed.gov.*

[3] For factors to consider when selecting model demonstration sites, the applicant should refer to *Assessing Sites for Model Demonstration: Lessons Learned for OSEP Grantees* at *http://mdcc.sri.com/documents/reports/MDCC_Site_Assessment_Brief_09–30–11.pdf.* The document also contains a site assessment tool.

[4] The applicant must describe who is going to be contacted within the district(s) and how ''buy-in'' from these and other leaders will be solicited.

[5] Section 2102(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) defines a ''high-need LEA'' as an LEA—(A)(i) That serves not fewer than 10,000 children from families with incomes below the poverty line (as that term is defined in section 9101(33) of the ESEA); or (ii) for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line; and (B)(i) for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or (ii) for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

[6] For purposes of this priority, ''rural LEA'' means an LEA that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA. Applicants may determine whether a particular LEA is eligible for these programs by referring to the information on the following Department Web sites. For SRSA: *http://www2.ed.gov/programs/reapsrsa/index.html.* For RLIS: *http://www2.ed.gov/programs/reaprlisp/eligibility.html.*

reading achievement of adolescents with disabilities and their nondisabled peers; and

(d) A budget for attendance at the following:

(1) A one and one half-day kick-off meeting to be held in Washington, DC, after receipt of the award.

(2) The three-day Project Directors' Conference in Washington, DC, during each year of the project period; and

(3) Six travel days spread across years 2–4 of the project period to attend planning meetings, Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP, to be held in Washington, DC, with the OSEP project officer.

Other Project Activities. To meet the requirements of this priority, each project, at a minimum, must:

(a) Document the process for model replication purposes, should the model be successful;

(b) Communicate and collaborate on an ongoing basis with other Department-funded literacy projects to share information on successful strategies and implementation challenges regarding adolescent literacy instruction and achievement;

(c) Maintain ongoing telephone and email communication with the OSEP project officer and the other model demonstration projects funded under this priority; and

(d) If the project maintains a Web site, include relevant information about the model, the intervention, and the demonstration activities that meets government- or industry-recognized standards for accessibility.

References:

Faggella-Luby, M. N., Ware, S. M., & Capozzoli, A. (2009). Adolescent literacy—Reviewing adolescent literacy reports: Key components and critical questions. *Journal of Literacy Research, 41,* 453–475.

Gay, G. (2000). *Culturally responsive teaching: Theory, research, and practice.* New York: Teachers College Press.

King, K. A., Artiles, A. J., & Kozleski, E. B. (2009). *Professional learning for culturally responsive teaching.* Retrieved from *www.equityallianceatasu.org/sites/default/files/Web site_files/exemplarFINAL.pdf.*

U.S. Department of Education, Institute of Education Sciences. (2014). National Center for Education Statistics, National Assessment of Educational Progress (NAEP), The Nation's Report Card. Washington, DC: Author. Retrieved from *http://nationsreportcard.gov.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. However, section 681(d) of the IDEA makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Applicable Regulations:

The following regulations apply: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations as adopted in 2 CFR part 3485 and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as adopted as regulations of the Department in 2 CFR part 3474.[7]

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply only to institutions of higher education (IHEs).

II. Award Information

Type of Award: Cooperative agreements.

Estimated Available Funds: $1,200,000.

Contingent on the availability of funds and the quality of applications, we may make additional awards in FY 2016 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $375,000 to $400,000.

Estimated Average Size of Award: $400,000.

Maximum Award: We will reject and not review any application that proposes a budget exceeding $400,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

Eligible Applicants: State educational agencies (SEAs); LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Other: General Requirements:*

(a) The projects funded under this competition must make positive efforts to employ, and advance in employment, qualified individuals with disabilities (see section 606 of the IDEA).

(b) Each applicant and grantee under this competition must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of the IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326M.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all

[7] If a for-profit (commercial) organization is awarded a grant, it will be required to comply with the Uniform Guidance in 2 CFR part 200, as adopted as regulations of the Department at 2 CFR part 3474.

text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

We will reject your application if you exceed the page limit in the application narrative section; or if you apply standards other than those specified in the application package.

Submission of Proprietary Information:

Given the types of projects that may be proposed in applications for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—Model Demonstration Projects to Improve Adolescent Literacy for Students with Disabilities in Middle and High Schools, Grades 6–12, your application may include business information that you consider proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Under the Department's transparency policies, we make successful applicants' abstracts available to the public.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: March 18, 2015.

Deadline for Transmittal of Applications: May 4, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 1, 2015.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your Unique Entity Identifier (UEI) number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your UEI number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

Currently, SAM relies on the identifier provided by Dun and Bradstreet (DUNS number) for the UEI. You can create a DUNS number within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process may take seven or more business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov. If you are currently registered with the SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days to complete. Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Model Demonstration Projects on the Improvement of Adolescent Literacy for Students with Disabilities in Middle and High Schools in Grades 6–12 competition, CFDA number 84.326M, must be submitted electronically using the Government-wide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written

statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Model Demonstration Projects to Improve Adolescent Literacy for Students with Disabilities in Middle and High Schools, Grades 6–12 competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.326, not 84.326M).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Greg Knollman, U.S. Department of Education, 400 Maryland

Avenue SW., Room 4096, Potomac Center Plaza (PCP), Washington, DC 20202–2600. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326M), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326M), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are provided in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:*

In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers, by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure

information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

Grantees will be required to report information on their project's performance in annual reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Greg Knollman, U.S. Department of Education, 400 Maryland Avenue SW., Room 4096, PCP, Washington, DC 20202–2600. Telephone: (202) 245–6425.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 12, 2015.

Sue Swenson,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2015–06273 Filed 3–17–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1176–000]

South Jersey Energy ISO6, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of South Jersey Energy ISO6, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 30, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: March 10, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06132 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–158–001.

Applicants: Southwest Power Pool, Inc.

Description: eTariff filing per 35.19a(b): 1765R11 KCPL–GMO Refund Report to be effective N/A under ER15–158.
Filed Date: 3/12/15.
Accession Number: 20150312–5059.
Comments Due: 5 p.m. ET 4/2/15.

Docket Numbers: ER15–164–001.
Applicants: Southwest Power Pool, Inc.
Description: eTariff filing per 35.19a(b): 1636R13 Kansas Electric Power Cooperative, Inc. Refund Report to be effective N/A.
Filed Date: 3/12/15.
Accession Number: 20150312–5065.
Comments Due: 5 p.m. ET 4/2/15.

Docket Numbers: ER15–350–001.
Applicants: Southwest Power Pool, Inc.
Description: eTariff filing per 35.19a(b): 1883R3 Westar (City of Alma) Refund Report to be effective N/A.
Filed Date: 3/12/15.
Accession Number: 20150312–5066.
Comments Due: 5 p.m. ET 4/2/15.

Docket Numbers: ER15–820–001.
Applicants: Zone One Energy, LLC.
Description: Tariff Amendment per 35.17(b): Baseline New to be effective 4/15/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5010.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–883–001.
Applicants: Southern California Edison Company.
Description: Tariff Amendment per 35.17(b): Amendment to GIA and Distrib Serv Agmt San Gorgonio Weswinds II, Difwind Farms to be effective 1/20/2015.
Filed Date: 3/12/15.
Accession Number: 20150312–5083.
Comments Due: 5 p.m. ET 4/2/15.

Docket Numbers: ER15–900–001.
Applicants: Marshfield Utilities.
Description: Tariff Amendment per 35.17(b): Amendment to 1 to be effective 4/1/2015.
Filed Date: 3/12/15.
Accession Number: 20150312–5110.
Comments Due: 5 p.m. ET 4/2/15.

Docket Numbers: ER15–1219–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement Nos. 190, 192, 194, 195 Revisions—ANPP to be effective 3/11/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5179.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1222–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Unexecuted GIA and Distribution Service Agreement with Edom Hills Project 1, LLC to be effective 3/15/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5216.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1223–000.
Applicants: Power Contract Financing II, Inc.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation to be effective 3/12/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5258.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1224–000.
Applicants: New York State Electric & Gas Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Concurrence in Amended and Restated LGIA among NYISO, NYSEG and Sheldon Energy to be effective 2/18/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5284.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1225–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Updates to Section 2.2.2 of Attachment C to be effective 5/10/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5287.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1226–000.
Applicants: CenterPoint Energy Houston Electric, LLC.
Description: § 205(d) rate filing per 35.13(a)(1): TFO Tariff Interim Rate Revision to Conform with PUCT-Approved ERCOT Rate to be effective 2/25/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5289.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1227–000.
Applicants: California Clean Power Corp.
Description: Initial rate filing per 35.12 California Clean Power Corp. Market-Based Rate Tariff to be effective 4/20/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5290.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1228–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 1670R2 Transmission Interchange Agreement to be effective 2/23/2015.
Filed Date: 3/12/15.
Accession Number: 20150312–5058.
Comments Due: 5 p.m. ET 4/2/15.

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: March 12, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06165 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–794–002.
Applicants: Catalyst Paper Operations Inc..
Description: Tariff Amendment per 35.17(b): Revised Amended MBR Tariff Application to be effective 12/31/9998.
Filed Date: 3/10/15.
Accession Number: 20150310–5153.
Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–820–001.
Applicants: Zone One Energy, LLC.
Description: Tariff Amendment per 35.17(b): Baseline New to be effective 4/15/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5010.
Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1212–001.
Applicants: Southwest Power Pool, Inc..
Description: Tariff Amendment per 35.17(b): 1876R4 Kansas Electric Power Cooperative, Inc. NITSA NOA Ministerial Filing to be effective 3/1/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5171.
Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–1215–000.

Applicants: Avista Corporation.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Avista Corp Rate Schedule FERC No. 548 to be effective 12/31/9998.

Filed Date: 3/10/15.

Accession Number: 20150310–5175.

Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–1216–000.

Applicants: PacifiCorp.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): OATT Revised Definitions and Attachment T (Demand Response) to be effective 3/11/2015.

Filed Date: 3/10/15.

Accession Number: 20150310–5190.

Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–1217–000.

Applicants: Southern California Edison Company.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): GIA and Distribution Service Agmt with Cal Sunrise LLC to be effective 5/11/2015.

Filed Date: 3/11/15.

Accession Number: 20150311–5004.

Comments Due: 5 p.m. ET 4/1/15.

Docket Numbers: ER15–1218–000.

Applicants: Solar Star California XIII, LLC.

Description: Initial rate filing per 35.12 Solar Star California XIII, LLC Market-Based Rate Tariff to be effective 4/1/2015.

Filed Date: 3/11/15.

Accession Number: 20150311–5049.

Comments Due: 5 p.m. ET 4/1/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 11, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06134 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–102–000]

Rockies Express Pipeline LLC: Notice of Application

Take notice that on March 2, 2015, Rockies Express Pipeline LLC, (Rockies Express) filed an application with the Federal Energy Regulatory Commission pursuant to section 7(c) of the Natural Gas Act (NGA) requesting a certificate of public convenience and necessity authorizing the operation as section 7(c) jurisdictional facilities certain pipeline assets, located in Noble and Monroe Counties, Ohio, that heretofore have been constructed and operated solely for the purpose of providing transportation services permitted under section 311 of the Natural Gas Policy Act, all as more completely described in the Application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site 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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the application should be directed to David Haag, Vice President, Regulatory, Rockies Express Pipeline LLC, 370 Van Gordon Street, Lakewood, Colorado 80228–8304, phone (303) 763–3258.

Specifically, the facilities for which Rockies Express is requesting NGA section 7(c) authority were the subject of two advance notification filings made by Rockies Express on August 26, 2013 in Docket No. CP13–539–000 (Seneca Lateral Project) and on April 18, 2014 in Docket No. CP14–194–000 (Seneca Compressor Expansion Project). The facilities consist of: (1) Approximately 14.7 miles of 24-inch lateral pipeline extending from an interconnect with MarkWest Energy Partners, L.P. Seneca Processing Plant to Rockies Express' mainline; (2) measurement facilities; and (3) 15,980 horsepower of booster compression. Rockies Express proposes incremental firm and interruptible transportation recourse rates based on the cost of the facilities of $135,950,429.

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.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be

placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on April 2, 2015.

Dated: March 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–06207 Filed 3–17–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1177–000]

South Jersey Energy ISO7, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of South Jersey Energy ISO7, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR 34, of future issuances of securities and assumptions of liability is March 30, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: March 10, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06128 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01—P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1178–000]

South Jersey Energy ISO8, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of South Jersey Energy ISO8, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 30, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: March 10, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06129 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Excess Uranium Management: Effects of DOE Transfers of Excess Uranium on Domestic Uranium Mining, Conversion, and Enrichment Industries; Notice of Issues for Public Comment

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Request for public comment.

SUMMARY: The U.S. Department of Energy (DOE) plans to issue a new Secretarial Determination covering continued transfers of uranium for cleanup services at the Portsmouth Gaseous Diffusion Plant and for down-blending of highly-enriched uranium (HEU) to low-enriched uranium (LEU). In support of this process, DOE issued a Request for Information that solicited information about the effects of continued uranium transfers on the domestic uranium industries and recommendations about factors to be considered in assessing the possible impacts of DOE transfers. DOE also commissioned an economic analysis of the effects of its proposed uranium transfers. DOE now provides for public review the responses received from the public, the economic analysis prepared for DOE, and a list of factors DOE has identified for analysis of the impacts of DOE transfers on the uranium mining, conversion, and enrichment industries. DOE requests comment on this list of factors, the information and documents made available through this notice, and the included summary of information considered.

DATES: DOE will accept comments, data, and information responding to this proposal submitted on or before April 6, 2015.

ADDRESSES: Interested persons may submit comments by any of the following methods.

1. *Email: RFI-UraniumTransfers@hq.doe.gov.* Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

2. *Postal Mail:* Mr. David Henderson, U.S. Department of Energy, Office of Nuclear Energy, Mailstop NE–52, 19901 Germantown Rd., Germantown, MD 20874–1290. If possible, please submit all items on a compact disk (CD), in which case it is not necessary to include printed copies.

3. *Hand Delivery/Courier:* Mr. David Henderson, U.S. Department of Energy, Office of Nuclear Energy, Mailstop NE–52, 19901 Germantown Rd., Germantown, MD 20874–1290. Phone: (301) 903–2590. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No facsimiles (faxes) will be accepted. Supporting documents are available on the Internet at *http://www.energy.gov/ne/downloads/excess-uranium-management.*

FOR FURTHER INFORMATION CONTACT: Mr. David Henderson, U.S. Department of Energy, Office of Nuclear Energy, Mailstop NE–52, 19901 Germantown Rd., Germantown, MD 20874–1290. Phone: (301) 903–2590. Email: *David.Henderson@Nuclear.Energy.Gov.*

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I. Introduction

A. Excess Uranium Inventory

The Department of Energy (DOE) holds inventories of uranium in various forms and quantities—including low-enriched uranium (LEU) and natural uranium—that have been declared as excess and are not dedicated to U.S. national security missions. Within DOE, the Office of Nuclear Energy (NE), the Office of Environmental Management (EM), and the National Nuclear Security Administration (NNSA) coordinate the management of these excess uranium inventories. DOE explained its approach to managing this inventory in a July 2013 Report to Congress, *Excess Uranium Inventory Management Plan* (2013 Plan).

Much of this excess uranium has substantial economic value on the open market. One tool that DOE has used to manage its excess uranium inventory has been to enter into transactions in which DOE exchanges excess uranium for services. This notice involves uranium transfers of this type under two separate programs. Specifically, DOE transfers uranium in exchange for cleanup services at the Portsmouth Gaseous Diffusion Plant and for down-blending of highly-enriched uranium (HEU) to LEU. DOE currently transfers uranium for these two programs at an aggregate rate of approximately 2,705 metric tons of natural uranium equivalent (MTU) per year.[1]

B. Statutory Authority

DOE manages its excess uranium inventory in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.,* ''AEA'') and other applicable law. Specifically, Title I, Chapters 6–7, 14, of the AEA authorize DOE to transfer special nuclear material and source material. LEU and natural uranium are types of special nuclear material and source material, respectively. The USEC Privatization Act (Pub. L. 104–134, 42 U.S.C. 2297h *et seq.*) places certain limitations on DOE's authority to transfer uranium from its excess uranium inventory. Specifically, under section 3112(d)(2)(B) of the USEC Privatization Act (42 U.S.C. 2297h–10(d)(2)(B)), the Secretary must determine that the transfers ''will not have an adverse material impact on the domestic uranium mining, conversion or enrichment industry, taking into account the sales of uranium under the Russian Highly Enriched Uranium Agreement and the Suspension Agreement'' before DOE makes certain transfers of natural or low-enriched uranium under the AEA. Section 306(a) of Division D, Title III of the Consolidated and Further Continuing

[1] With respect to a given amount of LEU, the ''natural uranium equivalent'' is the amount of natural uranium feed that would be required to produce that amount of LEU. The ratio of feed to product is a function of the assay of the feed and the desired assays of the enriched product and the depleted tails (''assay'' refers to the ratio of the fissile isotope U–235 to other isotopes of uranium such as U–234 and U–238). The industry generally refers to the enriched product as ''Enriched Uranium Product'' or EUP and to the tails as ''depleted uranium,'' DU, ''depleted uranium hexafluoride'' or DUF_6.

Appropriations Act, 2015 (Pub. L. 113–235), limits the validity of any determination by the Secretary under Section 3112(d)(2)(B) of the USEC Privatization Act to no more than two calendar years subsequent to the determination.

C. Procedural History

In accordance with the above statutes and other laws, the Secretary has periodically determined whether certain transfers of natural and low-enriched uranium will have an adverse material impact on the domestic uranium industries. DOE issued the most recent Secretarial Determination in May 2014. That determination covered transfers of up to a total of 2,705 MTU per year natural uranium equivalent, broken down as follows: Up to 650 MTU per year of natural uranium equivalent in the form of LEU transferred for downblending, with the balance, but not less than 2,055 MTU per year of natural uranium equivalent for cleanup services at the Paducah or Portsmouth Gaseous Diffusion Plant.[2] At this time, DOE is conducting uranium transfers consistent with the May 2014 Secretarial Determination.

To inform the May 2014 Secretarial Determination—as it had for a number of previous determinations—DOE tasked Energy Resources International, Inc. (ERI) with assessing the potential effects on the domestic uranium mining, conversion, and enrichment industries from DOE's proposed volume of uranium transfers. In addition to its review and consideration of the report prepared by ERI (2014 ERI Report), DOE held in-person meetings and accepted written communications regarding the transfers from several entities that expressed an interest in DOE's proposed uranium transactions. DOE staff then prepared a separate analysis based on these and other inputs and recommended a course of action to the Secretary.

DOE plans to issue a new Secretarial Determination pursuant to section 3112(d). As a preparatory step, DOE sought information from the public through a Request for Information published in the **Federal Register** on December 8, 2014 (79 FR 72661). DOE is now soliciting additional public input.

D. Request for Information

In the December 8, 2014, Request for Information (79 FR 72661), DOE solicited information from interested stakeholders and specifically requested comment on the following seven questions.

(1) What factors should DOE consider in assessing whether transfers will have adverse material impacts?

(2) With respect to transfers from DOE's excess uranium inventory in calendar years 2012, 2013, and 2014, what have been the effects of transfers in uranium markets and the consequences for the domestic uranium mining, conversion, and enrichment industries relative to other market factors?

(3) What market effects and industry consequences could DOE expect from continued transfers at annual rates comparable to the transfers described in the 2014 Secretarial Determination?

(4) Would transfers at a lower annual rate significantly change these effects, and if so, how?

(5) Are there actions DOE could take other than altering the annual rate of transfers that would mitigate any negative effects on these industries?

(6) Are there actions DOE could take with respect to transfers that would have positive effects on these industries?

(7) Are there any anticipated changes in these markets that may significantly change how DOE transfers affect the domestic uranium industries?

In response to this request, DOE received comments from a diverse group of parties representing interests across the nuclear industry. DOE received comments from members of the uranium mining, conversion, and enrichment industries. DOE also received comments from trade associations, nuclear utilities, local governmental bodies, and members of the public. All comments are available at *http://www.energy.gov/ne/downloads/excess-uranium-management.*[3]

E. Market Analyses

In preparation for the May 2014 Secretarial Determination, DOE tasked ERI to assess the potential effects on the domestic uranium mining, conversion, and enrichment industries of the introduction of DOE excess uranium inventory in various forms and quantities through sale or transfer during calendar years 2014 through 2033. DOE may consider this report in its deliberations regarding a new Determination (''2014 ERI Report'').

In preparation for the planned Secretarial Determination that is the subject of today's notice, DOE tasked ERI with preparing an additional analysis of DOE transfers (''2015 ERI Report''). For this additional analysis, DOE tasked ERI to consider the effect of hypothetical DOE transfers on the domestic uranium industries under three different scenarios. Under Scenario 1, DOE would continue transfers at the current annual rate of 2,705 MTU per year, consisting of 2,055 MTU for cleanup work and 650 MTU as low-enriched uranium for downblending. Under Scenario 2, DOE would decrease transfers to a rate corresponding with 1,855 MTU per year, consisting of 1,410 MTU for cleanup work and 445 MTU as low-enriched uranium for downblending. Under Scenario 3, DOE would cease transfers for cleanup work and downblending.

DOE also asked ERI to provide specific categories of information in its analysis, including a discussion of price volatility and regional differences in the markets. DOE tasked ERI to discuss the implications of changing certain assumptions underlying its analysis, specifically regarding what proportion of DOE material would enter the global as compared to the domestic market and regarding the share of DOE material delivered under long-term contracts. ERI's report also includes updated information regarding changes in the market between April 2014 and February 2015. Both the 2014 ERI Report and the 2015 ERI Report can be found at *http://www.energy.gov/ne/downloads/excess-uranium-management.*

II. Analytical Approach

DOE issues Secretarial Determinations pursuant to Section 3112(d) of the USEC Privatization Act. Section 3112(d) states that DOE may transfer ''natural and low-enriched uranium'' if, among other things, ''the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement.'' After considering this statutory language, DOE has developed a set of factors that it proposes to consider in determining whether its uranium transfers will have an ''adverse material impact'' on the domestic uranium industries.

A. Overview

The USEC Privatization Act does not clearly indicate what kind or degree of effect or influence on an industry would constitute an ''adverse material impact.'' As discussed below, these words are

[2] See May 15, 2014, Secretarial Determination.

[3] Some comments were marked as containing confidential information. Those comments are provided with confidential information removed.

susceptible of many meanings. Contextual clues provide some guidance in understanding the phrase, but DOE has not identified context (such as a statutory definition) that would unambiguously settle what an ''adverse material impact'' is.

Moreover, the meaning of the phrase is likely to depend in part on the factual context in which it is to be applied. Uranium transactions can take myriad forms, and the effect of any given transaction on any one or all of these industries will depend heavily on the facts and circumstances at the time of the transaction. DOE's inventory of uranium is changing over time, and Congress could not have anticipated the specific characteristics of every potential transaction. Thus, it would be unsurprising for the statute to describe DOE's mandate in open-ended terms, leaving DOE to elaborate details as and when DOE applied the statute over time.

Thus, the Secretary will need to exercise judgment to develop an understanding of ''adverse material impact,'' in its statutory context, as applicable to a given potential transfer or sale of uranium. Part of that task involves establishing an analytical framework to form the basis of and reach a determination about the impacts of DOE's transfers. The Secretary is responsible for reviewing relevant information and exercising judgment to decide whether a particular sale or transfer will have an adverse material impact.

DOE's first step in developing an analytical framework is to elaborate what it means for transfers to ''have'' an ''impact.'' DOE believes that it can appropriately fulfill the purpose of the statute by reading this phrase to refer to ''impacts'' that have a causal relationship to DOE transfers. The overall thrust of Section 3112 is to permit transfers and sales of uranium to the degree consistent with various policy considerations set forth in various paragraphs.[4] Section 3112(d) calls for the Secretary's predictive judgment, before DOE engages in a transaction, whether the transaction will have an adverse material impact on the domestic uranium industries. The notion of causation is implicit in this structure. If domestic industries would experience a given negative condition regardless whether DOE made a particular transfer, it would ill serve the purposes of the USEC Privatization Act for 3112(d) to block the transfer.

Thus, in assessing a given transfer, DOE will essentially evaluate two forecasts: One reflecting the state of the domestic uranium industries if DOE goes forward with the transfer, and one reflecting the state of the domestic uranium industries if DOE does not go forward with the transfer. DOE will then compare these two forecasts to determine the relevant impacts on the domestic uranium industries. It bears mention that not every difference in predicted outcomes will necessarily count as an impact of the transfer. For example, if DOE transfers would be the final contribution after independent causes have pushed an industry to a given adverse state, DOE might not regard the full scope of the adversity as attributable to the transfers.

With respect to assessing whether the adverse impacts of a transfer would be ''material,'' DOE observes that the word ''material'' is used to denote situations ''of real importance or great consequence.'' *See Webster's Third New International Dictionary* 31, 1392 (1961). How large consequences must be to qualify as ''material'' varies in different legal contexts. In light of the overall goals and structure of the USEC Privatization Act, DOE believes it is reasonable to view material adverse impacts as referring to impacts that go beyond normal market fluctuations, such as those that threaten the viability of an industry.

As noted above, one purpose of the USEC Privatization Act was that DOE should manage and eventually dispose of the large legacy inventory that the privatization of USEC would leave it. In privatizing the United States Enrichment Corporation, Congress recognized that DOE would have uranium inventory left over and that this inventory would have substantial economic value. By including 3112(d), Congress preserved the Secretary's discretion to utilize uranium transfers as a tool in managing the uranium inventory, and the substantial value embodied therein. If Congress had not wanted DOE to make productive use of its inventory, it could have prohibited all sales by the Department with or without a determination. Indeed, the USEC Privatization Act explicitly directed DOE to transfer various quantities of uranium to market participants. 42 U.S.C. 2297h–10(b)(2) & (c).

Section 3112 also provides helpful context that indicates the magnitude of industry impact that Congress considered acceptable. The statute specifically authorized material delivered under the Russian HEU Agreement to enter the U.S. market notwithstanding a preexisting suspension agreement limiting the entry of this material. 42 U.S.C. 2297h–10(b)(3), (5)–(7). The act contained annual limits on deliveries of the natural uranium component of the Russian material. The limits started at 2 million pounds U3O8 equivalent in 1998, and increased by 2 million pounds each year reaching a maximum of 20 million pounds U3O8 equivalent in 2009 and each year thereafter. 42 U.S.C. 2297h–10(b)(5).[5] For comparison purposes, this last figure represented over four times the volume of U3O8 produced at U.S. mines in 1996, the year the statute was passed. EIA, Domestic Uranium Production Report (2005). The size of this explicit authorization informs DOE's understanding of what impacts Congress would have regarded as ''material.'' It seems unlikely that Congress would have authorized in 3112(b) transfers that would have been inconsistent with the policy goals of 3112(d).

Indeed, the structure and legislative history of 3112(b) confirm that the schedule for Russian material's entering domestic markets reflects Congress's balancing of concerns similar to those that motivated 3112(d)(2). Congress could have simply allowed all Russian material into the U.S. without limitation. Instead, Congress provided a schedule that ramped up over a period of 20 years. Thus, Congress was attempting to balance the competing concerns of providing a market for the consumption of downblended Russian HEU and protecting the domestic uranium industries from large-scale disruption. The schedule outlined in Section 3112(b) reveals the level of market interference that Congress believed struck that balance. This notion is further confirmed by the legislative history of this provision, which specifically states that Congress was trying to balance the interests in maintaining the Russian HEU Agreement with the interests of the domestic uranium industries. See S. Rep. 104–173, at 14. Further, the legislative history explains that the schedule of maximum deliveries was designed to protect against disruptions to the uranium markets by providing a ''reasonable, predictable, and measured introduction of this Russian material into the domestic uranium market.'' *Id.* at 28.

[4] In passing the USEC Privatization Act, Congress recognized that DOE would have a substantial uranium inventory after privatization. Congress included Section 3112(d) to ensure that DOE could continue to use sales or transfers from its uranium inventory as a management tool. *See* S. Rep. 104–173, at 16–17; see also 141 Cong. Rec. S6106–07 (daily ed. May 3, 1995) (statement of Sen. Domenici).[4]

[5] Sales under the Russian HEU Agreement ceased at the end of 2013.

Section 3112(d)(2) confirms that DOE's consideration of 3112(b) in interpreting 3112(d)(2) is reasonable. Section 3112(d)(2) explicitly directs the Secretary to ''take into account'' the sales of uranium under the Russian HEU Agreement and the Suspension Agreement. DOE believes that in addition to requiring the Secretary to consider any transfers under these programs that are ongoing at the time of DOE's transfers, this language asks the Secretary to consider and take into account the history and context of these transfers and the statutory text authorizing them. In addition, it bears mention that in a 3112(d)(2) deliberation DOE may take account of the fact that the cessation of the Russian HEU Agreement removed a substantial amount of secondary supply from uranium markets.

The preceding discussion is not intended automatically to support transfers of up to 20 million pounds under Section 3112(d). The Secretary must exercise his own judgment as to whether transfers would cause an adverse material impact, in light of market and industry conditions today. However, DOE believes that this provision provides some insight into what scale of market interference Congress considered acceptable, and hence would not constitute an ''adverse material impact.''

For these reasons, DOE believes that whether the effects of a given transfer constitute an ''adverse material impact'' should not depend on a quantitative bright-line test, but rather should be based on an evaluation of potential impacts by examining a number of factors. Accordingly, DOE proposes to consider the effects of DOE transfers using a set of factors. DOE proposes to analyze its transfers in light of the best available information, data and expert judgment to form the basis for the Secretary's determination.

B. Factors for Consideration

In the December 2014 RFI, DOE sought comment from the public on what factors it should consider in assessing whether a given set of transfers would have an adverse material impact on the domestic uranium industries. After considering the comments received, DOE believes the following factors may be relevant to this question:

1. Market prices
2. Realized prices of current operators
3. Production at existing facilities
4. Employment levels in the industry
5. Changes in capital improvement plans and development of future facilities
6. Long-term viability and health of the industry

These factors reflect many of those suggested by commenters, and DOE believes they reflect the types of impacts that a DOE transfer could in principle have on a domestic uranium industry. Not every factor will necessarily be relevant on a given occasion or to a particular industry; DOE intends this list of factors only as a guide to its analysis. DOE is open to additional comment on these factors. There are a few factors proposed by commenters that are not included in DOE's list, for the reasons outlined below.

One commenter suggested that DOE should consider the effects of its transfers on the profitability of the industries. Comment of ConverDyn, Encl. at 2. Another commenter suggested that DOE should consider the effect of its transfers on gross profit margin. TradeTech Report, 12–13. DOE notes that profit and profitability can vary depending on company-specific circumstances and accounting treatments, and therefore may not be reliable indicators of how a given market phenomenon like DOE transfers is affecting an industry. Moreover, for assessing the impact on an industry, the profit of participants is, in a sense, an indirect measure, as it is principally a link between market dynamics—prices and sales—and the ultimate reaction of industry in terms of increasing or decreasing activity. For these reasons, DOE proposes to look instead at factors which are either more directly related to industry impact or are more reliable predictors of industry impact.

Several commenters suggested that DOE should consider current market conditions as a factor. Comment of UPA, at 3; comment of Uranerz, at 3. DOE agrees that current market conditions are relevant, and DOE plans to consider the potential effects of DOE transfers in light of the relevant context, which includes current market conditions as well as past and projected future conditions. DOE believes that considering broader market conditions in this manner will yield insight into how the domestic uranium industries can be expected to respond to DOE transfers.

Some commenters suggested that DOE consider uncommitted utility demand or uncovered utility requirements compared to the level of DOE transfers. UPA and others, for example, stated that transfers at the rate described in the May 2014 Secretarial Determination would constitute more than 100 percent of global uncommitted utility demand in calendar year 2015 and almost 60 percent in 2016. These commenters cite to a report by the Ux Consulting Company, LLC (UxC): UxC Uranium Market Outlook—Q4 2014 (2014).[6] Comment of UPA, at 2–3; see also comment of Uranerz Energy Corp., at 2–3; comment of Signal Equities, at 2.[7] Similarly, URENCO USA Inc. (URENCO)—citing UxC's Q4 Enrichment Market Outlook—stated that DOE transfers of LEU will constitute 72% of uncovered enrichment requirements in 2015. Comment of URENCO, at 4.[8] While the volume of uncovered requirements may be information relevant to the overall assessment, DOE is not convinced a particular comparison between that volume and the magnitude of a proposed transfer is reliable as an indication of the impacts of its transfers on the uranium industries. It is far from clear that uranium from proposed DOE transfers in 2015 and 2016 would be sold only to utilities with uncovered requirements in the year of transfer. The market involves many participants other than utilities seeking to fill uncovered requirements. For example, intermediaries that hold mid- or long-term contracts may need to purchase material on the spot market to fulfill contracted deliveries. As discussed below, some market participants—such as China—purchase material in excess of their requirements. Traders and investment funds may also make purchases independent of reactor requirements.[9] Thus, spot demand in

[6] UPA refers to ''uncommitted utility demand.'' It appears that they are referring to UxC's estimate of uncovered reactor requirements, found at UxC Uranium Market Outlook—Q4 2014, 61–62 (2014).

[7] Commenters cite to UxC's Q3 Uranium Market Outlook. In addition to UxC's most recent estimate of uncovered utility uranium requirements, UxC Uranium Market Outlook—Q4 2014, 61–62 (2014), DOE has reviewed information from EIA and the Euratom Supply Agency. EIA, 2013 Uranium Marketing Report, 34 (2014); ESA, Natural Uranium Coverage 2014–2022, available at *http://ec.europa.eu/euratom/docs/F9-CoverageRate.xls.*

[8] DOE has reviewed UxC's most recent estimate of uncovered enrichment requirements found at: UxC Enrichment Market Outlook—Q4 2014, 39–40 (2014). DOE also notes that UxC's most recent report on the conversion market does not include updated numbers on uncovered utility requirements for conversion services. UxC Conversion Market Outlook—December 2014, 37 (2014).

[9] Comparing the financial statements of Uranium Production Corporation—a uranium investment fund—reveals that between November 30, 2013, and November 30, 2014, UPC increased its stock by approximately 1.5 million pounds U3O8 equivalent—1,311,286 pounds U_3O_8 and 261,285 pounds U_3O_8 equivalent contained within 100,000 kgU of UF_6. UPC, 2015 Third Quarter Report, 2 (2015), available at *http://www.uraniumparticipation.com/i/pdf/financials/2015-Q3-Report-for-the-Three-Months-Ended-November-30.pdf;* UPC, 2014 Third Quarter Report, 2 (2014), available at *http://www.uraniumparticipation.com/i/pdf/*

any given year may substantially exceed uncovered requirements. At least for the uranium industry, this is confirmed by the very report that commenters cite to in their comments. UxC projects that spot demand in 2015 and 2016 will be significantly higher than uncovered requirements in both years. Compare Table 14 with Table 15 of UxC Uranium Market Outlook—Q4 2014, 62–63 (2014). In addition, the company that currently distributes on the broader market most of the uranium that DOE is transferring under the 2014 Secretarial Determination represents that it has already sold almost all of this material to utilities under forward delivery contracts. Comment of Traxys, at 1.[10] Therefore, the global uncommitted utility figures cited by UPA and others presumably already take account of DOE transfers as an element of *covered* requirements.[11]

Commenters also proposed share price and market capitalization as factors for consideration. E.g., Comment of ConverDyn, Enclosure, at 2. DOE is not convinced that either of these provides an appropriate indicator for whether DOE transfers will cause an adverse material impact, because both market capitalization and share price are too attenuated from the effects of DOE transfers. While share price certainly does influence a company's decisions about investment and allocation of capital, it is only one factor. At the same time, a company's share price tends to reflect myriad inputs besides the effects of a market phenomenon like DOE transfers. Other contributions to share price can include the nature of company management, gearing ratio (debt vs. equity), inflation, and the particular risks associated with the uranium market (such as the influence of political changes, like the shift in energy policy in Germany or public responses to nuclear accidents). Furthermore, many of the largest U.S. producers are part of multi-line companies whose share prices depend in part on product markets other than uranium. For these reasons, DOE believes that share price and market capitalization are too highly attenuated to serve as useful proxies for industry impact.

Some commenters suggested that DOE should consider the ''spill-over effects'' across the different nuclear fuel industries that might cause indirect harm. E.g., Comment of URENCO, at 5. Although the commenter did not explain what ''spill-over effects'' it was referring to, DOE recognizes that as a general matter the interaction between the different uranium markets can be relevant, particularly the relationship between enrichment prices and uranium concentrate/conversion prices. As enrichment can be used to provide additional uranium concentrate as uranium hexafluoride—either through underfeeding or re-enrichment of tails—there is a potential for changes in one market to affect the others. However, DOE does not believe this should be considered as a separate factor. Instead, DOE believes these effects are better understood and assessed when considered as part of the analysis for each of the six market factors listed above.

III. Summary of Information Under Consideration

In this section, DOE summarizes for each industry the information that DOE believes to be relevant with respect to the above-listed factors. In addition to the 2014 ERI Report, the 2015 ERI Report, and the comments received in response to the RFI, in some instances DOE refers to additional information from other sources. Where available, DOE provides a link to where these documents are available on the Internet.

A. Uranium Mining Industry

1. Market Prices

In preparation for the proposed Secretarial Determination, DOE tasked ERI with estimating the effect of DOE transfers on the market prices for uranium concentrates. In the 2015 ERI Report, as in previous reports, ERI estimated this effect by employing two different types of model that rely on somewhat different assumptions: A market clearing price model and an econometric model. For its market clearing price model, ERI constructs individual supply and demand curves and compares the clearing price with and without DOE transfers.[12] To develop its supply curves, ERI gathers available information on the costs facing each individual supply source. ERI then uses that information to estimate the marginal cost of supply for each source using a discounted cash flow model. 2015 ERI Report, 41 n.22. To develop its demand curve, ERI assumes a perfectly inelastic demand curve based on its Reference Nuclear Power Growth forecast.[13] ERI develops this forecast by combining estimates of the needs and reload schedules for operating plants with projections about future reactor retirements and new development. 2015 ERI Report, 17–18.

Applying this approach to the three scenarios listed in Section I.E above—2,705 MTU per year (scenario 1), 1,855 MTU per year (scenario 2), or zero transfers (scenario 3)—ERI estimates that DOE transfers will have the effects listed in Table 1. Transfers at the rate of 2,705 MTU per year would cause the price of uranium concentrates to be lower than it would be without DOE transfers by, on average, $2.80 between 2015 and 2024—with prices being $3.00 and $2.80 lower in 2015 and 2016 specifically. 2015 ERI Report, 45. For DOE transfers at a rate of 1,855 MTU per year, ERI estimates that prices would be, on average, $2.60 lower between 2015 and 2024—with prices being $2.10 and $1.90 lower in 2015 and 2016 specifically. If DOE ceased transfers under these two programs, ERI estimates that prices would be, on average, $1.30 lower between 2015 and 2024—with prices being $0.30 and $0.10 lower in 2015 and 2016 specifically.[14] It is important to emphasize that this is not a prediction that prices will drop by the specified amount once DOE begins transfers following a new determination. A level of price suppression consistent with the estimate for Scenario 1 would, on ERI's analysis, already be reflected in the current market price because DOE is currently transferring uranium at that rate. 2015 ERI Report, 44. This means that if DOE continued transferring at Scenario 1 levels, the market prices would not change; if DOE began transferring at Scenario 2 levels, the

financials/2014-Q3.pdf. UPC's stated investment strategy is to buy and hold uranium rather than actively trading in response to short-term shifts in prices. UPC, Investor Update Presentation, 17 (Aug. 2014), available at *http://www.uraniumparticipation.com/i/pdf/ppt/UPC-Investor-Update-August-2014.pdf.*

[10] Traxys North America LLP has a contractual arrangement with DOE's contractor at Portsmouth, Fluor-B&W Portsmouth, to purchase all uranium hexafluoride FBP receives from DOE. The existence of FBP's contract with Traxys does not obligate DOE to transfer to FBP the amounts of uranium under consideration.

[11] Traxys represented that it had already sold to utilities ''almost 100%'' of the material from DOE as early as July 7, 2014. Declaration of Kevin P. Smith, *ConverDyn* v. *Moniz,* Case no. 1:14-cv-01012–RBW, Document 17–7 at ¶6 (July 7, 2014). The figures for global uncommitted utility demand cited by UPA were released after this date. See Comment of UPA, at 3 n.2.

[12] The market clearing price is the price at which quantity supplied is equal to quantity demanded.

[13] In other words, ERI assumes that demand for uranium will stay the same regardless of variations in market price.

[14] Note that the transfer rates in these scenarios refer only to the level of uranium transfers for cleanup at Portsmouth and downblending of LEU. They do not include transfers for three other programs, TVA BLEU, Energy Northwest depleted uranium, and a possible future sale of depleted uranium currently under negotiation. 2015 ERI Report, 21–32. The level of transfers across these three programs is the same in all three scenarios. ERI's predictions about market price reflect these transfers as well as the Portsmouth and downblending transfers.

market price would be expected to rise by approximately $0.90; if DOE ceased transfers under these programs, market prices would be expected to rise by $2.70. See Table 4.1 of 2015 ERI Report, 45. These prices represent ERI's prediction of the average effect over the next decade, rather than for any given year.

TABLE 1—ERI'S ESTIMATE OF EFFECT OF DOE TRANSFERS ON URANIUM CONCENTRATE SPOT AND TERM PRICES IN $ PER POUND U_3O_8

[Market clearing approach]

	2015 ERI Report	2014 ERI Report
	Estimated price effect (2015–2024)	Estimated price effect (2014–2023)
Scenario 1	$2.80	$2.90
Scenario 2	2.60	.....
Scenario 3	1.30	.....

ERI then compares these numbers to the current spot and term price indicators published by TradeTech on January 31, 2015—*i.e.* $37.25 per pound U_3O_8 on the spot market, and $50.00 per pound U_3O_8 on the term market. As a percentage of the current prices, the average price effect attributable to DOE's transfers over the period 2015–2024 under Scenario 1 represents approximately 7.6% of the current spot price and 5.7% of the current term price. Under Scenario 2, the average price effect over the same period represents 7.1% of the spot price and 5.3% of the term price. Under Scenario 3, the average price effect represents 3.6% of the spot price and 2.7% of the term price. 2015 ERI Report, 47, 49.

The second model that ERI used to predict the effects of DOE transfers specifically on the spot price for uranium using an econometric model. A summary of ERI's estimates using this model appears in Table 2. ERI compared the monthly spot and term market prices published by TradeTech with published offers to sell uranium for delivery within one year of publication and published inquiries to purchase uranium for delivery within one year. Based on this information, ERI developed a multivariable correlation to estimate how the market prices would respond to the availability of new supply from DOE. 2015 ERI Report, 50. Applying this econometric model, ERI predicts that transfers under Scenario 1 would cause the spot price to be lower by about $2.40 per pound between 2015 and 2017 than it would be in the absence of transfers, and by about $5.10 between 2018 and 2024. For Scenario 2, ERI estimated that the spot price would be lower by about $1.70 per pound between 2015 and 2017 than it would be without transfers, and by about $4.80 between 2018 and 2024. For Scenario 3, ERI estimated that the spot price would be lower by about $0.30 per pound between 2015 and 2017, and by $2.00 between 2018 and 2024. 2015 ERI Report, 53. Again, as noted for the market clearing analysis, the market price currently takes account of the already ongoing transfers at the levels of Scenario 1. Thus, on ERI's analysis prices already exhibit a level of price suppression similar to the level predicted in the near term under Scenario 1. 2015 ERI Report, 52–53.

TABLE 2—ERI'S ESTIMATE OF EFFECT OF DOE TRANSFERS ON URANIUM CONCENTRATE SPOT PRICE IN $ PER POUND U_3O_8

[Econometric model] [15]

	2015 ERI Report		2014 ERI Report	
	Estimated price effect (2015–2017)	Estimated price effect (2018–2024)	Estimated price effect (2014–2016)	Estimated price effect (2017–2021)
Scenario 1	$2.40	$5.10	$2.80	$5.50
Scenario 2	1.70	4.80	.....	.....
Scenario 3	0.30	2.00	.....	.....

For the 2014 ERI Report, ERI had conducted a similar market clearing approach for a level of transfers that is equal to Scenario 1 of the 2015 ERI Report. Although that report used slightly older data, the results are very similar. Notably, ERI estimated that the price effect attributable to DOE transfers at the current rates is $2.90 between 2014 and 2023—with prices being $3.00 lower in 2014 and 2015, and $2.80 lower in 2016.[16] 2014 ERI Report, 40. ERI also conducted a similar econometric analysis for a level of transfers that is equal to Scenario 1. 2014 ERI Report, 42–45. The econometric analysis in the 2014 ERI Report estimated a slightly higher price effect compared to the 2015 Report. Specifically, ERI estimated that DOE transfers would cause the spot price to be lower by about $2.80 per pound between 2014 and 2016, and by about

[15] It is more appropriate to compare the estimated price effect to the forecasted market price at the time of the effect. ERI's report does not provide specific quantifications of the forecasted market price in out-years. Thus, it is not possible to list the percentage of expected market price with specificity. However, DOE notes that, at least with respect to the later term projections, ERI predicts that market prices will be in the $52 to $57 range after 2017. 2015 ERI Report, 52; 2014 ERI Report, 44.

[16] ERI also compared those numbers to then current term and spot price indicators as of March 31, 2014. At that time, the TradeTech price indicator was $34.00 per pound U_3O_8 on the spot market and $45.00 per pound U_3O_8 on the term market. 2014 ERI Report, 23.

$5.50 between 2017 and 2021. 2014 ERI Report, 44. The updated analysis in the 2015 ERI Report produces slightly different figures because it relies on updated estimates of the amount of DOE material expected to affect the markets. Compare Table 3.4 of 2014 ERI Report, 33, with Tables 3.6, 3.7, and 3.8 of 2015 ERI Report, 32–34.

Three commenters provided their own estimates of the price effects of DOE transfers.

UPA attached to its comment a market analysis it commissioned from TradeTech, LLC, a uranium market consultant. Comment of UPA, Attachment, TradeTech, ''UPA DOE Material Transfer Study'' (2015) (hereinafter ''TradeTech Report''). A summary of TradeTech's estimates appears in Table 3. TradeTech explains that it estimated the price effect of DOE transfers using its proprietary Dynamic Pricing Model. This model is an econometric forecasting approach to estimate the equilibrium between two dimensions TradeTech calls ''active supply'' and ''active demand.'' In its estimates, TradeTech assumes that 50 percent of DOE transfers enters the spot market and 50 percent enters the term market. TradeTech Report, 14. Using its model, TradeTech estimates that DOE's transfer reduced the spot price by an average of $3.55 per pound between January 2012 and December 2014. TradeTech Report, 15. TradeTech also estimates that continued DOE transfers at current rates would reduce the spot price by an average of $2.43 per pound between January 2015 and December 2016. TradeTech Report, 20.

TradeTech also provides estimates for the effect of DOE transfers at several decreased transfer rates. If DOE transfers decreased to 75% of current levels, TradeTech estimates that the spot price would increase by an average of $0.53 per pound between January 2015 and December 2016. TradeTech Report, 26.[17] Based on TradeTech's estimate of the price suppression of DOE transfers at current levels, it appears that TradeTech is estimating that price suppression at 75% of current levels would be $1.90. If DOE transfers decreased to 50% of current levels, TradeTech estimates that the spot price would increase by an average of $1.10 per pound between January 2015 and December 2016. TradeTech Report, 25. This corresponds to a price suppression of $1.33. If DOE transfers decreased to 25% of current levels, TradeTech estimates that the spot price would increase by an average of $1.73 per pound between January and 2015 and December 2016. TradeTech Report, 24. This corresponds to a price suppression of $0.70.

TABLE 3—TRADETECH'S ESTIMATE OF EFFECT OF DOE TRANSFERS ON URANIUM CONCENTRATE SPOT PRICE IN $ PER POUND U_3O_8

TradeTech report	
Transfer rate (compared to current)	Estimated price effect (2015–2016)
100%	$2.43
75%	1.90
50%	1.33
25%	0.70

Fluor-B&W Portsmouth attached to its comment an April 2014 market analysis from NAC International (NAC). Comment of Fluor-B&W Portsmouth, Attachment A, NAC International, ''Impact of DOE Excess Uranium Sales on the U_3O_8 Market'' (April 2014) (hereinafter ''NAC Report'').[18] In its analysis, NAC based its production cost estimates on its Uranium Supply Analysis System (USAS). NAC updates this model each year based on a review of various published reports and presentations. NAC then applies cost models to derive specific cost estimates for individual properties. NAC Report, C–1. Specifically, NAC applies a discounted cash flow rate of return model based on both full cost (including sunk costs) and forward costs for each property. NAC Report, C–2 to C–3. NAC also utilized an estimate of reactor requirements and uncommitted demand developed from its Fuel-Trac database. NAC Report, D–1.

NAC developed a range of estimates of the impact of DOE transfers utilizing its production cost estimates at three different rates: 2,800 MTU per year, 2,400 MTU per year, and 10% of U.S. reactor requirements. NAC Report, 3–21 to 3–22. First, NAC applied a methodology it believes approximates ERI's approach to its own cost estimates. Specifically, NAC identified the incremental cost of the last property needed to meet demand in a given year based on total supply and demand. NAC Report, 3–22. NAC then explains that because long-term contracts with fixed pricing mechanisms have allowed some high-cost producers to produce ahead of lower cost supply, it believes a better approach is to base the model on uncommitted supply and demand. NAC then applies a multiplier to these estimates to account for additional incremental costs not included in its site forward production costs estimate. These additional costs include increased site forward costs due to operation at less than nominal capacity, taxes, corporate overhead, and variations in the required rate of return. NAC Report, 3–23. NAC also applies a time shift to the cost trend to account for the fact that producers need a price signal before investing in a new production center—*i.e.* producers need to have prices that justify an investment before actually making the investment. NAC Report, 3–24. The specific quantitative impact projected by NAC is withheld from the public version of the NAC Report to protect confidential information.

Cameco attached to its comment a market analysis it commissioned from Ux Consulting Company, LLC (UxC), another uranium market consultant. Comment of Cameco Corp., Attachment, UxC Special Report, ''Impact of DOE Inventory Sales on the Nuclear Fuel Markets'' (January 2015) (hereinafter ''UxC Report''). A summary of UxC's estimates of the effect of DOE transfers on future prices appears in Table 4. UxC explains that it estimated the price effect of DOE transfers using two proprietary econometric models: The U–PRICE model and the SWU–PRICE model. UxC explains that these models were developed using historical data on the nuclear fuel markets collected and compiled by UxC. These two models take into account and quantify the impact of ''key factors influencing the markets.'' UxC also explains that the two models can be linked to simulate the interrelationship between uranium concentrates and enrichment. UxC Report, 3.[19]

Using these two models, UxC estimates the effects of DOE transfers using two slightly different methodologies. For the first approach, what UxC calls the ''incremental approach,'' UxC does not include the cumulative impact of previous years' transfers. The second approach, which UxC calls the ''total impact approach,''

[17] Figures 16–19 of the TradeTech Report show TradeTech's estimates for the price impact at a range of different transfer rates. Although these charts and the related text refer to ''Transfers at [25, 50, or 75] Percent of Established 2014 Volumes,'' it appears that these charts actually reflect an estimate for a 25%, 50%, or 75% *decrease* relative to current levels, rather than transfers at the specified percentage of current levels.

[18] As this report was prepared in April 2014, it does not contain updated information on developments in the markets since that time. The level of uranium transfers that it analyzes is based on the levels specified in the May 2012 Secretarial Determination, which is roughly similar to the current rate of transfers. NAC Report, A–1 to A–3.

[19] Additional information about the U–PRICE model can be found in Chapter 1 of UxC Uranium Market Outlook—Q4 2014, 7–21 (2014).

includes sales from previous years. UxC argues that previous years' sales should be included because ''such sales have a longer-term effect on market perceptions among both buyers and sellers. In particular, the increased supplies from DOE's sales and transfers removed market opportunities available to other uranium suppliers.'' UxC Report, 5.

Using its incremental approach, UxC estimates that between 2012 and 2014 DOE's transfer reduced the spot price by an average of $4.50 per pound and the term price by an average of $2.88 per pound. Using its total impact approach, UxC estimates that between 2008 and 2014 DOE's transfers reduced the spot price by an average of $7.11 per pound and the term price by an average of $5.10 per pound. UxC Report, 6–7.

UxC also estimates the effect of DOE continued transfers at current rates for the period 2015 to 2030. UxC estimates that DOE transfers in the near and medium terms would reduce the spot price by an average of $5.78 per pound. UxC projects that this effect will change slightly in the medium term as market prices start to recover. Specifically, DOE transfers will reduce the spot price between 2018 and 2030 by an average of $4.47 per pound. UxC also notes that the former number is larger relative to the expected price of uranium than the latter number (14.1% versus 7.1%). UxC Report, 10. UxC estimates that DOE transfers in the near and medium terms would reduce the term price by an average of $4.86 per pound. Between 2018 and 2030, DOE transfers are estimated to reduce the term price by an average of $5.30 per pound. Again, the near and medium term impact is larger in relation to the expected price (9.0% versus 7.1%). UxC Report, 11.

TABLE 4—UxC'S ESTIMATE OF EFFECT OF DOE TRANSFERS ON URANIUM CONCENTRATE SPOT AND TERM PRICES IN $ PER POUND U_3O_8

	UxC Report			
	Near- & mid-term price effect	Percent of expected price	Long-term price effect	Percent of expected price
Spot Price	$5.78	14.1	$4.47	7.1
Term Price	4.86	9.0	5.30	7.1

UxC puts particular focus on the interrelationship between the uranium and enrichment markets. UxC states that uranium and SWU are ''substitutes.'' Thus, UxC uses enrichment prices as an input into its uranium concentrate price forecast, and vice versa. UxC Report, 5, 8, 17. DOE understands that this interplay can take several forms. First, to the extent that enrichers have unsold enrichment capacity, they may apply that excess capacity to underfeeding [20] and/or re-enriching DUF_6 tails.[21] This essentially allows enrichers to produce additional natural uranium hexafluoride, which could then be sold on the open market. Second, if the price of enrichment decreases relative to the price of uranium concentrates, the optimum tails assay decreases, requiring customers to deliver less natural uranium feed to get the same amount of enriched uranium output.

The other market analyses do not appear to take these interplays into account.[22] But DOE believes the price interplay would be small, and the two effects may potentially offset. Since only some of DOE inventories contain an enrichment component, DOE materials can be expected to have a larger proportional effect on the uranium concentrates and conversion markets as compared to the enrichment market. At current rates, ERI estimates that DOE transfers in 2015 under Scenario 1 would represent 4%, 5%, and 2% of that year's global requirements for uranium, conversion, and enrichment, respectively. Since DOE inventories are a greater proportion of uranium and conversion requirements, it seems likely that the effect of DOE transfers would be to slightly increase the ratio of SWU price to UF_6 price. This would increase the optimum tails assay, which may actually increase demand for uranium concentrates slightly. In addition, practices in the industry suggest that the enrichment component of DOE material does not displace primary production at existing facilities. Enrichers typically do not increase centrifuge capacity without long-term contracts in place to purchase the output. Comment of URENCO, Inc., at 2. Also, some in the market have chosen to allow older centrifuges to retire without being replaced instead of retaining excess capacity. 2015 ERI Report, 16; UxC Enrichment Market Outlook—Q4 2014, 11 (2014). Thus, it is far from clear that for every SWU contained within DOE material, a corresponding amount of primary production becomes excess capacity available for tails re-enrichment or underfeeding. Considering this information as a whole, it does not appear that the interrelationship between the enrichment and uranium markets will significantly affect how DOE's material affects uranium market prices.

2. Realized Prices of Current Operators

ERI states that realized price varies from one company to another. To estimate the realized prices for U.S. producers, ERI gathered information from public filings representing approximately 95% of U.S. production. 2015 ERI Report, 60–61. ERI does not list the specific dollar figures, but it provides a graph of how realized uranium prices have changed over time for several U.S. producers. This graph shows that realized prices declined for most primary producers in 2014. Even with this decline, ERI estimates that several producers achieved realized prices in 2014 well above the average spot price over the course of the year. At least one producer achieved a realized price well above the average term price for 2014. 2015 ERI Report, 61.

ERI reports that some mining companies have negotiated contracts that base the price paid at least partially on a fixed or base-escalated pricing mechanism. As an example, ERI reports that Cameco has reported that the price sensitivity of its current contract

[20] Enrichers can change the amount of natural uranium needed as input (''feed'') by applying a greater or lesser amount of enrichment work to a given amount of feed. ''Underfeeding'' refers to when enrichers ply a greater amount of enrichment work to an amount of feed, thus requiring less feed to achieve the same amount of enriched product.

[21] In addition to ''underfeeding,'' enrichers can apply additional enrichment work to existing depleted uranium from past enrichment processes by feeding them back into the enrichment process. This process is often called ''re-enrichment'' of tails.

[22] ERI's market clearing price analysis, for example, includes material from underfeeding as ''Secondary Supply.'' However, ERI does not consider how a change in uranium concentrate and/or conversion prices would affect the price of SWU or the level of underfeeding present in secondary supply.

portfolio is about 50% of any change in spot market price. ERI estimates that less than 30% of U.S. production currently comes from companies that are effectively unhedged against changes in spot price. 2015 ERI Report, 60–61.

TradeTech also provides its estimates of the decline in realized price for several producers—both U.S. and foreign. Although TradeTech does not provide specific figures, it provides information on several firms in chart form. It appears from the chart that among the firms for which TradeTech provides estimates, realized prices in 2013 varied from as low as about $38 to as high as about $57. For most producers, there was a decline in realized price between 2011 and 2013. The magnitude of that decline ranges from approximately $12 to as low as $2 or $3. TradeTech Report, 13. TradeTech notes that one reason for declining realized prices is the expiration of long-term contracts signed when prices were substantially higher. TradeTech Report, 12.

NAC similarly notes that some higher cost suppliers have locked in higher prices through fixed price contracts that allow them to realize prices greater than current market prices. NAC Report, 3–22. NAC also provides its estimated supply capability broken down by production cost. The specific figures are withheld from the public version of the NAC Report to protect confidential information. NAC Report, 3–9 to 3–11. Although NAC estimates the effect of DOE transfers on market price, as described above, NAC does not provide specific estimates of the effect on the price realized by individual producers.

EIA reports several figures that are relevant to the prices realized by current production facility operators. EIA reports that the weighted average price in sales directly from U.S. producers in 2013 was $44.65. EIA, 2013 Uranium Production Report, 7 (2014). Similarly, EIA reports that the weighted average price paid by U.S. reactor operators in 2013 was $51.99 per pound U_3O_8 equivalent (per lb U_3O_8). EIA, 2013 Uranium Marketing Report, 4 (2014). EIA provides comparatively more information on the price paid by U.S. reactor operators. Although EIA does not provide a complete range of prices, it does report that the bottom 7.1 million pounds U_3O_8 equivalent (approximately ⅛th of uranium delivered in 2013) purchased by U.S. operators had a weighted average price of $34.34. The top 7.1 million pounds had a weighted average price of $72.62.[23] EIA, 2013 Uranium Marketing Report, 26. EIA also provides average prices broken down by origin—foreign vs. U.S.—and by seller—U.S. producer, U.S. brokers and traders, other U.S. suppliers (*i.e.* other reactor operators, converters, enrichers, or fabricators), and foreign suppliers. The weighted average price in 2013 for U.S. origin uranium was $56.37 per lb U_3O_8. The weighted average price in 2013 from U.S. brokers and traders was $50.44. For 2013, EIA does not report the weighted average price of uranium purchased by U.S. reactor operators directly from U.S. producers to avoid disclosure of individual company data. However, in recent years when that value is reported, it has been above the average price paid for U.S. origin uranium. EIA, 2013 Uranium Marketing Report, 4 (2014). For comparison, DOE notes that the 2013 average spot price was around $39.00 and the average term price was around $54.00.[24]

EIA provides data about sales using different pricing mechanisms. EIA reports that of the approximately 23.3 million pounds U_3O_8 equivalent purchased by U.S. reactor operators from domestic sources[25] and delivered in 2013, 14.5 million pounds were purchased based on fixed or base-escalated pricing—approximately 62.3%—with a weighted-average price of $54.95. Approximately 3.6 million pounds were purchased based purely on spot-market pricing—approximately 15.6%—with a weighted-average price of $42.55. The remaining 5.1 million pounds—approximately 22%—was sold based on some other pricing mechanism with a weighted average price of $52.68. EIA, Uranium Marketing Report, 24 (2014).

3. Production at Existing Facilities

ERI reports that U.S. production has risen since the DOE uranium inventory transfers in December 2009. In 2014, production was 5% higher compared to the previous year. However, ERI reports that production in 2015 is expected to decline to 2013 levels. 2015 ERI Report, 58. Since 2009, four new operations have begun production: Willow Creek in 2010, Hobson/Palangana in late 2010/early 2011, Lost Creek in 2013, and Nichols Ranch in 2014. ERI also reports that one additional production center is expected to begin operations in 2015. Despite these new operations, ERI notes that several conventional and in-situ leach operations have scaled back operations. 2015 ERI Report, 57.

After reporting this information, ERI presents a chart showing the price levels at the time cutbacks were announced at various U.S. suppliers. ERI reports price points for four operations: $45 per pound in the spot market for conventional mines in Utah; $40 per pound in the spot market for two in-situ-leach operations; and $35 per pound in the spot market for additional conventional mines and a uranium mill. 2015 ERI Report, 62.

ERI then estimates average production costs for existing mines by referring to EIA's published data on production expenditures across the uranium industry. Using a three year average to smooth out year-to-year differences, ERI notes that average production costs have remained fairly constant since 2009 at about $40 per pound. 2015 ERI Report, 63. ERI further reports that it estimates production costs at U.S. in-situ-leach facilities to range from the low $30s to the mid $40s per pound. ERI concludes that the pattern of cutbacks and estimated production costs ''do not seem to indicate that adding back the $3 per pound price effect attributed to all DOE inventory material for Scenario 1 would move current prices enough to cause U.S. producers to ramp well field development and production activities back up.'' 2015 ERI Report, 64. ERI further notes that the spot price would remain near $40 per pound and ''may still not be sufficient for higher cost ISL producers to restart well field development or higher cost conventional mines to resume mining activities, and likely would not have prevented the decisions to cut back when prices declined to $35/lb in mid 2013 and then below $30/lb in mid 2014.'' 2015 ERI Report, 64.

The 2014 ERI Report came to similar conclusions using similar methodology. That report noted that despite the overall increase in uranium production in recent years, there have been production cuts at several operations. 2014 ERI Report, 49. ERI also provided a chart of production cut announcements and the then-current spot and term prices. 2014 ERI Report, 58. ERI noted that some uranium producers report costs in public filings, but these costs are not reported consistently across firms and generally

[23] These two figures do not differentiate between U.S.-origin versus foreign material. However, EIA reports that the weighted average price of U.S. origin material is higher than the average for all foreign material. EIA, 2013 Uranium Marketing Report, 20 (2014).

[24] As calculated according to monthly price indicator data from UxC.

[25] Note that EIA's figure includes purchases of U.S.-origin uranium as well as purchases from a firm located in the United States. Therefore, this number includes uranium from sources other than the domestic uranium industry. EIA reports that approximately 9.5 million pounds of U.S. origin uranium was delivered to U.S. reactor operators in 2013. EIA, Uranium Marketing Report, 20 (2014).

do not include royalties and severance taxes or the cost of ongoing wellfield development at in-situ-leach operations. ERI's estimate of average industry-wide production costs is the same as in the 2015 ERI Report—*i.e.* approximately $40 per pound. 2014 ERI Report, 59.

TradeTech predicts a ''potential reduction in the number of market participants.'' TradeTech Report, 21. It then applies the price effect it estimates for DOE transfers to a hypothetical uranium producer with a production cost of $47.41 per pound. See Figure 15 of TradeTech Report, 22. TradeTech does not apply its estimate to any particular producer. TradeTech does, however, provide estimates for the production costs of several firms in both 2011 and 2013.[26] Although TradeTech does not provide specific cost data, it does provide information on several firms in chart form. It appears from the chart that among the firms TradeTech provides estimates for, production costs in 2013 varied from as low as $30 to as high as $50. TradeTech also notes that many producers have been able to reduce or stabilize costs in recent years. This is also reflected in the difference between the producers' costs in 2011 and in 2013. TradeTech Report, 13.

As noted above, NAC provides estimated production cost ranges for segments of current supply, but it does not directly estimate the effect of DOE transfers on production levels. NAC Report, 3–9 to 3–11.

UxC does not provide any specific estimates of production levels or costs at currently operating facilities. However, in other reports, UxC outlines detailed estimates for individual mines. UxC Uranium Market Outlook—Q4 2014, 76–78 (2014); UxC Uranium Production Cost Study, 80–84 (Aug. 2013).

In addition to the information described above, DOE has considered information from EIA reports. EIA reports on production in the domestic uranium industry on a quarterly and annual basis. EIA's most recent quarterly report provides preliminary data for 2014. U.S. primary production in 2014 stood at 4.9 million pounds U_3O_8. This is about 5% higher than in 2013 and 15% higher than in 2012. In fact, this represents the highest production total in any calendar year since 1997. EIA, Domestic Uranium Production Report Q4 2014, 2 (January 2015). The same number of uranium concentrate processing facilities—seven—operated in 2014 as in 2013. EIA reports that the White Mesa conventional mill halted production in the fourth quarter of 2014 and that the Nichols Ranch in-situ-leach plant began operation in the second quarter of 2014. EIA Domestic Uranium Production Report Q4 2014, 3–6 (January 2015).

4. Employment Levels in the Industry

DOE has considered information contained from EIA reports relating to employment in the domestic uranium production industry. EIA's most recent Uranium Production Report states that employment stood at 1,156 person-years in 2013, 1,196 person-years in 2012, and 1,191 person-years in 2011. EIA, 2013 Uranium Production Report, 10 (May 2014).

In its analysis, ERI compared EIA's employment figures with changes in uranium spot and term prices. Based on a statistical correlation, ERI infers that employment responds to changes in price. 2015 ERI Report, 73. ERI then uses this correlation to estimate that the decrease in uranium prices over the course of 2014 resulted in a loss of 114 person-years from the 2013 value of 1,156. 2015 ERI Report, 55. ERI then estimates that the price effect it attributes to DOE transfers lowered employment by 41 person years in 2013, and 44 person years in 2014. 2015 ERI Report, 56. ERI further estimates that price effects due to DOE transfers at the levels described in Scenario 1 would result in an average employment loss of 42 person years over the next 10 years. For Scenario 2 and 3, ERI estimated that the average employment loss would be 39 and 21 person years, respectively. Again, it is important to note that this estimate is not a prediction that the uranium production industry under Scenario 1 would shed 42 jobs in 2015 and each subsequent year. Instead, this figure reflects ERI's estimate that total employment in the industry would be higher by an average of 42 person-years without DOE transfers compared to with DOE transfers.

For the 2014 ERI Report, ERI conducted a similar analysis and came to broadly similar conclusions. It estimated an employment loss of 50 person-years for 2013, and an average loss of 44 person years over the course of 2014–2023. 2014 ERI Report, 48.

Though no commenter provided specific numbers, several referred to decreases in employment in recent years caused by decreases in uranium prices. E.g., Comment of Mark S. Pelizza, at 1. Some commenters stated that the uranium production industry has lost half its workforce since May 2012 without providing supporting data. Comment of UPA, at 2; comment of Uranerz, at 2. Although several stated that DOE transfers were causing a portion of these losses, no commenter estimated the proportion of recent employment decreases attributable to DOE transfers. TradeTech Report, 21–22; UxC Report, 5.

5. Changes in Capital Improvement Plans and Development of Future Facilities

As stated above, ERI reports that four new production centers began operation since 2009: one in 2010, one in late 2010/early 2011, one in 2013, and one in 2014. In addition, one new production center—Peninsula's Lance—is expected to begin operations in 2015. 2015 ERI Report, 57. ERI explains that the new production centers may have been able to begin operations only because they were supported by fixed price term contracts that were signed when prices were substantially higher than they are currently—*i.e.* $55 to $70 per pound term price. At least one of these companies has directly stated that its project would not have been able to proceed at current price levels—$45 to $50 per pound term price. ERI also reports that some owners of proposed conventional mines outside the U.S. have stated that prices in the range of $60 to $70 per pound would be necessary for further development. 2015 ERI Report, 61.

Based on the above, ERI concludes, ''[i]t does not appear that removing the DOE inventory from the market and adding back the $2 to $3 per pound price effect attributed to the DOE inventory material . . . would necessarily increase current prices enough to change the situation regarding the viability of new production centers in the U.S.'' 2015 ERI Report, 62. However, ERI reports that some lower cost ISL projects in the U.S. may be able to move forward at current prices. 2015 ERI Report, 62.

The 2014 ERI Report came to similar conclusions. 2014 ERI Report, 57. It noted that despite the overall increase in uranium production in recent years, there have been production cuts at several operations. 2014 ERI Report, 49. ERI also reported the same prices that it believed would be required to motivate further development as it reports the 2015 report. 2014 ERI Report, 57.

NAC provides estimates of the site forward cost including rate of return for ten properties it considers to be under development.[27] The specific figures are

[26] This figure includes information on some projects that are not part of the domestic uranium mining industry, such as Uranium One's Kazakh projects.

[27] NAC defines ''under development'' as a property for which ground breaking has begun. Note that NAC considers ten properties worldwide to be ''under development''; they are not limited to U.S. properties. NAC Report, 3–11.

withheld from the public version of the NAC Report to protect confidential information. NAC Report, 3–11 to 3–12. NAC does not directly apply its estimate of the price effect of DOE transfers to the production costs for these specific properties.

EIA reports that production expenditures were $168.8 million in 2011, $187 million in 2012 and $168 million in 2013—when spread across annual production, these numbers represent approximately $41 per pound in 2011, $43 per pound in 2012 and $36 per pound in 2013. EIA, 2013 Domestic Uranium Production Report, 7, 11 (2014). Including costs related to drilling between 2009 and 2013 raises this figure by about $10–15 per pound, and including land, exploration, and reclamation costs in those years increases these figures by a further $19–24 per pound. EIA, 2013 Domestic Uranium Production Report, 7, 11 (2014).

EIA also provides a table of different facilities and their operating statuses. EIA reports one uranium mill in development as of the 4th quarter 2014—in the ''permitted and licensed'' stage. EIA, Domestic Uranium Production Report Q4 2014, 4 (January 2015). EIA reports eight in-situ-leach plants under development—two in the ''developing'' stage, three that are ''partially permitted and licensed,'' two that are ''permitted and licensed,'' and one that is ''under construction.'' EIA, Domestic Uranium Production Report Q4 2014, 5–6 (January 2015).

6. Long-Term Viability and Health of the Industry

As described above, ERI notes that US industry production has risen since the start of DOE uranium inventory barters in December 2009. ERI also notes that four new operations began production since 2009, and one additional production center is expected to begin operations in 2015. 2015 ERI Report, 57.

ERI also presents its future expectations regarding demand for uranium. ERI's most recent Reference Nuclear Power Growth forecasts project global requirements to grow to approximately 182 million pounds annually between 2018 and 2020, approximately 15% higher than current requirements. Global requirements are expected to continue to rise to a level of 203 million pounds in 2025, approximately 28% higher than current requirements. 2015 ERI Report, 6–7. ERI presents a graph comparing global requirements, demand, and supply from 2013—2035. That graph shows that global secondary supply and supply from current mines will continue to exceed global reactor demand until approximately 2018. However, if China's practice of purchasing amounts of uranium well in excess of its current reactor demand is included—what ERI terms ''Discretionary Strategic'' demand—global demand approximately equals supply from secondary supply and currently operating mines. 2015 ERI Report, 9–10. If planned expansions and new mines under development are included, supply is expected to exceed demand until approximately 2024, regardless of whether ''Discretionary Strategic'' demand is included.[28] In the time period following 2025, ERI's graph shows demand significantly outstripping supply. 2015 ERI Report, 9. In order to meet this demand, ERI anticipates that mines it terms ''planned'' and ''prospective'' will need to begin operations. 2015 ERI Report, 11.

A variety of other sources predict substantial increases in reactor requirements and/or demand.[29] TradeTech reports reactor-only growth at 3.52% per year through 2024. Total uranium requirements growth is much slower during this period due to stock building purchases which taper downward.[30] TradeTech Report, 34. The OECD and IAEA report that reactor requirements are expected to grow by at least 35.4 million pounds[31] by 2025—representing approximately 21% of 2015 requirements.[32] OECD–IAEA, Uranium 2014: Resource, Production, and Demand, 105 (2014). In its Uranium Market Outlook for the 4th quarter of 2014, UxC similarly predicts significant increases in both requirements and demand in the long-term. UxC Uranium Market Outlook—Q4 2014, 56–60 (2014).

In addition to a predicted increase in demand, several sources predict a recovery in either spot or term uranium prices—or both. ERI notes that term prices are expected to increase in the future, but does not provide a specific forecast. 2015 ERI Report, 46. ERI's econometric model, however, does show an increase in the spot price. Specifically, ERI's chart forecasts that spot prices will recover over the course of 2015–2018 eventually settling in the $52–57 range after 2019. 2015 ERI Report, 52. TradeTech's forecasted Exchange Value predicts an increase in spot price to approximately $50 as early as June 2016, even with DOE transfers. TradeTech Report, 20. UxC's estimates of the effect of DOE transfers assume that market conditions will improve in the medium term. Specific price levels are withheld from Figures 5 and 6 of the public version to protect confidential information. UxC Report, 10–11. In its annual Uranium Market Outlook, UxC provides a more detailed explanation of its price forecast, which generally predicts an increase in price over the next 10 years. UxC Uranium Market Outlook—Q4 2014, 111–19 (2014).

Finally, DOE recognizes that the predictability of transfers from its excess uranium inventory over time is important to the long-term viability and health of the uranium industries. ERI has noted the importance of predictability ''for long-term planning and investment decisions by the domestic industry.'' 2015 ERI Report, 100; 2014 ERI Report, 60–61. Some commenters also stated that DOE transfers should be predictable. Comment of UPA, at 2; comment of Cameco, at 2. DOE notes that the upper scenario considered by ERI would represent continued transfers at rates consistent with the May 2014 determination and roughly similar to the May 2012 determination. Compare 2015 ERI Report, 25, with 2014 ERI Report, 28.

B. Uranium Conversion Industry

1. Market Prices

In its analysis, ERI estimates the effect of DOE transfers on the market prices for conversion services. To estimate this effect, ERI employed a market clearing price model very similar to what is described above for the uranium market. As with uranium concentrates, ERI constructed individual supply and demand curves for conversion services and estimated the clearing price with and without DOE transfers. 2015 ERI Report, 44. A summary of ERI's estimates of the effect of DOE transfers on the conversion price appears in Table 5.

Applying this approach to the three scenarios listed above, ERI estimates

[28] ERI assumes that China's discretionary strategic inventory building will taper off by 2023. 2015 ERI Report, 10.

[29] DOE notes that uranium ''demand'' and reactor ''requirements'' are different. Requirements refers to an estimate of the amount of uranium needed to support operating reactors in a particular year. Demand includes additional purchased quantities for strategic or discretionary purposes. For example, in recent years China has purchased quantities of uranium far in excess of its reactor requirements. 2015 ERI Report, 10–11; TradeTech Report, 41–42; NAC Report, 3–2 to 3–5.

[30] TradeTech's charts appear to assume China's stock building purchases will cease to outpace Chinese requirements around 2023. TradeTech Report, 41–42.

[31] Converted from metric tons uranium in U_3O_8 (MTU) using a conversion rate of 2,599.79 pounds U_3O_8 per MTU.

[32] This represents OECD–IAEA's low growth scenario. The high growth scenario anticipates growth of almost 90 million pounds, approximately 50% above the high-growth scenario for 2015. *Id.*

that DOE transfers at the rate of 2,705 MTU per year would cause the price of conversion services to be, on average, $0.90 lower between 2015 and 2024—with prices being $0.90 lower in 2015 and 2016 specifically. 2015 ERI Report, 45. For DOE transfers at a rate of 1,855 MTU per year, ERI estimates that prices would be, on average, $0.80 lower between 2015 and 2024—with prices being $0.70 and $0.60 lower in 2015 and 2016, respectively. If DOE ceased transfers under these two programs, ERI estimates that prices would be, on average, $0.40 lower between 2015 and 2024—with prices being $0.10 and $0.00 lower in 2015 and 2016, respectively.[33] As with uranium concentrates, this is not a prediction that prices will drop by the specified amount once DOE begins transfers. According to ERI's analysis, a level of price suppression consistent with the estimate for Scenario 1 is already reflected in the current market price for conversion services. 2015 ERI Report, 44. If DOE continues transferring at Scenario 1 levels, the market prices would not change; if DOE began transferring at Scenario 2 levels, the market price would be expected to rise by approximately $0.20; if DOE ceased transfers under these programs, market prices would be expected to rise by $0.80. See Table 4.2 of 2015 ERI Report, 45.

ERI compares these numbers to the current spot and term price indicators published by TradeTech on January 31, 2015—*i.e.* $8.50 per kgU as UF_6 on the spot market, and $16.00 per kgU as UF_6 on the term market. As a percentage of the current prices, the average price effect attributable to DOE's transfers over the period 2015–2024 under Scenario 1 represents approximately 10.6% of the current spot price and 5.6% of the current term price. Under Scenario 2, the average price effect over the same period represents 9.9% of the spot price and 5.2% of the term price. Under Scenario 3, the average price effect represents 5.0% of the spot price and 2.7% of the term price. 2015 ERI Report, 47, 49.

For the 2014 ERI Report, ERI conducted a similar market clearing approach for a level of transfers that is equal to Scenario 1 of the 2015 ERI Report. Although that report used slightly older data, the results are very similar. Notably, ERI estimated that the price effect attributable to DOE transfers at the current rates is $0.90 between 2014 and 2023—with prices being $0.90 lower in 2014, 2015, and 2016.[34] 2014 ERI Report, 40.

TABLE 5—ERI'S ESTIMATE OF EFFECT OF DOE TRANSFERS ON CONVERSION SPOT AND TERM PRICES IN $ PER kgU AS UF_6

	2015 ERI Report	2014 ERI Report
	Estimated price effect (2015–2024)	Estimated price effect (2014–2023)
Scenario 1	$0.90	$0.90
Scenario 2	0.80	.....
Scenario 3	0.40	.....

In addition to its estimate of the price effect of DOE transfers on the uranium concentrate market, TradeTech estimates the effect on the price of conversion services. A summary of TradeTech's estimates appears in Table 6. It appears that TradeTech developed this estimate using its econometric Dynamic Pricing Model. TradeTech Report, 14. Using its model, TradeTech estimates that DOE's transfer reduced the spot price by an average of $2.13 per kgU as UF_6 between January 2012 and December 2014. TradeTech Report, 17. TradeTech also estimates that continued DOE transfers at current rates would reduce the spot price by an average of $0.91 per kgU as UF_6 between January 2015 and December 2016. TradeTech Report, 21.

TradeTech also provides estimates for the effect of DOE transfers of several decreased transfer rates. If DOE transfers decreased to 75% of current levels, TradeTech estimates that the spot price would increase by an average of $0.21 per kgU as UF_6 between January and 2015 and December 2016. TradeTech, 31.[35] Based on TradeTech's estimate of the price suppression of DOE transfers at current levels, it appears that TradeTech is estimating that price suppression at 75% of current levels would be $0.70. If DOE transfers decreased to 50% of current levels, TradeTech estimates that the spot price would increase by an average of $0.43 per kgU as UF_6 between January and 2015 and December 2016. TradeTech, 30. This corresponds to a price suppression of $0.48. If DOE transfers decreased to 25% of current levels, TradeTech estimates that the spot price would increase by an average of $0.66 per kgU as UF_6 between January and 2015 and December 2016. TradeTech, 29. This corresponds to a price suppression of $0.25.

TABLE 6—TRADETECH'S ESTIMATE OF EFFECT OF DOE TRANSFERS ON CONVERSION SPOT PRICE IN $ PER kgU AS UF_6

TradeTech report	
Transfer rate (compared to current)	Estimated price effect (2015–2016)
100%	$0.91
75%	0.70
50%	0.48
25%	0.25

UxC's U–PRICE and SWU–PRICE econometric models predict the markets' reaction to changes in supply for the uranium concentrate and enrichment industries. UxC does not directly model the conversion services market. Instead, UxC relies on other evidence to conclude that the price effect of DOE transfers on spot conversion prices have been ''at least

[33] As noted above, the transfer rates for these scenarios refer only to the level of uranium transfers for cleanup at Portsmouth and downblending of LEU. The level of transfers for other DOE programs is the same in all three scenarios.

[34] ERI also compared those numbers to then current term and spot price indicators as of March 31, 2014. At that time, the TradeTech price indicator was $7.50 per kgU as UF_6 on the spot market and $16.00 per kgU as UF_6 on the term market. 2014 ERI Report, 23.

[35] Figures 21–24 of the TradeTech Report show TradeTech's estimates for the price impact at a range of different transfer rates. Although these charts and the related text refer to ''Transfers at [25, 50, or 75] Percent of Established 2014 Volumes,'' it appears that these charts actually reflect an estimate for a 25%, 50%, or 75% *decrease* relative to current levels, rather than transfers at the specified percentage of current levels.

equal to, if not greater than, the impact on spot uranium prices.'' Specifically, UxC notes that much of the world's spot conversion is sold in conjunction with uranium through contracts for UF_6. UxC also notes that over the past few years the UF_6 price has fallen as much as the U_3O_8 price has on a percentage basis. Finally, UxC notes that the Ux North American UF_6 Price has been below the Ux NA UF_6 value (*i.e.* the sum of spot uranium and spot conversion prices for a given quantity of UF_6) over most of the period of DOE transfers. UxC Report, 15. With respect to the future effect of DOE transfers, UxC expects that DOE transfers will continue to have a similar effect on spot conversion prices and a somewhat less but still ''noticeable'' effect on term conversion prices. UxC Report, 16.

2. Realized Prices of Current Operators

ERI does not provide in either report a specific estimate of the change in ConverDyn's realized price due to DOE transfers. However, ERI does note that ConverDyn's realized price is believed to have increased over the past decade, although ERI says unit costs have increased as well. ERI bases its sales revenue assumptions on a sale price of $14 per kgU. This estimate appears to be based predominately on claims by the company that it is operating at a loss. 2015 ERI Report, 70; 2014 ERI Report, 70.[36]

No commenter provides specific information about the current realized prices achieved in the conversion industry, and no commenter directly estimates the effect of DOE's transfers on realized prices. However, some information relevant to ConverDyn's realized price is publicly available.

ConverDyn has stated in the past that the conversion market generally relies on long-term contracts. Declaration of Malcolm Critchley, *Converdyn* v. *Moniz,* Case no. 1:14-cv-01012–RBW, Document 7–3, at ¶ 37 (June 23, 2014); see also UxC Conversion Market Outlook—December 2014, 27–28, 32 (2014). Traxys has stated that ConverDyn specifically sells conversion services ''almost exclusively'' on long-term contracts. Declaration of Kevin P. Smith, *ConverDyn* v. *Moniz,* Case no. 1:14-cv-01012–RBW, Document 17–7, at ¶ 16 (July 7, 2014). Traxys has also stated that ConverDyn exercises significant pricing power in the market. Traxys refers to a 2011 letter from ConverDyn to its customers notifying them that it would not sell conversion services for less than $16.50 per kgU. *Id.* Since then, the term price indicator for conversion services has remained remarkably stable, even as spot prices for conversion have fluctuated. 2015 ERI Report, 12.

DOE does not have complete information regarding the pricing structure of conversion services contracts. ConverDyn has stated in the past that the conversion market generally relies on long-term contracts that are ''linked, at least in part, to market prices at the time of the contract.'' Declaration of Malcolm Critchley, *Converdyn* v. *Moniz,* Case no. 1:14-cv-01012–RBW, Document 7–3, at ¶ 37 (June 23, 2014). Although it is common practice for long-term contracts for U_3O_8 to include a non-fixed element that depends on market prices at the time of delivery, it is unclear to what extent this practice is prevalent in the conversion industry.

In addition to the above, ConverDyn's comment also refers to a document it submitted to DOE in March 2014 that provides some additional information on ConverDyn's contracting practices. Comment of ConverDyn, Enclosure, at 5 n.12. That document was submitted with a request that it be treated as containing proprietary information. Letter from Malcolm Critchley, ConverDyn, to Peter B. Lyons, DOE (March 10, 2014). DOE may consider this document in its deliberations.

3. Production at Existing Facilities

There is only one existing conversion facility in the United States, the Metropolis Works facility (MTW) operated by Honeywell International. ConverDyn is the exclusive marketing agent for conversion services from this facility. Comment of ConverDyn, at 1; 2015 ERI Report, 64. The nominal capacity of the Metropolis Works facility is 15 million kgU as UF_6. However, the facility generally operates below that level. 2015 ERI Report, 65. Based on statements from ConverDyn, ERI estimates that production at this facility was approximately 11 million kgU as UF_6 per year prior to the loss of sales associated with Fukushima. Because ConverDyn has stated that this volume loss was approximately 25%, ERI estimates current sales volume at 8.25 million kgU as UF_6. 2015 ERI Report, 65.

In estimating the effect of DOE transfers on ConverDyn's sales volume, ERI assumes that 50% of the material used for cleanup at Portsmouth and 100% of all other DOE material enters the U.S. market. 2015 ERI Report, 65–66. Based on statements from ConverDyn, ERI assumes that ConverDyn's share of the U.S. market for conversion services is 25% and that its share of the international market is 16%. 2015 ERI Report, 68. A summary of ERI's estimates of the effect of DOE transfers on ConverDyn's sales volume appears in Table 7. Using the assumptions described above, ERI estimates that under Scenario 1, DOE transfers decrease ConverDyn's market volume by 0.67 million kgU, or 7.5%. Under Scenario 2, ERI estimates that DOE transfers decrease ConverDyn's market volume by 0.46 million kgU, or 5.3%. Under Scenario 3, ERI estimates that DOE transfers decrease ConverDyn's market volume by 0.08 million kgU, or 1%. 2015 ERI Report, 69–70. As with ERI's price estimates discussed above, these estimates do not suggest that were DOE to transfer uranium in accordance with Scenario 1, ConverDyn would lose the predicted volume of sales. DOE has been transferring at or above the rate of Scenario 1 for nearly three years. On ERI's analysis, the estimated effect has already occurred. Transfers in accordance with Scenario 1 would continue the effect, and transfers in accordance with Scenario 2 or 3 would lead to an increase in ConverDyn's sales volume, of the amount ERI predicts.

TABLE 7—ERI'S ESTIMATE OF DECREASE IN CONVERDYN'S SALES VOLUME

	Volume (million kgU)	Percent change
Scenario 1	0.67	7.5
Scenario 2	0.46	5.3
Scenario 3	0.08	1

[36] It appears that ERI developed this assumption based on its estimate of ConverDyn's production costs of $15 per kgU. Since ConverDyn claims to be operating at a loss, ERI assumes that its realized price must be lower. 2015 ERI Report, 70.

Based on its estimate of the effect on ConverDyn's sales volume, ERI also estimates the change in production costs at Metropolis Works due to DOE transfers. A summary of ERI's estimates of the effect of DOE transfers on ConverDyn's production costs appears in Table 8. ERI analyzes two scenarios based on slightly different assumptions about the amount of ConverDyn's costs that are variable. Specifically, ERI calculates production costs based on 80% and 100% fixed costs. 2015 ERI Report, 70.

ERI assumes that ConverDyn's production cost would be $15 per kgU if DOE material was not being introduced into the market. Assuming 100% of Metropolis Works' costs are fixed, DOE transfers would not affect total production costs, but they would increase per unit costs. Specifically, ERI estimates that DOE transfers at the level under Scenario 1 increase production costs to $16.2 per kgU, about 8% higher than without DOE transfers. Transfers at the level under Scenario 2 would cause Metropolis Works production costs to be $15.84, about 5.6% higher than without DOE transfers. Under Scenario 3, production costs would be $15.15, about 1% higher than without DOE transfers. 2015 ERI Report, 70. If 80% of Metropolis Works' costs are fixed, total production costs would be lower with DOE transfers, but per unit production costs would also be lower. Under Scenario 1, production costs would be $15.97, about 6.5% higher than without DOE transfers. Under Scenario 2, production costs would be $15.68, about 4.5% higher than without DOE transfers. Under Scenario 3, production costs would be $15.12, about 1% higher than without DOE transfers. 2015 ERI Report, 71.

TABLE 8—ERI'S ESTIMATE OF INCREASE IN CONVERDYN'S PRODUCTION COST

	80% fixed		100% fixed	
	Cost (per kgU)	Percent change	Cost (per kgU)	Percent change
Scenario 1	$15.97	6.5	$16.20	8
Scenario 2	15.68	4.5	15.84	5.6
Scenario 3	15.12	1	15.15	1

The 2014 ERI Report conducted a similar analysis using slightly different assumptions regarding ConverDyn's pre-Fukushima production and current market share. Specifically, ERI calculated the effect of DOE transfers assuming two different pre-Fukushima production levels: 10 million kgU and 12 million kgU. With these assumptions, ERI estimated ConverDyn's current sales volume at 7.50 million kgU and 9.00 million kgU respectively. 2014 ERI Report, 66, 68. ERI also calculated the effect of DOE transfers assuming two different assumptions about ConverDyn's share of the U.S. Market: 25% and 30%. 2014 ERI Report, 65–66. Based on these assumptions ERI estimates that DOE transfers decrease ConverDyn's market volume by between 0.60 and 0.72 million kgU. 2014 ERI Report, 66, 68. This represents between 6.9% and 8.1% of ConverDyn's estimated sales volume. 2014 ERI Report, 67, 69.

On production cost, ERI similarly estimates based on 80% and 100% fixed costs. As with sales volume, ERI conducts this calculation twice: once assuming a volume of 7.50 million kgU, and once assuming a volume of 9.00 million kgU. For the 7.50 million kgU scenario, ERI estimates that if production costs are 100% fixed, DOE transfers cause unit production costs to increase about 8% to $16.20 per kgU. If production costs are 80% fixed, DOE transfers cause unit production costs to increase about 6.4% to $15.96 per kgU. For the 9.00 million kgU scenario, ERI estimates that production costs would increase by 7.8% for 100% fixed costs and 6.2% for 80% fixed costs. 2014 ERI Report, 70–71.

ConverDyn's comment in response to the RFI does not provide a separate estimate of the effect of DOE transfers on its sales volume. ConverDyn refers to the relevant sections of the 2014 ERI report regarding its sales volume and production costs. Comment of ConverDyn, Enclosure, at 5. With respect to the 2014 ERI Report, ConverDyn does not refute or confirm the assumptions ERI used in its analysis regarding ConverDyn's sales volume, market share, or production costs. ConverDyn's comment also refers to a document it submitted to DOE in March 2014. Comment of ConverDyn, Enclosure, at 5 n.12. That document was submitted with a request that it be treated as containing proprietary information. Letter from Malcolm Critchley, ConverDyn, to Peter B. Lyons, DOE (March 10, 2014). That document provides estimates of the effect of DOE transfers on ConverDyn's sales volume and profits, but it does not provide financial information demonstrating that those effects have occurred or supporting analysis explaining why a given change in ConverDyn's sales or revenue should be attributed to DOE transfers. *Id.* DOE may consider this document in its deliberations.

In addition to the above, ConverDyn notes in its comment that the Metropolis Works facility ceased production beginning in January 2015 for a period of approximately three months—two months longer than usual. ConverDyn states that this was necessitated by ''the continued depressed state of the conversion market.'' Although ConverDyn refers to the displacement of conversion sales by DOE's transfers, it acknowledges that DOE's transfers are not the sole cause of the lengthening of Metropolis Works facility's annual shutdown. ConverDyn does not include supporting data or otherwise provide a proportionate breakdown of the impact of DOE material versus other factors in causing this shutdown. Comment of ConverDyn, Enclosure, at 4.

The UxC Report does not provide estimates for production levels or production costs at individual facilities, but its report does note that the cost for primary producers is ''known to be in the range of $10–$15/kgU.'' UxC Report, 15. In a separate publication, UxC provides more detailed estimates of both current production levels and projected future production for individual facilities. Market share can be determined by comparing production levels to those of other primary producers and secondary sources. UxC Conversion Market Outlook—December 2014, 45–47 (2014).

Traxys provides some information relevant to DOE's analysis of the assumptions ERI uses in its calculations. Traxys explains that in selling material obtained from Fluor-B&W Portsmouth, it pursues a goal to sell at least 50% of the material to non-U.S. customers. Traxys states that it has consistently met this goal. Comment of Traxys, at 1. Traxys further explains that in 2014 no

more than 40% of DOE-derived material was sold in the U.S. market. Comment of Traxys, at 2. This is similar to the amount of conversion that Traxys has separately stated went to the U.S. market in prior years. Traxys stated in July 2014 that 42% of DOE-derived conversion entered the U.S. marketplace during calendar year 2013. Declaration of Kevin P. Smith, *ConverDyn* v. *Moniz,* Case no. 1:14-cv-01012–RBW, Document 17–7 at ¶11 (July 7, 2014).

4. Employment Levels in the Industry

ERI notes that Metropolis Works restarted after an extended shutdown in summer 2013 with approximately 270 employees. Prior to the 2012–2013 shutdown, ERI estimates that the facility employed approximately 334 people. As this change coincided with a change in long-term production volume, ERI concludes that is unlikely that 100% of Metropolis Works' production costs are fixed. 2015 ERI Report, 72–73; 2014 ERI Report, 71. Although it does not provide specific estimates, ERI states that ''[a] portion of the reduction in work force at Metropolis Works may be associated with the introduction of DOE inventory into the market.'' However, ERI also notes that several other factors likely played a part as well. 2015 ERI Report, 73; 2014 ERI Report, 72. ConverDyn does not provide a separate estimate of decreased employment levels due to DOE transfers; instead ConverDyn referred to the relevant sections of the 2014 ERI Report. Comment of ConverDyn, Enclosure, at 5.

5. Changes in Capital Improvement Plans and Development of Future Facilities

Neither ERI nor any of the commenters provide an estimate of the effect of DOE transfers on new facility development or capital improvement plans. However, DOE understands that several conversion services companies are undertaking these or related activities.

Although there are several large-scale development projects currently planned or underway outside the United States—namely AREVA's COMURHEX II modernization project and TVEL's plan for a new facility at SCC—DOE is not aware of any such plans in the United States. See Eileen Supko & Thomas Meade, ''New facilities are on the horizon,'' *Nuclear Engineering International* (Oct. 6, 2014), available at *http://www.neimagazine.com/features/featurenew-facilities-are-on-the-horizon-4394892;* UxC Conversion Market Outlook—December 2014, 50, 56–57, 73 (2014).

Metropolis Works has, however, undertaken substantial capital expenditures at its existing facility in recent years. Honeywell has stated that it has invested ''nearly $177 million over the past 10 years in capital improvements, including $50 million in safety projects.'' ''About Us,'' Honeywell, *http://www.honeywell-metropolisworks.com/about-us.*[37] Some of these upgrades came during an extended shutdown in 2012 and 2013, in which Metropolis Works made upgrades to ensure the facility could withstand extreme natural disasters. These changes were made under an agreement with NRC in response to an inspection NRC conducted in the wake of the Fukushima disaster in Japan. ''Honeywell and U.S. Nuclear Regulatory Commission Reach Agreement on Necessary Upgrades to Metropolis Nuclear Conversion Facility,'' News Release (Oct. 16, 2012), available at *http://www.honeywell-metropolisworks.com/?document=oct-16-2012-press-release-honeywell-and-u-s-nuclear-regulatory-commission-reach-agreement-on-necessary-upgrades-to-metropolis-nuclear-conversion-facility&download=1.*

In terms of future plans, Metropolis Works announced in November 2014 that it would be shutting down for approximately 90 days beginning in early January 2015. Honeywell noted that it would use the extended shutdown to make updates and capital improvements. Jim Pritchett, Honeywell Metropolis Works, Letter to Employees (Nov. 20, 2014), available at *http://www.honeywell-metropolisworks.com/?document=letter-to-employees-23&download=1;* see also Comment of ConverDyn, Enclosure, at 4. Honeywell has further stated that the company plans to spend $17.5 million in improvements during 2015. Jim Pritchett, Honeywell Metropolis Works, Letter to Employees (Jan. 30, 2014), available at *http://www.honeywell-metropolisworks.com/?document=letter-to-employees-24&download=1.*

[37] Letters from Honeywell management include similar numbers. A November 20, 2014, letter included identical figures. Jim Pritchett, Honeywell Metropolis Works, Letter to Employees (Nov. 20, 2014), available at *http://www.honeywell-metropolisworks.com/?document=letter-to-employees-23&download=1.* Older letters provided slightly different figures. Jim Pritchett, Honeywell Metropolis Works, Letter to Community (Dec. 19, 2013), available at *http://www.honeywell-metropolisworks.com/?document=letter-to-the-community-from-new-metropolis-works-plant-manager&download=1.*

6. Long-Term Viability and Health of the Industry

ERI's most recent Reference Nuclear Power Growth forecasts project global requirements to grow to approximately 67.2 million kgU by 2020, approximately 20% higher than current requirements. Global requirements are expected to continue to rise to a level of 91.4 million kgU by 2035, approximately 63% higher than current requirements. 2015 ERI Report, 13. ERI presents a graph comparing global requirements, demand, and supply from 2013—2035. That graph forecasts that global secondary supply and supply from primary converters will continue to exceed global demand until at least 2025. Beyond that point, supply generally keeps pace with growth in requirements. 2015 ERI Report, 14.

Although not focused on conversion, the requirements forecasts noted above in section III.A.6 are also relevant to the conversion industry. In general, requirements and/or uranium concentrate demand forecasts should also apply to demand for conversion services. However, there may be some small differences due to strategic and discretionary inventory building. For example, China has been purchasing strategic supply well in excess of its requirements. Those purchases have come in the form of U_3O_8. 2015 ERI Report, 13. Thus, these purchases affect near-term uranium concentrate demand, but do not affect near-term conversion demand.

No other commenter provided specific projections about future conversion requirements, demand, or prices. However, DOE has some additional information not submitted in response to the RFI. In its December 2014 Conversion Market Outlook, UxC predicts significant increases in both requirements and demand in the long-term. UxC Conversion Market Outlook—December 2014, 40, 44 (2014). UxC also provides a more detailed explanation of its price forecast, which generally predicts an increase in price over the next 10 years. UxC Conversion Market Outlook—December 2014, 82, 85 (2014).

Finally, as with uranium concentrates, DOE recognizes that the predictability of transfers from its excess uranium inventory over time is important to the long-term viability and health of the uranium conversion industry. Again, DOE notes that the upper scenario considered by ERI would represent continued transfers at rates consistent with the May 2012 and May 2014 determinations. Compare 2015 ERI Report, 25, with 2014 ERI Report, 28.

C. Enrichment Industry

1. Market Prices

In its analysis, ERI also estimated the effect of DOE transfers on the market prices for enrichment services. To estimate this effect, ERI employed a market clearing price model similar to what is described above for the uranium market. As with uranium concentrates and conversion, ERI constructed individual supply and demand curves for enrichment services and estimated the clearing price with and without DOE transfers. 2015 ERI Report, 44. A summary of ERI's estimates of the effect of DOE transfers on the market price for SWU appears in Table 9.

Applying this approach to the three scenarios listed above, ERI estimates that DOE transfers at the rate of 2,705 MTU per year would cause the price of enrichment services to be, on average, $4.50 lower between 2015 and 2024—with prices being $5.90 and $3.80 lower in 2015 and 2016 specifically. 2015 ERI Report, 46. For DOE transfers at a rate of 1,855 MTU per year, ERI estimates that prices would be, on average, $3.60 lower between 2015 and 2024—with prices being $5.10 and $3.00 lower in 2015 and 2016 specifically. If DOE ceased transfers under these two programs, ERI estimates that prices would be, on average, $1.70 lower between 2015 and 2024—with prices being $3.20 and $1.70 lower in 2015 and 2016 specifically.[38] As with uranium concentrates, this is not a prediction that prices will drop by the specified amount once DOE begins transfers pursuant to a new determination. According to ERI's analysis, a level of price suppression consistent with the estimate for Scenario 1 is already reflected in the current market price for conversion services. If DOE continued transferring at Scenario 1 levels, the market prices would not change; if DOE began transferring at Scenario 2 levels, the market price would be expected to rise by approximately $0.80; if DOE ceased transfers under these programs, market prices would be expected to rise by $2.70. See Table 4.3 of 2015 ERI Report, 46.

ERI compares these numbers to the current spot and term price indicators published by TradeTech on January 31, 2015—*i.e.* $88.00 per SWU on the spot market, and $90.00 per SWU on the term market. As a percentage of the current prices, the average price effect attributable to DOE's transfers over the period 2015–2024 under Scenario 1 represents approximately 5.1% of the current spot price and 5.0% of the current term price. Under Scenario 2, the average price effect over the same period represents 4.1% of the spot price and 4.0% of the term price. Under Scenario 3, the average price effect represents 1.9% of the spot price and 1.9% of the term price. 2015 ERI Report, 48, 50.

For the 2014 ERI Report, ERI conducted a similar market clearing approach for a level of transfers that is equal to Scenario 1 of the 2015 ERI Report. Although that report used slightly older data, the results are similar. Notably, ERI estimated that the price effect attributable to DOE transfers at the current rates is $4.00 between 2014 and 2023—with prices being $5.20, $5.70, and $3.60 lower in 2014, 2015, and 2016, respectively.[39] 2014 ERI Report, 40.

TABLE 9—ERI'S ESTIMATE OF EFFECT OF DOE TRANSFERS ON ENRICHMENT SPOT AND TERM PRICES IN $ PER SWU

	2015 ERI Report	2014 ERI Report
	Estimated price effect (2015–2024)	Estimated price effect (2014–2023)
Scenario 1	$4.50	$4.00
Scenario 2	3.60	.....
Scenario 3	1.70	.....

In addition to its estimate of the price effect of DOE transfers on the uranium concentrate market, UxC estimates the effect on the price of enrichment services using its proprietary U–PRICFE and SWU–PRICE models. UxC Report, 5. As with its uranium concentrate estimates, UxC estimates the impact using two different methodologies, an ''incremental approach'' and a ''total impact approach.''

Using its incremental approach, UxC estimates that between 2012 and 2014 DOE's transfers reduced the spot price by an average of $7.49 per SWU and the term price by an average of $5.37 per SWU. Using its total impact approach, UxC estimates that between 2008 and 2014 DOE's transfers reduced the spot price by an average of $9.19 per SWU and the term price by an average of $6.96 per SWU. UxC Report, 8–9.

UxC also estimates the effect of DOE continued transfers at current rates for the period 2015 to 2030. A summary of UxC's estimates of the effect of DOE transfers on future enrichment prices appears in Table 10. UxC estimates that DOE transfers in the near and medium terms would reduce the spot price by an average of $5.31 per SWU. UxC projects that this effect will change slightly in the medium term as market prices start to recover. Specifically, DOE transfers will reduce the spot price between 2018 and 2030 by an average of $4.86 per SWU. UxC also notes that the former number is larger relative to the expected price of enrichment than the latter number (5.9% versus 3.8%). UxC Report, 12. UxC estimates that DOE transfers in the near and medium terms would reduce the term price by an average of $5.50 per SWU. Between 2018 and 2030, DOE transfers are estimated to reduce the term price by an average of $5.00 per SWU. Again, the near and medium term impact is larger in relation to the expected price (5.6% versus 3.6%). UxC Report, 11.

[38] As noted above, the transfer rates for these scenarios refer only to the level of uranium transfers for cleanup at Portsmouth and downblending of LEU. The level of transfers for other DOE programs is the same in all three scenarios.

[39] ERI also compared those numbers to then current term and spot price indicators as of March 31, 2014. At that time, the TradeTech price indicator was $96.00 per SWU on the spot market and $99.00 per SWU on the term market. 2014 ERI Report, 23.

TABLE 10—UxC'S ESTIMATE OF EFFECT OF DOE TRANSFERS ON ENRICHMENT SPOT AND TERM PRICES IN $ PER SWU

	UxC Report	
	Near- & mid-term price effect	Long-term price effect
Spot Price	$5.31	$4.86
Term Price	5.50	5.00

As mentioned above, a change in market prices for uranium concentrates and conversion services may also affect enrichers. URENCO has stated that at a small amount of its capacity is devoted to underfeeding. Comment of URENCO, at 3. ERI notes that URENCO estimates it is using 10–15% of its capacity for underfeeding. 2015 ERI Report, 75. Thus, to the extent that URENCO utilizes or resells the natural uranium hexafluoride that results from underfeeding, the market prices for uranium and conversion could be relevant to its business decisions.

2. Realized Prices of Current Operators

There is only one currently operating enrichment facility in the United States, the URENCO USA (UUSA) gas centrifuge facility in New Mexico. No commenter provides information about the realized price achieved by URENCO or the effect of DOE transfers on that price. However, other sources provide some relevant information.

In recent years, the vast majority of SWU has been sold on the term market. UxC Enrichment Market Outlook—Q4 2014, 17, 20 (2014). ERI estimates that more than 95% of enrichment requirements are covered under long-term contracts. 2015 ERI Report, 74. Even in the term market, contracting volume is down compared to levels prior to 2010. UxC Enrichment Market Outlook—Q4 2014, 9, 21 (2014). Long-term contracts for SWU last for 10 or more years, in some cases and in some cases 15 or more years. UxC Enrichment Market Outlook—Q4 2014, 100 (2014).

EIA reports that in 2013, the average price paid for SWU was $142.22. EIA, Uranium Marketing Report, 7 (2014). This is well above the average market prices for 2013, approximately $110 in the spot market and $120 in the term market according to UxC.

URENCO's most recent financial statements indicate that at least a portion of its contract portfolio ''extend beyond 2025.'' URENCO Limited, Interim Financial Statements for the 6 Months Ended 30 June 2014, at 6, available at *http://www.urenco.com/_/uploads/content-files/Urenco_Group_Interim_Accounts_to_30_June_2014-final-02092014.pdf.*[40] URENCO has also stated that its enrichment contracts are usually fixed base price with escalation leaving URENCO with ''no direct exposure to uranium prices.'' URENCO Investor Update, 4 (Sept. 9, 2014), available at *http://www.urenco.com/_/uploads/results-and-presentations/URENCO_Bond_Investor_Presentation_2014.pdf.* Given the above considerations, it seems likely that URENCO's realized price based on its current contract portfolio is as much as 50% higher than the current spot and market prices. Since many of URENCO's contracts appear to have been entered before DOE began transfers comparable to the current levels, it is unlikely that continued DOE transfers will have an impact on the realized price achieved for enrichment services from existing capacity at UUSA during the period contemplated for the planned determination.

As noted above, URENCO has stated that a small amount of its capacity is devoted to underfeeding. Comment of URENCO, at 3.[41] ERI notes that URENCO estimates it is using 10–15% of its capacity for underfeeding. 2015 ERI Report, 75. To the extent that URENCO sells the natural uranium hexafluoride yielded from underfeeding, DOE transfers could affect its revenues to the extent the transfers cause decreases in the prices for uranium concentrates and conversion services.

3. Production at Existing Facilities

URENCO reports that the nameplate capacity for the UUSA facility is 3.7 million SWU. Comment of URENCO, at 1. URENCO has also stated that construction of additional centrifuges will continue until the facility reaches 5.7 million SWU. ''About Us, URENCO USA,'' URENCO, *http://www.urenco.com/about-us/company-structure/urenco-usa* (accessed Feb. 21 2015).

Due to the nature of gas centrifuges, it is highly unlikely that UUSA will decrease production of SWU. As URENCO states, due to the low level of electricity required to run the centrifuges, slowing production would have almost no effect on operating expenses. Furthermore, stopping and restarting a centrifuge may damage the equipment. Comment of URENCO, at 3.

4. Employment Levels in the Industry

ERI does not provide an estimate of the change in employment due to DOE transfers in the enrichment industry. No commenter references changes in employment in the enrichment industry. URENCO states that its business is essentially fixed-cost and makes no reference to changes in employment.

5. Changes in Capital Improvement Plans and Development of Future Facilities

URENCO recently completed ''Phase II'' of its expansion plans, bringing the capacity of its facility to 3.7 million SWU. ''Phase II Completion,'' URENCO (Apr. 9, 2014), *http://www.urenco.com/news/detail/phase-ii-completion* (accessed Feb. 22, 2014). URENCO is continuing to move forward with ''Phase III'' expansion, which will bring plant capacity to approximately 5.7 million SWU. URENCO notes that it has slowed its plan for construction of additional capacity. Comment of URENCO, at 3. URENCO expects to reach 5.7 million SWU capacity by 2023. URENCO Investor Update, 31 (Sept. 9, 2014). Although the company has requested a license amendment that would allow it to expand capacity to 10 million SWU per year, URENCO states that this move is ''to provide for future licensing flexibility should the market recover.'' URENCO notes that it cancelled construction of ''Phase IV'' in 2013. Comment of URENCO, at 3.

DOE is aware of several other planned or proposed enrichment facilities in the U.S., namely, AREVA's Eagle Rock

[40] DOE notes that URENCO's financial statements have referred to its order book as ''extending up to and beyond 2025'' at least since 2010. See URENCO, Annual Report & Accounts 2010, at 3 (2010), available at *http://media.urenco.com/corp-website/298/annualreportandaccounts2010_1.pdf.*

[41] On May 22, 2014, URENCO submitted an application to the U.S. NRC to amend its license for the facility to allow it to use high assay tails (approximately 0.4% U^{235}) as feed material. See 79 FR 43099 (July 24, 2014); ''Redacted—Supplement to License Amendment Request for Capacity Expansion of URENCO USA Facility (LAR–12–10),'' Letter from URENCO to U.S. NRC, LES–14–00071–NRC (June 17, 2014).

Enrichment Facility in Idaho, Centrus Energy's—formerly USEC Inc.—American Centrifuge Plant in Piketon, OH, and Global Laser Enrichment's facility in Wilmington, NC.[42] Development of each of these facilities has been put on hold or slowed until market prices improve.

The Eagle Rock Enrichment Facility would use gas centrifuge technology and would have a capacity of approximately 3.3 million SWU. ''Eagle Rock Enrichment Facility,'' AREVA, *http://us.areva.com/EN/home-203/eagle-rock-enrichment-facility.html* (accessed Feb. 21, 2015). After announcing several delays in construction, AREVA stated in May 2013 that it was no longer projecting a start date for building the facility. ''French company won't set date for Idaho nuclear facility,'' The Oregonian (May 23, 2013), *http://www.oregonlive.com/pacific-northwest-news/index.ssf/2013/05/french_company_wont_set_date_f.html* (accessed Feb. 21, 2015). At the time of this announcement, the term market price for SWU was approximately $130, according to UxC's monthly price indicator.

The proposed American Centrifuge Plant would use gas centrifuge technology and would have a capacity of approximately 3.8 million SWU. ''USEC Inc. Gas Centrifuge,'' U.S. NRC, *http://www.nrc.gov/materials/fuel-cycle-fac/usecfacility.html* (accessed Feb. 22, 2015). Active construction of new centrifuges has ceased. In a November 2013 quarterly filing with the SEC, Centrus Energy, then known as USEC, stated, ''[a]t current market prices USEC does not believe that its plans for American Centrifuge commercialization are economically viable without additional government support.'' USEC Form 10–Q, Securities and Exchange Commission, at 10 (Nov. 5, 2013) *https://www.sec.gov/Archives/edgar/data/1065059/000106505913000049/usu-2013930x10q.htm* (accessed Feb. 22, 2015). When this form was submitted to the SEC, the term market price for SWU was approximately $115, according to UxC's monthly price indicator.

Global Laser Enrichment, a venture of GE-Hitachi and Cameco, has proposed an enrichment plant that would use laser enrichment technology developed by Silex Systems, an Australian company. The proposed facility in Wilmington, NC would have a capacity of about 6 million SWU. GLE License Application, Rev. 7, U.S. NRC, Docket 70–7016, at 1–16 (August 20, 2012), available at *http://pbadupws.nrc.gov/docs/ML1224/ML12242A227.pdf.* In July 2014, GLE announced that it would slow continued development of the facility ''in line with current and future market realities.'' ''Global Laser Enrichment,'' GE-Hitachi, *https://nuclear.gepower.com/fuel-a-plant/products/gle.html* (accessed Feb. 22, 2015). At the time of GLE's announcement, the term market price for SWU was approximately $95, according to UxC's monthly price indicator.

6. Long-Term Viability and Health of the Industry

ERI's most recent Reference Nuclear Power Growth forecasts project global requirements to grow to approximately 59 million SWU between 2021 and 2025, approximately 31% higher than current requirements. Global requirements are expected to continue to rise to a level of 74 million SWU between 2031 and 2035, approximately 64% higher than current requirements. 2015 ERI Report, 13. ERI presents a graph comparing global requirements, demand, and supply from 2013–2035. That graph shows that global supply will continue to significantly exceed global demand over the long term. 2015 ERI Report, 16.

Although not focused on enrichment, the requirements forecasts noted above in section III.A.6 are also somewhat relevant to the enrichment industry. In general, requirements and/or uranium concentrate demand forecasts should also apply to demand for low enriched uranium. As with conversion, there may be some small differences due to strategic and discretionary inventory building. For example, China has been purchasing strategic supply well in excess of its requirements. Those purchases have come in the form of U_3O_8. 2015 ERI Report, 13. Thus, these purchases affect near-term uranium concentrate demand, but do not affect near-term demand for LEU.

In addition to demand for LEU, higher demand for uranium concentrates can affect demand for enrichment because of the relationship described above between natural uranium and enrichment as inputs for producing enriched uranium product. In the medium to long term, supply from current mines will cease to exceed demand. Meanwhile, requirements for LEU will continue to significantly exceed enrichment supply. As prices for uranium concentrates and conversion increase relative to SWU prices, it may become more economical to re-enrich high-assay tails. In this vein, ERI suggests that enrichers will continue to redirect capacity to underfeeding and that Rosatom will continue to re-enrich tails. 2015 ERI Report, 16.[43]

No other commenter provides specific projections about future enrichment requirements, demand, or prices. In its Uranium Enrichment Outlook for the 4th quarter of 2014, UxC predicts significant increases in both requirements and demand in the long-term. UxC Enrichment Market Outlook—Q4 2014, 36, 38 (2014). UxC also provides a more detailed explanation of its price forecast, which generally predicts an increase in price over the next 10 years. UxC Enrichment Market Outlook—Q4 2014, 91–94 (2014).

Finally, as with uranium concentrates and conversion services, DOE recognizes that the predictability of transfers from its excess uranium inventory over time is important to the long-term viability and health of the uranium enrichment industries. Again, DOE notes that the upper scenario considered by ERI would represent continued transfers at rates consistent with the May 2012 and May 2014 determinations. Compare 2015 ERI Report, 25, with 2014 ERI Report, 28.

IV. Request for Comments

DOE believes it will be possible to identify a rate of transfers that will not have an adverse material impact on domestic uranium industries. DOE therefore proposes to issue a new Secretarial Determination, pursuant to 3112(d) of the USEC Privatization Act, that transfers of uranium for cleanup services at the Portsmouth Gaseous Diffusion Plant and for down-blending of HEU to LEU will not have an adverse material impact on the domestic production, conversion, or enrichment industry. In preparing this determination, DOE may use the six factors proposed above as an analytical framework for assessing the potential impacts of DOE transfers for each industry.

DOE continues to deliberate over what rate of transfers would be appropriate for such a determination. Commenters suggested a range of options. Many commenters indicated that a rate of 5 million pounds total of

[42] Although not the subject of this determination, DOE notes that ERI analyzed the possible future transfer to GLE of high-assay depleted uranium. 2015 ERI Report, 27–28. As this transaction would involve reenrichment of depleted tails, it would tend to support additional demand for enrichment services.

[43] Again, DOE notes that although it is not included in ERI's chart of enrichment supply, GLE's proposed Paducah Laser Enrichment Facility would represent additional enrichment supply that is not intended to be devoted to producing LEU. Compare 2015 ERI Report, 16, with 2015 ERI Report, 27–28.

natural uranium equivalent per year would be acceptable. Some commenters favored a rate of 5 million pounds but suggested DOE should cease transfers for some period and then ramp up transfers to the 5 million pounds per year rate. One commenter focused on transfers of uranium hexafluoride, as opposed to uranium concentrates, and asked DOE to ensure that its transfers are market-neutral with respect to conversion. DOE is also considering whether to continue transfers at the rate covered by the 2014 determination, 2,705 metric tons per year of natural uranium equivalent.

DOE is also considering whether to include additional features in a determination that might change how a given set of transfers affects domestic industries. Some commenters proposed a scheme of matched sales, in which DOE would transfer a given tranche of uranium only after ensuring that a buyer had bought an equivalent quantity, at a comparable price, from U.S. producers. Other commenters asked that DOE transfer uranium in such a way that the uranium appears on markets only in the long term. The commenters do not appear to be suggesting that DOE simply not transfer uranium until some future date; rather, they contemplate that DOE would transfer uranium in the near term but with some restriction on use or availability that prevents the uranium from displacing other supply sources for some number of years. Yet the transfers DOE is considering would be part of barter transactions in exchange for services obtained essentially contemporaneously. In considering commenters' suggestions about long-term as compared to short-term availability of DOE-sourced uranium, DOE will need to assess whether the markets could support the provision of services in the near term to be compensated by uranium available only in the long term. In light of the forecast increases in the price of uranium concentrates, it is conceivable that transactions to bridge the gap from near- to long-term could be financially justifiable for some entities. DOE will continue to analyze this possibility.

To enable the Secretary to make a determination as expeditiously as possible, DOE is setting a deadline of April 6, 2015, for all comments to be received. DOE invites all interested parties to submit, in writing, comments and information on the factors described above, the information and documents made available through this notice, and the summary of information considered. DOE intends to make all comments received publicly available. Any information that may be confidential and exempt by law from public disclosure should be submitted as described below.

V. Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination. Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

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

John Kotek,

Principal Deputy Assistant Secretary for Nuclear Energy, Office of Nuclear Energy.

[FR Doc. 2015–06189 Filed 3–17–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1888–030—Pennsylvania, Project No. 2355–018—Pennsylvania/Maryland, Project No. 405–106—Maryland]

York Haven Power Company, Exelon Generation Company; Notice of Availability of the Final Environmental Impact Statement for the Susquehanna River Hydroelectric Projects

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR) (18 CFR part 380), the Office of Energy Projects has reviewed the applications for license for the York Haven Hydroelectric Project (FERC No. 1888), the Muddy Run Pumped Storage Project (FERC No. 2355), and the Conowingo Hydroelectric Project (FERC No. 405) and prepared a final multi-project environmental impact statement (EIS).

The existing York Haven Project is located on the Susquehanna River at river mile (RM) 55 in the city of York, in York, Dauphin, and Lancaster Counties, Pennsylvania. The project does not occupy any federal lands. The Muddy Run and Conowingo Projects are located on the Susquehanna River at RM 22 and RM 10, respectively, in Lancaster and York Counties, Pennsylvania, and Cecil and Harford Counties, Maryland. Conowingo Pond, the reservoir for the Conowingo Project, acts as the lower reservoir for the Muddy Run Project. The Muddy Run Project also includes an upper reservoir for pumped storage operation. The projects do not occupy any federal lands.

The final EIS contains staff's analysis of the applicants' proposals and the alternatives for relicensing the York Haven, Muddy Run, and Conowingo Projects. The final EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicants, and Commission staff.

A copy of the final EIS is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''e-Library'' link. Enter one of the docket numbers, excluding the last three digits, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

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, contact FERC Online Support.

For further information, please contact Emily Carter at (202) 502–6512 or at *emily.carter@ferc.gov.*

Dated: March 11, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–06077 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1227–000]

California Clean Power Corp.; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of California Clean Power Corp.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 1, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: March 12, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06166 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–619–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) rate filing per 154.204: 03/09/15 Negotiated Rates—Mercuria Energy Gas Trading (HUB) 7540–89 to be effective 3/6/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5100.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–620–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) rate filing per 154.204: 03/09/15 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 3/6/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5120.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–621–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) rate filing per 154.204: 03/09/15 Negotiated Rates—United Energy Trading, LLC (HUB) 2275–89 to be effective 3/6/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5123.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–622–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: Negotiated Rate Cleanup Filing to be effective 4/1/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5131.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–623–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) rate filing per 154.204: 03/09/15 Negotiated Rates—ConEdison Energy Inc. (HUB) 2275–89 to be effective 3/6/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5176.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–624–000.
Applicants: National Fuel Gas Supply Corporation.
Description: § 4(d) rate filing per 154.204: Cancellation of Rate Schedule X–10 to be effective 4/8/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5181.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–625–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) rate filing per 154.204: Move NegRates 1 to be effective 4/1/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5225.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–626–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) rate filing per 154.204: Move NegRates 2 to be effective 4/1/2017.
Filed Date: 3/9/15.
Accession Number: 20150309–5235.
Comments Due: 5 p.m. ET 3/23/15.

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 comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP15–534–001.
Applicants: Equitrans, L.P.
Description: Tariff Amendment per 154.205(b): Amendment to 3–1–2015 Formula-Based Negotiated Rates to be effective 3/1/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5197.
Comments Due: 5 p.m. ET 3/23/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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: March 10, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06131 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–627–000.
Applicants: KO Transmission Company.
Description: Compliance filing per 154.203: Order No. 801, Natural Gas Pipeline Maps to be effective 4/1/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5103.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–628–000.
Applicants: Equitrans, L.P.
Description: § 4(d) rate filing per 154.204: Negotiated Capacity Release Agreements—03–2015 to be effective 12/1/2013.
Filed Date: 3/10/15.
Accession Number: 20150310–5172.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–629–000.
Applicants: Guardian Pipeline, L.L.C.
Description: § 4(d) rate filing per 154.204: Negotiated Rate PAL Agreement—Koch Energy Services to be effective 3/10/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5196.
Comments Due: 5 p.m. ET 3/23/15.

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: March 11, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06135 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD15–2–000]

Review of Cost Submittals by Other Federal Agencies for Administering Part I of the Federal Power Act; Notice of Technical Conference

In an order issued on October 8, 2004, the Commission set forth a guideline for Other Federal Agencies (OFAs) to submit their costs related to Administering Part I of the Federal Power Act. *Order On Rehearing Consolidating Administrative Annual Charges Bill Appeals And Modifying Annual Charges Billing Procedures,* 109 FERC ¶ 61,040 (2004) (October 8 Order). The Commission required OFAs to submit their costs using the OFA Cost Submission Form. The October 8 Order also announced that a technical conference would be held for the purpose of reviewing the submitted cost forms and detailed supporting documentation.

The Commission will hold a technical conference for reviewing the submitted OFA costs. The purpose of the conference will be for OFAs and licensees to discuss costs reported in the forms and any other supporting documentation or analyses.

The technical conference will be held on March 26, 2015, in Conference Room 3M–2B at the Commission's headquarters, 888 First Street NE., Washington, DC. The technical conference will begin at 2:00 p.m. (EST).

The technical conference will also be transcribed. Those interested in obtaining a copy of the transcript immediately for a fee should contact the Ace-Federal Reporters, Inc., at 202–347–3700, or 1–800–336–6646. Two weeks after the post-forum meeting, the transcript will be available for free on the Commission's e-library system. Anyone without access to the Commission's Web site or who has questions about the technical conference should contact Norman Richardson at (202) 502–6219 or via email at *annualcharges@ferc.gov.*

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice), (202) 208–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

Dated: March 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–06203 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4908–015]

Tannery Island Power Corporation; Ampersand Tannery Island Hydro, LLC; Notice of Transfer of Exemption

1. By letter filed September 29, 2014, Ampersand Tannery Island Hydro, LLC informed the Commission that the exemption from licensing for the Tannery Island Project, FERC No. 4908, originally issued July 11, 1983,[1] has been transferred from Tannery Island Power Corporation to Ampersand Tannery Island Hydro, LLC. The project is located on the Black River in Jefferson County, New York. The transfer of an exemption does not require Commission approval.

2. Ampersand Tannery Island Hydro, LLC is now the exemptee for the Tannery Island Project, FERC No. 4908. All correspondence should be forwarded to: Mr. Jingdong Huang, Asset Manager, Ampersand Tannery Island Hydro, LLC, 717 Atlantic Avenue, Suite 1A, Boston, MA 02111.

Dated: March 11, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–06079 Filed 3–17–15; 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: EC15–88–000.
Applicants: BluCo Energy LLC, Vantage Commodities Financial Services II, LLC.
Description: Application Under Section 203 of Bluco Energy, LLC.
Filed Date: 3/6/15.

[1] 24 FERC ¶ 61,021, Order Modifying Order Vacating Grant of Exemptions from Licensing (1983).

Accession Number: 20150309–5137.
Comments Due: 5 p.m. ET 3/27/15.

Docket Numbers: EC15–89–000.
Applicants: Florida Power & Light Company.
Description: Application for Approval of Acquisition of Transmission Assets Pursuant to Section 203 of the Federal Power Act and Request for Expedited Action of Florida Power & Light Company.
Filed Date: 3/9/15.
Accession Number: 20150309–5306.
Comments Due: 5 p.m. ET 3/30/15.

Docket Numbers: EC15–90–000.
Applicants: Lumens Energy Supply LLC, Aequitas Energy, Inc.
Description: Joint Application under Section 203 of the Federal Power Act of Lumens Energy Supply LLC, et. al.
Filed Date: 3/9/15.
Accession Number: 20150309–5307.
Comments Due: 5 p.m. ET 3/30/15.

Docket Numbers: EC15–91–000.
Applicants: American Transmission Company LLC.
Description: Application for Authority to Acquire Transmission Facilities Under 203 of the Federal Power Act of American Transmission Company LLC.
Filed Date: 3/9/15.
Accession Number: 20150309–5309.
Comments Due: 5 p.m. ET 3/30/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–445–005; ER14–2823–003; ER11–4060–005; ER11–4061–005; ER10–3117–003; ER10–3115–002.
Applicants: Badger Creek Limited, Double C Generation Limited Partnership, High Sierra Limited, Kern Front Limited, Lea Power Partners, LLC, Waterside Power, L.L.C.
Description: Notice of Change in Status Badger Creek Limited, et. al.
Filed Date: 3/9/15.
Accession Number: 20150309–5325.
Comments Due: 5 p.m. ET 3/30/15.

Docket Numbers: ER14–2751–003.
Applicants: Xcel Energy Southwest Transmission Company, LLC.
Description: Formula Rate Implementation Procedures Compliance Filing of Xcel Energy Southwest Transmission Company, LLC.
Filed Date: 3/9/15.
Accession Number: 20150309–5320.
Comments Due: 5 p.m. ET 3/30/15.

Docket Numbers: ER14–2752–003.
Applicants: Xcel Energy Transmission Development Company, LLC.
Description: Formula Rate Implementation Procedures Compliance Filing of Xcel Energy Transmission Development Company, LLC.
Filed Date: 3/9/15.
Accession Number: 20150309–5319.
Comments Due: 5 p.m. ET 3/30/15.

Docket Numbers: ER15–964–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment per 35.17(b): City Utilities of Springfield Formula Rate Amended Filing to be effective 4/1/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5143.
Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–1196–000.
Applicants: Nevada Power Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): OATT Energy Imbalance Market to be effective 5/5/2015.
Filed Date: 3/6/15.
Accession Number: 20150309–5004.
Comments Due: 5 p.m. ET 3/27/15.

Docket Numbers: ER15–1202–000.
Applicants: PJM Interconnection, L.L.C., Duquesne Light Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Duquesne submits revisions to OATT Att H–17A to be effective 5/8/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5275.
Comments Due: 5 p.m. ET 3/30/15.

Docket Numbers: ER15–1203–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Concurrence IPL Amended Exhibits and Attachments to O&T to be effective 5/5/2015.
Filed Date: 3/9/15.
Accession Number: 20150309–5277.
Comments Due: 5 p.m. ET 3/30/15.

Docket Numbers: ER15–1204–000.
Applicants: Duke Energy Indiana, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015 Annual Reconciliation Filing RS 253 to be effective 7/1/2014.
Filed Date: 3/9/15.
Accession Number: 20150309–5290.
Comments Due: 5 p.m. ET 3/30/15.

Docket Numbers: ER15–1210–000.
Applicants: Midcontinent Independent System Operator, Inc., Hoosier Energy Rural Electric Cooperative.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–03–10_Hoosier-SIPC RTO Adder Filing to be effective 1/6/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5061.
Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–1211–000.
Applicants: Wisconsin Public Service Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): WPSC Annual PEB/PBOP Filing to be effective 4/1/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5088.
Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–1212–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 1876R4 Kansas Electric Power Cooperative, Inc. NITSA NOA to be effective 2/1/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5104.
Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–1213–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to Attachment Q to Remove Seller Credit Provisions to be effective 5/11/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5128.
Comments Due: 5 p.m. ET 3/31/15.

Docket Numbers: ER15–1214–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–03–10_SA 2320 GRE–NSP 1st Rev. FCA (F096) to be effective 3/11/2015.
Filed Date: 3/10/15.
Accession Number: 20150310–5131.
Comments Due: 5 p.m. ET 3/31/15.

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: March 10, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06133 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–103–000]

Texas Eastern Transmission, LP: Notice of Request Under Blanket Authorization

Take notice that on March 3, 2015, Texas Eastern Transmission, LP (Texas Eastern), P.O. Box 1642, Houston, TX 77251–1642 filed in Docket No. CP15–103–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act for authorization to abandon by sale to EnCrescent, LLC certain pipeline facilities and to remove related ancillary facilities located in Harrison County, Texas and Caddo Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Specifically, Texas Eastern proposes to (i) abandon by sale approximately 4 miles of its lateral Line 1–N–1, approximately 2 miles of lateral Line 1–N–1–B, approximately 0.3 miles of lateral Line 1–N–2 and approximately 0.1 miles of lateral Line 1–N–4, and (ii) remove related ancillary facilities. The project will have no impact on the certificated capacity of Texas Eastern's system and there will be no reduction in service to existing customers as a result of the proposed abandonment activities.

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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this Application should be directed to Lisa A. Connolly, General Manager, Rates & Certificates or Estela D. Lozano, Manager, Rates, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, TX 77251–1642, by phone at (713) 627–4102 or (713) 627–5947, or by email at *laconnolly@spectraenergy.com*.

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 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.

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.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions 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. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: March 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–06204 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–2744–043]

N.E.W. Hydro, LLC; Notice of Technical Meeting

Project Name and Number: Menominee/Park Mill Hydroelectric Project No. 2744.

Date and Time of Meeting: March 27, 2015; 10 a.m. Eastern Time (9 a.m. Central Time).

Place: Telephone conference with N.E.W. Hydro, Inc.

FERC Contact: Chelsea Hudock, *chelsea.hudock@ferc.gov* or (202) 502–8448.

Purpose of Meeting: To discuss the applicant's responses (filed on April 2, 2014 and December 2, 2014) to the Commission's Additional Information Requests filed on August 26, 2014 and December 31, 2013, and other outstanding questions following the Commission's review of the N.E.W. Hydro's application, filed on February 28, 2013.

A summary of the meeting will be prepared and filed for the project's records.

All local, state, and Federal agencies, Indian tribes, and other interested parties are invited to participate by phone. Please contact Chelsea Hudock at *chelsea.hudock@ferc.gov* or (202) 502–8448 by close of business March 17, 2015, to RSVP and to receive specific instructions on how to participate.

Dated: March 12, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–06206 Filed 3–17–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0102; FRL–9924–39]

Pesticide Program Dialogue Committee; Extension of Deadline for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Extension of nomination period.

SUMMARY: This document extends the deadline for submitting a nomination to serve on the Pesticide Program Dialogue Committee (PPDC) for 30 days from the original deadline of March 16, 2015 to April 16, 2015. The nomination period is being extended to ensure the Agency receives a diverse range of qualified candidates.

DATES: Nominations must be received on or before April 16, 2015.

ADDRESSES: Follow the detailed instructions provided in the **Federal Register** document of February 13, 2015 (80 FR 8082) (FRL–9922–90).

FOR FURTHER INFORMATION CONTACT: Dea Zimmerman, Designated Federal Officer for the PPDC, telephone number: (312) 353–6344; email address: *zimmerman.dea@epa.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** document of February 13, 2015 (80 FR 8082) (FRL–9922–90), EPA invited nominations to be considered for appointment to the PPDC. EPA is hereby extending the deadline for nomination to April 16, 2015.

To submit nominations, please follow the detailed instructions provided under **ADDRESSES**, in the **Federal Register** document of February 13, 2015. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 11, 2015.

Jack E. Housenger,

Director, Office of Pesticide Programs.

[FR Doc. 2015–06276 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9924–50–OCFO]

Meeting of the Environmental Financial Advisory Board—Public Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting of the Environmental Financial Advisory Board.

SUMMARY: The United States Environmental Protection Agency's (USEPA) Environmental Financial Advisory Board (EFAB) will hold a public meeting on May 14–15, 2015. EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA) to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities.

The purpose of this meeting is to hear from informed speakers on environmental finance issues, proposed legislation, and EPA priorities; to discuss activities, progress, and preliminary recommendations with regard to current EFAB work projects; and to consider requests for assistance from EPA offices.

Environmental finance discussions and presentations are expected on, but not limited to, the following topics: Water infrastructure financing; financing operations and maintenance at green sites; and EPA's Water Infrastructure and Resiliency Financing Center.

The meeting is open to the public; however, seating is limited. All members of the public who wish to attend the meeting must register, in advance, no later than Friday, May 1, 2015. Registration is required for all members of the public to assure an expeditious security process.

DATES: The full board meeting will be held on Thursday, May 14, 2015 from 1:00 p.m. to 5 p.m., EDT and Friday, May 15, 2015 from 9:00 a.m. to 5 p.m., EDT.

ADDRESSES: District of Columbia Water and Sewer Authority, 5000 Overlook Drive, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: For information on access or services for individuals with disabilities, or to request accommodations for a person with a disability, please contact Sandra Williams, U.S. EPA, at (202) 564–4999 or *williams.sandra@epa.gov,* at least 10 days prior to the meeting, to allow as much time as possible to process your request.

Dated: March 6, 2015.

David Bloom,

Acting Chief Financial Officer.

[FR Doc. 2015–06215 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9924–63–OA]

Notification of a Public Meeting of the Science Advisory Board Drinking Water Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a meeting of the Drinking Water Committee (DWC) to review the EPA's *Draft Fourth Contaminant Candidate List* (CCL4) published on February 4, 2015).

DATES: The public meeting will be held on April 29, 2015, from 9:00 a.m. to 5:00 p.m. (Eastern Standard Time) and on April 30, 2015, from 9:00 a.m. to 3:30 p.m. (Eastern Standard Time).

ADDRESSES: The public meeting will be held at the George Washington University, Milken Institute School of Public Health, 950 New Hampshire Ave. NW., 7th Floor, Washington, DC 20052.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning this public meeting may contact Ms. Stephanie Sanzone, Designated Federal Officer (DFO) for the Drinking Water Committee, EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone at (202) 564–2067 or via email at *sanzone.stephanie@epa.gov.* General information concerning the EPA SAB can be found at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Drinking Water Committee will hold a public meeting to review the EPA *Draft Fourth Contaminant Candidate List (CCL4) (February 4, 2015).* The committee will provide advice to the Administrator through the chartered SAB.

EPA's Office of Water requested that the SAB Drinking Water Committee review the *Draft Fourth Contaminant List (CCL4),* which was released for public review and comment on February 4, 2015 (80 FR 6076). The Safe Drinking Water Act (SDWA), as amended in 1996, requires EPA, after consultation with the scientific community including the Science Advisory Board and opportunity for public comment, to publish a list every five years of currently unregulated contaminants that are known or anticipated to occur in public water systems and may require regulation

under the SDWA (referred to as the Contaminant Candidate List, or CCL). This list is subsequently used to identify priority contaminants for further research needs and to make determinations on whether or not to regulate at least five contaminants from the CCL with national primary drinking water regulations (NPDWRs) (SDWA section 1412(b)(1)). The draft CCL4 includes 100 chemicals or chemical groups and 12 microbial contaminants. Additional information about this SAB advisory activity can be found at the following URL *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/CCL%204?OpenDocument.*

Technical Contacts: Any technical questions concerning EPA's draft CCL4 should be directed to Ms. Meredith Russell in the EPA Office of Water, by telephone at (202) 564–0814 or by email at *Russell.Meredith@epa.gov.*

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/sab/.* Materials may also be accessed at the URL provided above.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Interested members of the public may submit relevant information on the topic of this advisory activity, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB committees and panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at the meeting will be limited to five minutes. Interested parties wishing to provide comments should contact Ms. Sanzone, DFO, in writing (preferably via email) at the contact information noted above by April 22, 2015, to be placed on the list of public speakers for the meeting. *Written Statements:* Written statements will be accepted throughout the advisory process; however, for timely consideration by Committee members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by April 22, 2015. It is the SAB Staff Office general policy to post written comments on the Web page for advisory meetings. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Ms. Sanzone at the contact information provided above. To request accommodation of a disability, please contact Ms. Sanzone preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: March 12, 2015.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2015–06222 Filed 3–17–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0320, 3060–0634]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

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 PRA comments should be submitted on or before May 18, 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: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0320.

Title: Section 73.1350, Transmission System Operation.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 505 respondents; 505 responses.

Estimated Hours per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 253 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 73.1350(g) requires licensees to submit a ''letter of notification'' to the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, whenever a transmission

system control point is established at a location other than at the main studio or transmitter within three days of the initial use of that point. The letter should include a list of all control points in use for clarity. This notification is not required if responsible station personnel can be contacted at the transmitter or studio site during hours of operation.

OMB Control Number: 3060–0634.

Title: Section 73.691, Visual Modulation Monitoring.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 20 respondents; 46 responses.

Estimated Hours per Response: One hour.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 46 hours.

Total Annual Cost: None.

Privacy Impact Assessment(s): No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 73.691(b) requires TV stations to enter into the station log the date and time of the initial technical problems that make it impossible to operate a TV station in accordance with the timing and carrier level tolerance requirements. If this operation at variance is expected to exceed 10 consecutive days, a notification must be sent to the FCC. The licensee must also notify the FCC upon restoration of normal operations. Furthermore, a licensee must send a written request to the FCC if causes beyond the control of the licensee prevent restoration of normal operations within 30 days. The FCC staff use the data to maintain accurate and complete technical information about a station's operation. In the event that a complaint is received from the public regarding a station's operation, this information is necessary to provide an accurate response.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–06151 Filed 3–17–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Community Banking; Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Community Banking, which will be held in Washington, DC. The Advisory Committee will provide advice and recommendations on a broad range of policy issues that have particular impact on small community banks throughout the United States and the local communities they serve, with a focus on rural areas.

DATES: Thursday, April 2, 2015, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the fourth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include a discussion of current issues affecting community banking. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting. This Community Banking Advisory Committee meeting will be Webcast live via the Internet at *https://fdic.primetime.mediaplatform.com/#channel/1384299242770/Advisory+Committee+on+Community+Banking+*. Questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet connection is recommended. The Community Banking meeting videos are made available on-demand approximately two weeks after the event.

Dated: March 13, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Committee Management Officer.

[FR Doc. 2015–06209 Filed 3–17–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011463–009.

Title: East Coast North America to West Coast South America and Caribbean Cooperative Working Agreement.

Parties: Compania Chilena de Navegacion Interoceanica S.A.; Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft KG (HSDG); Compania Sud Americana de Vapores S.A. (CSAV); and Norasia Container Lines Limited.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100, Washington, DC 20006.

Synopsis: The Amendment would delete CSAV and Norasia as parties to the Agreement and replace them with Hapag-Lloyd, and make corresponding changes in the Agreement where necessary.

Agreement No.: 012193–002.

Title: Siem Car Carriers AS/Compania Sud Americana de Vapores S.A. Space Charter Agreement.

Parties: Siem Car Carriers AS and Compania Sud Americana de Vapores S.A.

Filing Party: Ashley W. Craig Esq.; Venable LLP; 575 Seventh Street NW., Washington, DC 20004.

Synopsis: The Amendment adds Mexico to the geographic scope of the agreement.

Agreement No.: 012319.

Title: MOL/WWL Space Charter Agreement.

Parties: Mitsui O.S.K. Lines, Ltd. and Wallenius Wilhelmsen Logistics AS.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 401 9th Street NW., Suite 900, Washington, DC 20004.

Synopsis: The Agreement authorizes the parties to charter space to/from one another for the transportation of vehicles or other Ro/Ro cargo in the trade between the United States and Europe.

Agreement No.: 012320.

Title: HLAG/CSAV Agreement.

Parties: Hapag-Lloyd AG and Compania Sud Americana De Vapores, S.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor, 1627 I Street NW., Washington, DC 20006.

Synopsis: The Agreement would authorize certain on-going arrangements between the Parties that are ancillary to the acquisition of CSAV's containerized ocean liner business by Hapag-Lloyd. More specifically, it would set forth the terms of a non-compete arrangement between the Parties, and authorize the exchange of information and agreement between the parties on matters necessary to complete the efficient transfer of the business.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–06202 Filed 3–17–15; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan 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 application also will 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 HOLA (12 U.S.C. 1467a(e)). 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 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 13, 2015.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *CF Mutual Holding Company and CF Bancorp, Inc.,* both in Cincinnati, Ohio; to become a savings and loan holding companies upon the conversion of Cincinnati Federal Savings Loan Association, Cincinnati, Ohio, which is converting from mutual to stock form.

Board of Governors of the Federal Reserve System, March 13, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–06197 Filed 3–17–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 2, 2015.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Georgia A. Gross,* Roseburg, Oregon, acting in concert with the Gross Family; to acquire voting shares of Commercial Bancorp, and thereby indirectly acquire voting shares of Farmers State Bank, both in Pine Bluffs, Wyoming.

Board of Governors of the Federal Reserve System, March 13, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–06198 Filed 3–17–15; 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 April 13, 2025.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Beartooth Financial Corporation,* Billings, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of Beartooth Bank, Billings, Montana.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *FNBK Holdings, Inc.,* Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Kemp, Kemp, Texas.

Board of Governors of the Federal Reserve System, March 13, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–06196 Filed 3–17–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0044]

Agency Information Collection Activities; Proposed Collection; Comment Request; Recommended Recordkeeping for Exempt Infant Formula Production

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on our proposed collection of certain information. 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 invites comments on the information collection provisions of the draft guidance entitled ''Draft Guidance for Industry: Exempt Infant Formula Production: Current Good Manufacturing Practices (CGMPs), Quality Control Procedures, Conduct of Audits, and Records and Reports.''

DATES: Submit either electronic or written comments on the collection of information by May 18, 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.

Recommended Recordkeeping for Exempt Infant Formula Production—OMB Control Number 0910—NEW

I. Background

Section 412(h)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 350a(h)(1)) exempts an infant formula which is represented and labeled for use by an infant with an inborn error of metabolism, low birth weight, or who otherwise has an unusual medical or dietary problem from the requirements of section 412(a), (b), and (c) of the FD&C Act. These formulas are customarily referred to as ''exempt infant formulas.'' In the **Federal Register** of June 10, 2014 (79 FR 33057), we published a final rule that adopted, with some modifications, an interim final rule published on February 10, 2014 (79 FR 7933), that established requirements for quality factors for infant formulas and current good manufacturing practices (CGMPs), including quality control procedures, under section 412 of the FD&C Act. The final rule will help prevent the manufacture of adulterated infant formula, ensure the safety of infant formula, and ensure that the nutrients in infant formula are present in a form that is bioavailable.

In the **Federal Register** of February 10, 2014 (79 FR 7610), we published a notice of availability of the draft guidance document entitled ''Guidance for Industry: Exempt Infant Formula Production: Current Good Manufacturing Practices (CGMPs), Quality Control Procedures, Conduct of Audits, and Records and Reports'' (the draft guidance). The draft guidance, when finalized, will describe our current thinking on the manufacturing of exempt infant formula in relation to the requirements in part 106 (21 CFR part 106) for CGMPs, quality control procedures, conduct of audits, and records and reports that apply to nonexempt infant formulas. Persons with access to the Internet may obtain the draft guidance at *http://www.fda.gov/FoodGuidances.*

II. Analysis of the Proposed Information Collection

The proposed information collection seeks OMB approval of the recordkeeping recommendations of the draft guidance. Our estimate of the burden of the recordkeeping recommendations includes the one-time burden of developing production and in-process control systems and the annual burdens of developing and maintaining production aggregate production and control records, records pertaining to the distribution of infant formula, and records pertaining to regularly scheduled audits. Included in the burden estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Description of Respondents: The respondent recordkeepers are manufacturers of exempt infant formula.

Description: The records recommended, to the extent practicable, in the draft guidance include records required by part 106, subparts A, B, C, D, and F for non-exempt infant formulas. Because the records and reporting requirements related to part 106 subparts E and G are not generally applicable to exempt infant formula manufacturers, FDA is not recommending in the draft guidance that exempt infant formula manufacturers follow these

requirements. As such, the records and reporting requirements in part 106 subparts E and G are not part of this new information collection.

FDA estimates the burden of this collection of information as follows:

The total one-time estimated burden imposed by this collection of information is 19,320 hours. The total annual estimated burden imposed by this collection of information is 6,328.06 hours. There are no capital costs or operating and maintenance costs associated with this collection of information. The estimated burden for the draft guidance is based on ''Evaluation of Recordkeeping Costs for Food Manufacturers,'' Eastern Research Group Task Order No. 5, Contract No. 223–01–2461. FDA estimates that firms will be able to fulfill recordkeeping requirements with existing record systems; that is, FDA estimates that it will not be necessary for infant formula firms to invest in new recordkeeping systems.

As of the beginning of 2015, five manufacturers produce exempt infant formulas that are marketed in the United States. Four out of these five infant formula manufacturers produce both exempt and non-exempt infant formulas, with both types of infant formula produced using the same production lines and equipment. Our experts believe that manufacturing practices are similar for both exempt and non-exempt infant formulas. Furthermore, given expert estimations of industry standard practices, it is estimated that the manufacturer that only produces exempt infant formula has practices comparable to those manufacturers producing both exempt and non-exempt infant formulas (Ref. 1). Together, these 5 manufacturers produce exempt infant formula at 12 plants.

The number of recordkeepers in column 3 of table 1 is based on FDA's expert estimation of the number of plants that may not already be adhering to the relevant recordkeeping provisions of the final rule. The Regulatory Impact Analysis for the final rule (79 FR 33057) estimated that 25 percent of all infant formula plants manufacturing non-exempt infant formula were not currently adhering to the recordkeeping provisions under § 106.100. Although such recordkeeping requirements are now effective for manufacturers of non-exempt infant formulas, and manufacturers of exempt infant formulas may have implemented similar procedures for their exempt infant formulas, it is estimated conservatively that this same proportion (25 percent, or 3 out of 12 plants that manufacture exempt infant formula) are not currently adhering to the recordkeeping provisions, and unless otherwise specified, burdens are estimated based on these 3 plants. Furthermore, we estimate that plants will collect the same information across the various exempt infant formulas produced by each firm.

For records pertaining to production and in-process controls, FDA estimates that, at most, three plants do not currently develop production records as specified under §§ 106.6(c)(5) and 106.100(e)(1) and (e)(3). A team of two senior validation engineers (or other similarly skilled employees) per plant (2 workers per plant × 3 plants = 6 workers) would each need to work 20 hours to provide sufficient initial baseline records and documentation to develop records pertaining to production and in-process controls, for an industry total of 120 hours (2 workers per plant × 3 plants × 20 hours per worker = 120 hours), as presented in line 1 of table 1.

For the recordkeeping specified under § 106.35(c), in accordance with § 106.100(f)(5), FDA estimates that a team of 10 senior validation engineers (or other similarly skilled employees) per plant would need to work full time for 16 weeks (16 weeks/person × 40 work hours/week = 640 work hours per person) to provide sufficient initial records and documentation pertaining to controls intended to prevent adulteration due to automatic equipment. The total burden for 10 senior validation engineers each working 640 hours is 6,400 per plant in the first year (10 senior validation engineers × 640 hours = 6,400). For three plants, the total one-time hourly burden is 3 plants × 6,400 hours per plant = 19,200 hours, as presented in line 2 of table 1.

For the testing specified under § 106.20(f)(3), manufacturers of exempt infant formulas should conduct water testing with appropriate frequency to meet Environmental Protection Agency primary standards for drinking water (40 CFR parts 9, 141, and 142), but shall conduct these tests at least annually for chemical contaminants, every 4 years for radiological contaminants, and weekly for bacteriological contaminants. FDA estimates that it is part of normal business practice for exempt infant formula plants to test for chemical contaminants and keep records of those tests on a regular basis; therefore, this is a new collection of information that does not present a burden (Ref. 1).

It is estimated that the recommendation to manufacturers of exempt infant formulas to test at least every 4 years for radiological contaminants would represent a new burden for all 12 infant formula plants (Ref. 1). In addition, it is estimated that collecting water for this testing takes between 1 and 2 hours (Ref. 1). For the purposes of this analysis, it is conservatively estimated that water collection takes, on average, 1.5 hours and that water collection occurs separately for each type of testing. It is estimated that performing the test (collecting the information) will take 1.5 hours per test, every 4 years. Therefore, 1.5 hours per plant × 12 plants = 18 total hours, every 4 years, or 4.5 hours per year, as seen in line 3 of table 1.

Furthermore, the draft guidance recommends that manufacturers of exempt infant formula make and retain records of the frequency and results of water testing as specified under §§ 106.20(f)(4) and 106.100(f)(1). For the 12 plants that are estimated not to currently test for radiological contaminants, this burden is estimated to be 5 minutes per record every 4 years. Therefore, 0.08 hour per record × 12 plants = 0.96 hour every 4 years for the maintenance of records of radiological testing, or 0.24 hours per year, as seen on line 4 of table 1.

It is estimated that the recommendation to test weekly for bacteriological contaminants is a new burden for three infant formula plants. It is estimated that performing the test (collecting the information) will take 5 minutes per test once a week. Annually, this burden is 0.08 hour × 52 weeks = 4.16 hours per year per plant, and 4.16 hours per plant × 3 plants = 12.48 total annual hours, as seen on line 5 of table 1. Furthermore, for the three plants that are estimated to not currently test weekly for bacteriological contaminants, this burden is estimated to be 5 minutes per record, every week. Therefore, 0.08 hour per record × 52 weeks = 4.16 hours per plant for the maintenance of records of bacteriological testing. Accordingly, 4.16 hours per plant × 3 plants = 12.48 annual hours, as seen on line 6 of table 1.

The draft guidance recommends that manufacturers of exempt infant formulas calibrate certain instruments against a known reference standard and that records of these calibration activities be made and retained, as specified in §§ 106.30(d)(1) and 106.100(f)(2). FDA estimates that one senior validation engineer (or other similarly skilled employee) for each of the three (at most) plants would need to spend about 13 minutes per week to conduct the ongoing calibration recordkeeping. Therefore, 3 recordkeepers × 0.21 hours per week per

recordkeeper = 0.63 hours per week; 0.63 hours per week × 52 weeks per year = 32.76 hours as the total industry annual burden, as presented in line 7 of table 1.

The draft guidance recommends that manufacturers of exempt infant formula make and retain records of the temperatures of each cold storage compartment as specified in §§ 106.30(e)(3)(iii) and 106.100(f)(3). Based on expert opinion, FDA estimates that three (at most) plants are not currently conducting recordkeeping, and that at each of these three plants, conducting this recordkeeping would take one senior validation engineer (or other similarly skilled employee) about 13 minutes per week. Therefore, 3 recordkeepers × 0.21 hours per week per recordkeeper = 0.63 hours per week; 0.63 hours per week × 52 weeks = 32.76 hours as the total industry annual burden, as presented in line 8 of table 1.

The draft guidance recommends the making and retention of records of ongoing sanitation efforts as specified under §§ 106.30(f)(2) and 106.100(f)(4). Based on expert opinion, FDA estimates that three (at most) plants are not currently making and retaining these records, and that at each of these three plants, it would take one senior validation engineer (or other similarly skilled employee) 0.19 hours per week to make and retain these records. Therefore, 3 recordkeepers × 0.19 hours per week per recordkeeper = 0.57 hours per week; 0.57 hours per week × 52 weeks = 29.64 hours as the total industry annual burden, as presented in line 9 of table 1.

There will be annual recordkeeping associated with recommendations for preventing adulteration from equipment, as specified under §§ 106.35(c) and 106.100(f)(5). It is estimated that one senior validation engineer (or other similarly skilled employee) per plant would need to work 10 hours per week (520 work hours per year) to meet the ongoing recordkeeping recommendation. For the estimated three (at most) plants not conducting this recordkeeping, the total annual burden is 520 hours per plant × 3 plants = 1,560 annual hours, as shown in line 10 of table 1. In addition, this guidance recommends that an infant formula manufacturer revalidate its systems when it makes changes to automatic equipment. FDA estimates that such changes are likely to occur twice a year to any aspect of the plant's system, and that on each of the two occasions, a team of four senior validation engineers (or other similarly skilled employees) per plant would need to work full time for 4 weeks (4 weeks × 40 hours per week = 160 work hours per person) to provide revalidation of the plant's automated systems sufficient to adhere to this section. The total annual burden for four senior validation engineers each working 160 hours twice a year is 1,280 hours ((160 hours × 2 revalidations) × 4 engineers = 1,280 total work hours) per plant. Therefore, 1,280 hours per plant × 3 plants = 3,840 annual hours, as shown on line 11 of table 1.

The draft guidance recommends written specifications for ingredients, containers, and closures, as specified under §§ 106.40(g) and 106.100(f)(6). FDA estimates that the exempt infant formula industry already establishes written specifications for these components. However, the guidance regarding controls to prevent adulteration caused by ingredients, containers, and closures may represent new recordkeeping for three (at most) plants (Ref. 1). It is not possible to predict how often a specification will not be met or how often documented reviews of reconditioned ingredients, closures, or containers will occur. FDA estimates that, on average, one senior validation engineer per plant would work about 10 minutes a week to complete this recordkeeping. Therefore, 3 recordkeepers × 0.17 hours per week per recordkeeper = 0.51 hours per week; 0.51 hours per week × 52 weeks = 26.52 total annual hours, as presented in line 12 of table 1.

This draft guidance recommends manufacturers of exempt infant formula to make and maintain records of controls to prevent adulteration during manufacturing, as specified in §§ 106.50 and 106.100(e). It is not possible to predict how often changes to the master manufacturing order would be made or how often deviations from the master manufacturing order would occur. Based on expert opinion, FDA estimates that each year, three (at most) plants would change a master manufacturing order and that, on average, one senior validation engineer for each of the three (at most) plants would spend about 14 minutes per week on recordkeeping pertaining to the master manufacturing order. Thus, 3 recordkeepers × 0.23 hours per recordkeeper per week = 0.69 hours per week; 0.69 hours per week × 52 weeks = 35.88 hours as the total annual industry burden, as presented in line 13 of table 1.

The draft guidance recommends manufacturers of exempt infant formula make and retain records of the testing of infant formula for microorganisms, as specified in §§ 106.55(d) and 106.100(e)(5)(ii) and (f)(7). We estimate that this recordkeeping represents a new collection of information for, at most, three plants (Ref. 1) and that one senior validation engineer per plant would spend 15 minutes per week on recordkeeping pertaining to microbiological testing. Thus, 3 recordkeepers × 0.25 hours per recordkeeper per week = 0.75 hours; 0.75 hours per week × 52 weeks = 39 hours as the total annual industry burden, as presented in line 14 of table 1.

The draft guidance recommends that exempt infant formula manufacturers make and maintain records consistent with the requirements for the labeling of mixed-lot packages of infant formula that apply to non-exempt infant formula manufacturers, as specified under § 106.60(c). We estimate that the draft guidance will result in infant formula diverters labeling infant formula packaging (such as packing cases) to facilitate product tracing and to keep specific records of the distribution of these mixed lot cases. (A diverter is considered to be a business or individual that purchases food, including occasionally infant formula, in a geographic area where a special allowance or deal is being offered and then resells that food at a lower price to wholesale or retail grocery, drug and mass merchandise chains in an area where the deal is not being offered.) There will be some cost associated with this recordkeeping and labeling, but the Agency estimates that this burden would be minimal as it is estimated that less than 1 percent of infant formula is handled by diverters. For the purposes of this analysis, it is estimated that, for all plants combined, it may take one worker using manual methods 15 minutes, at most, to relabel one case of infant formula one time each month (0.25 hours per month × 12 months = 3 annual hours), as presented in line 15 of table 1.

The draft guidance recommends nutrient testing for exempt infant formula manufacturers as specified in § 106.91(a)(1) to (a)(4). It is estimated that the systems and processes of 100 percent of the exempt formula industry test in accordance with these provisions. Therefore, nutrient testing does not represent a new recordkeeping burden as nutrient testing is estimated to be common business practice in the exempt infant formula industry. Thus, no burden is estimated for these recommendations (Ref. 1).

The draft guidance also recommends ongoing stability testing as specified under § 106.91(b)(1), (b)(2), and (b)(3). It is estimated that the systems and processes of the infant formula industry

partially adhere to this guidance in that 80 percent of infant formula plants (about 10 of 12 plants) conduct stability testing as recommended (Ref. 1). For the 20 percent of plants (2 of 12 plants) that do not conduct stability testing, it is estimated that these plants do conduct initial stability testing, but may not do so at the intervals specified in this provision (Ref. 1). For the purposes of this analysis, it is estimated that the stability testing guidance represents a new information collection burden of 2 annual hours, per plant. Therefore, 2 hours per plant × 2 plants = 4 annual hours as shown in line 16 of table 1.

The draft guidance recommends recordkeeping for test results as specified under §§ 106.91(d) and 106.100(e)(5)(i). This represents new information collections for the two plants that are estimated not to be conducting all of the stability testing specified in § 106.91(b) (Ref. 1). For the purposes of this analysis, FDA estimates that one senior validation engineer per plant would spend about 9 minutes per week maintaining records related to testing. Thus, 2 recordkeepers × 0.15 hours per recordkeeper per week = 0.3 hours per week × 52 weeks = 15.6 hours as the annual total industry burden, as presented in lines 17, 18, and 19 of table 1.

The draft guidance recommends the creation of audit plans and procedures, as specified under § 106.94. FDA estimates that all exempt infant formula manufacturers currently conduct audits, but that 25 percent of infant formula plants (3 of 12 plants) do not conduct audits that include all elements specified in § 106.94 (Ref. 1). It is estimated that the ongoing review and updating of audit plans would require a senior validation engineer 8 hours per year, per plant. Therefore, 8 hours per year per plant × 3 plants = 24 annual hours to regularly review and update audit plans as shown in line 20 of table 1.

The infant formula final rule does not mandate a frequency of auditing, and, therefore, one is not recommended in the draft guidance. For the purposes of this analysis, FDA estimates that a manufacturer would choose to audit once per week. Each weekly audit is estimated to require a senior validation engineer 4 hours, or 52 weeks × 4 hours = 208 hours per plant per year. Therefore, the total annual burden for the estimated three plants not currently acting in accordance to this guidance to update audit plans is 208 hours × 3 plants = 624 hours, as shown in line 21 of table 1.

TABLE 1—ESTIMATED HOURLY RECORDKEEPING BURDEN

	21 CFR Section	Number of recordkeepers	First year frequency of recordkeeping	Total records	Hours per record	Total hours
First Year Hourly Burden						
1	Production and In-Process Control System 106.6(c)(5) and 106.100(e)(1) and (e)(3).	6	1	3	40	120
2	Controls to Prevent Adulteration due to Automatic (mechanical or electronic) Equipment 106.35(c) and 106.100(f)(5).	30	1	3	6,400	19,200
	Total First Year Only Hourly Recordkeeping Burden.					19,320
Recurring Annual Hourly Burden						
3	Controls to Prevent Adulteration Caused by Facilities—Testing for Radiological Contaminants [1] 106.20(f)(3).	12	1	12	1.5	4.5
4	Controls to Prevent Adulteration Caused by Facilities—Recordkeeping of Testing for Radiological Contaminants [2] 106.20(f)(4) and 106.100(f)(1).	12	1	12	0.08	0.24
5	Controls to Prevent Adulteration Caused by Facilities—Testing for Bacteriological Contaminants 106.20(f)(3).	3	52	156	0.08	12.48
6	Controls to Prevent Adulteration Caused by Facilities—Recordkeeping of Testing for Bacteriological Contaminants 106.20(f)(4) and 106.100(f)(1).	3	52	156	0.08	12.48
7	Controls to Prevent Adulteration by Equipment or Utensils 106.30(d)(1) and 106.100(f)(2).	3	52	156	0.21	32.76
8	Controls to Prevent Adulteration by Equipment or Utensils 106.30(e)(3)(iii) and 106.100(f)(3).	3	52	156	0.21	32.76
9	Controls to Prevent Adulteration by Equipment or Utensils 106.30(f)(2) and 106.100(f)(4).	3	52	156	0.19	29.64
10	Controls to Prevent Adulteration Due to Automatic (Mechanical or Electronic) Equipment 106.35(c) and 106.100(f)(5).	3	52	3	520	1,560
11	Controls to Prevent Adulteration Due to Automatic (Mechanical or Electronic) Equipment 106.35(c) and 106.100(f)(5).	12	2	6	640	3,840
12	Controls to Prevent Adulteration Caused by Ingredients, Containers, and Closures 106.40(g) and 106.100(f)(6).	3	52	156	0.17	26.52
13	Controls to Prevent Adulteration During Manufacturing 106.50 and 106.100(e).	3	52	156	0.23	35.88

TABLE 1—ESTIMATED HOURLY RECORDKEEPING BURDEN—Continued

	21 CFR Section	Number of recordkeepers	First year frequency of recordkeeping	Total records	Hours per record	Total hours
14	Controls to Prevent Adulteration From Microorganisms 106.55(d), 106.100(e)(5)(ii), and 106.100(f)(7).	3	52	156	0.25	39
15	Controls to Prevent Adulteration During Packaging and Labeling of Infant Formula 106.60(c).	1	12	12	0.25	3
16	General Quality Control—Testing 106.91(b)(1), 106.91(b)(2) and 106.91(b)(3).	2	1	2	2	4
17	General Quality Control 106.91(b)(1), 106.91(d), and 106.100(e)(5)(i).	2	52	104	0.15	15.6
18	General Quality Control 106.91(b)(2) 106.91(d), and 106.100(e)(5)(i).	2	52	104	0.15	15.6
19	General Quality Control 106.91(b)(3) 106.91(d), and 106.100(e)(5)(i).	2	52	104	0.15	15.6
20	Audit Plans and Procedures 106.94—Ongoing review and updating of Audits.	3	1	3	8	24
21	Audit Plans and Procedures 106.94—Regular Audits.	3	52	156	4	624
	Total Recurring Recordkeeping Burden					6,328.06
	Total Recordkeeping Burden					25,648.06

[1] As noted previously in the document, the burden for making and maintaining such records is expected to occur once every 4 years. The total hours column reflects the total number of hours averaged over the 4-year period.

[2] As noted previously in the document, the burden for making and maintaining such records is expected to occur once every 4 years. The total hours column reflects the total number of hours averaged over the 4-year period.

III. References

The following references have been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Zink, Don. Statement of Donald L. Zink, Ph.D.: Infant Formula Manufacturing Practices, 2013.

Dated: March 12, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–06117 Filed 3–17–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0197]

Agency Information Collection Activities; Proposed Collection; Comment Request; Emergency Shortages Data Collection System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Emergency Shortages Data Collection System.

DATES: Submit either electronic or written comments on the collection of information by May 18, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques,

when appropriate, and other forms of information technology.

Emergency Shortages Data Collection System—Section 903(d)(2) of the Federal Food, Drug, and Cosmetic Act (OMB Control Number 0910–0491)—(Extension)

Under section 903(d)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 393(d)(2)), the Commissioner of Food and Drugs is authorized to implement general powers (including conducting research) to carry out effectively the mission of FDA. Subsequent to the events of September 11, 2001, and as part of broader counterterrorism and emergency preparedness activities, FDA's Center for Devices and Radiological Health (CDRH) began developing operational plans and interventions that would enable CDRH to anticipate and respond to medical device shortages that might arise in the context of Federally declared disasters/emergencies or regulatory actions. In particular, CDRH identified the need to acquire and maintain detailed data on domestic inventory, manufacturing capabilities, distribution plans, and raw material constraints for medical devices that would be in high demand, and/or would be vulnerable to shortages in specific disaster/emergency situations or following specific regulatory actions. Such data could support prospective risk assessment, help inform risk mitigation strategies, and support real-time decision-making by the Department of Health and Human Services during actual emergencies or emergency preparedness exercises.

FDA developed ''The Emergency Medical Device Shortages Program Survey'' in 2002 to support the acquisition of such data from medical device manufacturers. In 2004, CDRH changed the process for the data collection, and the electronic database in which the data were stored was formally renamed the ''Emergency Shortages Data Collection System'' (ESDCS). Recognizing that some of the data collected may be commercially confidential, access to the ESDCS is restricted to members of the CDRH Emergency Shortage Team (EST) and senior management with a need-to-know. At this time, the need-to-know senior management personnel are limited to two senior managers. Further, the data are used by this defined group only for decision making and planning in the context of a Federally declared disaster/emergency, an official emergency preparedness exercise, or a potential public health risk posed by non-disaster-related device shortage.

The data procurement process consists of an initial scripted telephone call to a regulatory officer at a registered manufacturer of one or more key medical devices tracked in the ESDCS. In this initial call, the EST member describes the intent and goals of the data collection effort and makes the specific data request. After the initial call, one or more additional follow-up calls and/or electronic mail correspondence may be required to verify/validate data sent from the manufacturer, confirm receipt, and/or request additional detail. Although the regulatory officer is the agent who the EST member initially contacts, regulatory officers may designate an alternate representative within their organization to correspond subsequently with the CDRH EST member who is collecting or verifying/validating the data.

Because of the dynamic nature of the medical device industry, particularly with respect to specific product lines, manufacturing capabilities, and raw material/subcomponent sourcing, it is necessary to update the data in the ESDCS at regular intervals. The EST makes such updates on a regular basis, but makes efforts to limit the frequency of outreach to a specific manufacturer to no more than every 4 months.

The ESDCS will only include those medical devices for which there will likely be high demand during a specific emergency/disaster, or for which there are sufficiently small numbers of manufacturers such that disruption of manufacture or loss of one or more of these manufacturers would create a shortage.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity/FD&C act section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (hours)	Total hours
Emergency Shortages Data Collection System (903(d)(2))	125	3	375	0.5	188

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based the burden estimates in table 1 of this document on past experience with direct contact with the medical device manufacturers and anticipated changes in the medical device manufacturing patterns for the specific devices being monitored. FDA estimates that approximately 125 manufacturers would be contacted by telephone and/or electronic mail 3 times per year either to obtain primary data or to verify/validate data. Because the requested data represent data elements that are monitored or tracked by manufacturers as part of routine inventory management activities, it is anticipated that for most manufacturers, the estimated time required of manufacturers to complete the data request will not exceed 30 minutes per request cycle.

Dated: March 12, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–06118 Filed 3–17–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Cardiovascular and Renal Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Cardiovascular and Renal Drugs Advisory Committee. This meeting was

announced in the **Federal Register** of February 27, 2015 (80 FR 10700). The amendment is being made to reflect a change in the *Agenda* portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Kristina Toliver, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, *CRDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 27, 2015, FDA announced that a meeting of the Cardiovascular and Renal Drugs Advisory Committee would be held on April 15, 2015. On page 10700, in the first column, the *Agenda* portion of the document is changed to read as follows:

The committee will discuss the new drug application (NDA) 204958, cangrelor injection, submitted by The Medicines Company, for the proposed indication of reduction of thrombotic cardiovascular events in patients with coronary artery disease (CAD) undergoing percutaneous coronary intervention (PCI)—(PCI refers to the opening of narrowed blood vessels supplying the heart muscle by a balloon inserted through an artery puncture with or without a stent) who have not received an oral P2Y12 inhibitor prior to the PCI procedure and in whom oral therapy with P2Y12 inhibitors is not feasible or desirable (P2Y12 is a protein involved in blood clotting. Inhibiting this protein is a key mechanism of action of cangrelor).

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: March 12, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–06130 Filed 3–17–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–14AI0]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

National Hospital Ambulatory Medical Care Survey (NHAMCS) Supplement of Primary Care Policies for Managing Patients with High Blood Pressure, High Cholesterol, or Diabetes (NSPCP)—New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Cardiovascular disease is a leading cause of death and disability for men and women in the United States, among the most costly health problems facing our nation today, and among the most preventable. Risk factors for cardiovascular disease include high blood pressure and high cholesterol. Because over 50% of diabetics have high blood pressure, high cholesterol, or both conditions, the optimal systems to treat people with hypertension, high cholesterol, or diabetes are interrelated.

In 2005, CDC's Division for Heart Disease and Stroke Prevention (DHDSP) began developing evaluation indicators that reflect evidence-based outcomes from policy, systems, and environmental changes related to heart disease and stroke prevention. However, many of the indicators for short-term policy and systems changes do not have readily available data sources. This is particularly true for outcomes related to health care systems changes.

NCHS proposes to conduct a new information collection, the NSPCP. The survey will target primary care physicians specializing in internal medicine or family practice. Respondents will be drawn from a nationally representative sample of physicians. Physicians working in hospitals, federal facilities, nursing homes, rehabilitation centers and correctional facilities will not be eligible for the survey. Eligibility will be determined by phone.

The survey instrument will undergo cognitive testing before administration.

The telephone screener will be administered to the individual who answers the phone at the selected practice. We anticipate that this will likely be an office assistant or medical secretary. The primary purpose of the screener is to ensure correct contact information for the physician, so we anticipate that an office assistant or medical secretary will be able to answer the screener questions in a short amount of time. We have estimated 10 minutes per response.

Administrators of the mail-based survey will collect information about physician practices' use of evidence-based systems, including multidisciplinary team approaches for chronic disease treatment, electronic health records (EHR) with features appropriate for treating patients with chronic disease (*e.g.,* clinical decision supports, patient registries), and patient follow-up mechanisms. Approximately 946 physicians will participate in the

information collection. This is a one-time data collection effort.

CDC will use the information to examine health systems and dissemination of health systems technology. Primary care practices will use the results to inform their systems for managing patients with chronic conditions and to improve the quality of care delivered. NCHS and CDC will also use the results to improve technical assistance to public health partners.

OMB approval is requested for two years. Participation in the survey is voluntary and all responses CDC will de-identify all responses. There are no costs to respondents other than their time. The total estimated annualized burden hours are 429.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)
Physician	Cognitive Testing Screener	25	1	5/60
Physician	Cognitive Testing Protocol	15	1	1.25
Medical Secretary	NSPCP Screener	1,500	1	10/60
Physician	NSPCP	473	1	20/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–06159 Filed 3–17–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIAMS.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Arthritis and Musculoskeletal and Skin Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIAMS.

Date: April 15–16, 2015.

Time: 6:00 p.m. to 3:45 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Room 4C32, 31 Center Drive, Bethesda, MD 20892.

Contact Person: John J. O'Shea, MD, Ph.D., Scientific Director, National Institute of Arthritis & Musculoskeletal and Skin Diseases, Building 10, Room 9N228, MSC 1820, Bethesda, MD 20892, (301) 496–2612, *osheaj@arb.niams.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS).

Dated: March 12, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–06122 Filed 3–17–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology descriptions follow.

GTF2I Mutations as Genetic Marker for Prognosis of Thymic Malignancies

Description of Technology: The present invention describes the presence of a mutation in the general transcription factor IIi (GTF2I) gene in indolent thymic tumors that is rarely found in more aggressive thymic tumors.

The invention provides a method of determining the prognosis of thymic cancer in a patient by assaying (for example using PCR based methods) the genetic material obtained from the patient tissue to detect a mutation in at least one copy of GTF2I genetic sequence; and correlating the presence of a GTF2I mutation with the prognosis of a thymic cancer patient, the presence of the mutation indicating that the thymic cancer is indolent.

A genetic test will complement the diagnostic assessment, facilitate development of a molecular classification and assessment for the clinical management of thymic cancers.

Potential Commercial Applications:

- A diagnostic test kit for the prognosis and clinical management of thymic cancer.
- Clinical decision whether treatment is needed (for example, additional treatment after surgery).
- Therapeutic decision making, between an aggressive course of

treatment for more aggressive cancers versus non aggressive treatment.

Competitive Advantages: The PCR based method is more advantageous and more objective than currently available histological classification and staging systems.

Development Stage:

- Early-stage.
- In vitro data available.
- In vivo data available (human).

Inventors: Guiseppe Giaccone and Yisong Wang (NCI).

Publication: Petrini I, et al. A specific missense mutation in GTF2I occurs at high frequency in thymic epithelial tumors. Nat Genet. 2014 Aug;46(8):844–9. [PMID 24974848].

Intellectual Property: HHS Reference No. E–109–2014/0—US Provisional Application No. 61/975,222 filed April 4, 2014.

Licensing Contact: Sabarni Chatterjee, Ph.D., MBA; 301–435–5587; *chatterjeesa@mail.nih.gov.*

Collaborative Research Opportunity: For collaboration opportunities, please contact Dr. Guiseppe Giaccone at *gg496@georgetown.edu.*

Systems and Devices for Training and Imaging an Awake Test Animal

Description of Technology: The invention pertains to an apparatus and training system for rodents to maintain its head substantially motionless during an imaging procedure. The system includes a frame defining an enclosure for enclosing an animal therein during the imaging procedure which has a head post attached to the head of the animal and a treadmill having a plurality of rollers that the animal walks on such that one or more of the plurality of wheels rotate when the animal is in walking motion and stop rotating when the animal is in a substantially motionless state. This arrangement trains the animal to remain substantially motionless when disposed within an imaging apparatus. This invention permits prolonged imaging of awake rodents with minimal confinement and reduces stress.

Potential Commercial Applications:

- Imaging test rodents.
- Imaging pharmacological agent distribution in rodents.
- Imaging the therapeutically effects of pharmacological agent.

Competitive Advantages: Imaging while animal is awake.

Development Stage:

- Early-stage.
- Prototype.

Inventors: Hanbing Lu, Yihong Yang, Elliot Stein (all of NIDA).

Intellectual Property: HHS Reference No. E–043–2015/0—US Patent Application 14/589,725 filed January 5, 2015.

Licensing Contact: Michael Shmilovich; 301–435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute on Drug Abuse is seeking statements of capability or interest from parties interested in collaborative research to further develop apparatus and/or the training system; commercialize with pharmaceutical industry. For collaboration opportunities, please contact Vio Conley, M.S. at *conleyv@mail.nih.gov.*

Miniature System for Manipulating Small Animals in High-Throughput Screening Small Molecules

Description of Technology: The invention pertains to a miniaturized plating and feeding system based on a 96-well microplate base and is intended to reduce manipulation of organisms as well as amounts of test drug/anesthetic, thereby mitigating waste. The kit comprises a feeder plate, transfer adaptor and receiver plate. The feeder plate is defined by, for example, a plastic 96-well plate with rounded wells. The rounded bottoms can dispense to or permit access to the test organism of liquid food or drug through about 7 holes of approximately 350 microns in diameter. A top portion of the well provides test organisms (*e.g.,* drosophila, daphnia) with sufficient space to enjoy normal life-cycles without confinement stress. The feeder plate includes means for interfacing with complementary components of the transfer and receiver plates through receiving holes and complementary dowels or pins. A transfer adapter allows the interconnection of the feeder plate to the receiver plate. The transfer plate can be configured to be square or rounded for the transfer of organisms from the feeder plate to the receiver plate.

Potential Commercial Applications:

- Drug Development.
- Toxicity Studies.
- Drug Design.

Competitive Advantages:

- Small animals.
- High Throughput.
- Space efficiency.
- Resource economy.

Development Stage:

- Early stage.
- Prototype.

Inventors: Maria De Los Angeles Jaime and Brian Oliver (NIDDK).

Intellectual Property: HHS Reference No. E–034–2015/0—US Provisional Application No. 62/080,181 filed November 14, 2014.

Licensing Contact: Michael Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Diabetes and Digestive and Kidney Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize High-Throughput Small Animal Manipulation for Drug Design. For collaboration opportunities, please contact Marguerite J. Miller at *millermarg@niddk.nih.gov.*

This abstract replaces one published on Thursday, January 29, 2015 (80 FR 4935) to correct the patent application filing date.

Dated: March 12, 2015.

Richard U. Rodriguez, M.B.A.,

Acting Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2015–06123 Filed 3–17–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cancer Health Disparities/Diversity in Basic Cancer Research.

Date: April 13–14, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1718, *sizemoren@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: National Biomedical NMR Resource.

Date: April 13–15, 2015.

Time: 7:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: April 13, 2015.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eduardo A Montalvo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 12, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–06121 Filed 3–17–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–14–085: Metabolic Reprogramming in Immunotherapy.

Date: March 17, 2015.

Time: 1:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Denise R Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 12, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–06120 Filed 3–17–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0020]

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

Coal Workers' Health Surveillance Program (CWHSP)—(0920–0020)—Reinstatement with Change—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH would like to submit an Information Collection Request (ICR) to revise the data collection instruments being utilized within the Coal Workers' Health Surveillance Program (CWHSP).

On May 1, 2014, the Mine Safety and Health Administration (MSHA) published final rule 30 CFR 70, 71, 72, 75, and 90. The new MSHA rule added surface coal miners, a respiratory health assessment, and spirometry testing for chronic obstructive pulmonary disease (COPD) to the previously mandated chest x-ray examination program. These additions are being referred to as the Expanded CWHSP (an additional component under the current CWHSP).

This request incorporates all components that now fall under the CWHSP. Those components include: Coal Workers' X-ray Surveillance Program (CWXSP), B Reader Program, Enhanced Coal Workers' Health Surveillance Program (ECWHSP), Expanded Coal Workers' Health Surveillance Program, and National Coal Workers' Autopsy Study (NCWAS).

The CWHSP is a congressionally-mandated medical examination program for monitoring the health of coal miners. The Program was originally authorized under the 1969 Federal Coal Mine Health and Safety Act and is currently authorized under the 1977 Federal Mine Safety and Health Act and its subsequent amendments (the Act). The Act provides the regulatory authority for

the administration of the CWHSP. This Program, which operates in accordance with 42 CFR part 37, is useful in providing information for protecting the health of miners (whose participation is entirely voluntary), and also in documenting trends and patterns in the prevalence of coal workers' pneumoconiosis ('black lung' disease) among miners employed in U.S. coal mines.

The total estimated annualized burden hours of 20,282 is based on the following collection instruments:

• Coal Mine Operator Plan (2.10) and Coal Contractor Plan (2.18)—Under 42 CFR part 37, every coal operator and coal contractor in the U.S. must submit a plan approximately every 4 years, providing information on how they plan to notify their miners of the opportunity to obtain the medical examination. Completion of this form with all requested information (including a roster of current employees) takes approximately 30 minutes.

• Radiographic Facility Certification Document (2.11)—X-ray facilities seeking NIOSH approval to provide miner radiographs under the CWHSP must complete an approval packet including this form which requires approximately 30 minutes for completion.

• Miner Identification Document (2.9)—Miners who elect to participate in the CWHSP must fill out this document which requires approximately 20 minutes. This document records demographic and occupational history, as well as information required under the regulations in relation to the examinations. In addition to completing this form, acquiring the chest image from the miner takes approximately 15 minutes.

• Chest Radiograph Classification Form (2.8)—NIOSH utilizes a radiographic classification system developed by the International Labour Office (ILO) in the determination of pneumoconiosis among coal miners. Physicians (B Readers) fill out this form regarding their interpretations of the radiographs (each image has two separate interpretations, and approximately 7% of the images require additional interpretations). Based on prior practice it takes the physician approximately 3 minutes per form.

• Physician Application for Certification (2.12)—Physicians taking the B Reader examination are asked to complete this registration form which provides demographic information as well as information regarding their medical practices. It typically takes the physician about 10 minutes to complete this form.

• Spirometry Facility Certification Document (2.14)—This new form is analogous to the Radiographic Facility Certification Document (2.11) and records the spirometry facility equipment/staffing information. Spirometry facilities seeking NIOSH approval to provide miner spirometry testing under the CWHSP must complete an approval packet which includes this form. It is estimated that it will take approximately 30 minutes for this form to be completed at the facility.

• Respiratory Assessment Form (2.13)—This new form is designed to assess respiratory symptoms and certain medical conditions and risk factors. It is estimated that it will take approximately five minutes for administration of this form to the miner by an employee at the facility.

• Spirometry Results Notification Form (2.15)—This new form replaces previous forms 2.15, 2.16 and 2.17. It is used to: collect information that will allow NIOSH to identify the miner in order to provide notification of the spirometry test results; assure that the test can be done safely; record certain factors that can affect test results; provide documentation that the required components of the spirometry examination have been transmitted to NIOSH for processing; and conduct quality assurance audits and interpretation of results. It is estimated that it will take the facility approximately 20 minutes to complete this form. In addition to completing this form, acquiring an acceptable spirometry test from the miner takes approximately 15 minutes.

• Pathologist Invoice—Under the NCWAS, the invoice submitted by the pathologist must contain a statement that the pathologist is not receiving any other compensation for the autopsy. Each participating pathologist may use their individual invoice as long as this statement is added. It is estimated that only five minutes is required for the pathologist to add this statement to the standard invoice that they routinely use.

• Pathologist Report—Under the NCWAS the pathologist must submit information found at autopsy, slides, blocks of tissue, and a final diagnosis indicating presence or absence of pneumoconiosis. The format of the autopsy reports is variable depending on the pathologist conducting the autopsy. Since an autopsy report is routinely completed by a pathologist, the only additional burden is the specific request for a clinical abstract of terminal illness and final diagnosis relating to pneumoconiosis. Therefore, only 5 minutes of additional burden is estimated for the pathologist's report.

• Consent, Release and History Form (2.6)—This form documents written authorization from the next-of-kin to perform an autopsy on the deceased miner. A minimum of essential information is collected regarding the deceased miner including an occupational history and a smoking history. From past experience, it is estimated that 15 minutes is required for the next-of-kin to complete this form.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Coal Mine Operator	2.10	388	1	30/60
Coal Mine Contractor	2.18	575	1	30/60
Radiograph Facility Supervisor	2.11	40	1	30/60
Coal Miner	2.9	14,560	1	20/60
Coal Miner—Radiograph	No form required	14,560	1	15/60
B Reader Physician	2.8	10	3014	3/60
Physicians taking the B Reader Examination	2.12	100	1	10/60
Spirometry Facility Supervisor	2.14	100	1	30/60
Spirometry Facility Employee	2.13	14,560	1	5/60
Spirometry Technician	2.15	14,560	1	20/60
Coal Mine—Spirometry	No form required	14,560	1	15/60
Pathologist	Invoice—No standard form	5	1	5/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Pathologist	Pathology Report—No standard form	5	1	5/60
Next-of-kin for deceased miner	2.6	5	1	15/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–06160 Filed 3–17–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval Louisiana Medicaid State Plan Amendment (SPA) 12–66–B

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing: Reconsideration of disapproval.

SUMMARY: This notice announces an administrative hearing to be held on April 30, 2015, at the Department of Health and Human Services, Centers for Medicare and Medicaid Services, Division of Medicaid & Children's Health, Dallas Regional Office, 1301 Young Street, Room 730, Dallas, TX 75202, to reconsider CMS' decision to disapprove Louisiana's Medicaid SPA 12–66–B.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by April 2, 2015.

FOR FURTHER INFORMATION CONTACT: Benjamin R. Cohen, Presiding Officer, CMS, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244, Telephone: (410) 786–3169.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS' decision to disapprove Louisiana's Medicaid SPA 12–66B which was submitted to the Centers for Medicare and Medicaid Services (CMS) on December 20, 2012 and disapproved on December 11, 2014. In part, this SPA requested CMS approval to revise the current pharmacy reimbursement methodology for estimated acquisition cost (EAC) which is currently calculated as average acquisition cost (AAC) of the drug dispensed to a new calculation of AAC adjusted by a multiplier of 1.1 for multiple source drugs and 1.01 for single source drugs. In addition, propose a reimbursement methodology of wholesale acquisition cost (WAC) adjusted by a multiplier of 1.05 for state-defined specialty therapeutic classes of drugs.

The issues to be considered at the hearing are:

- Whether the state's proposed increased payment methodology under Louisiana Medicaid SPA 12–66–B complies with the requirements of section 1902(a)(30)(A) of the Act which requires, in part, that states have methods and procedures to assure that payment rates are consistent with efficiency, economy, and quality of care.
- Whether the state demonstrated that the proposed payment increases are consistent with the aggregate upper payment limits set in implementing regulations at 42 CFR 447.512 which provide that payments for drugs are to be based on the lower of: (1) The ingredient EAC of the drug and a reasonable dispensing fee; or (2) the provider's usual and customary charges to the general public.
- Whether the proposed calculation of EAC used in calculating upper payment limits (based on a multiple of the AAC) is consistent with the definition of EAC in 42 CFR 447.502, which defines EAC as ''the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler in the package size of drug most frequently purchased by providers.''

Section 1116 of the Act and federal regulations at 42 CFR part 430, establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Louisiana announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

J. Ruth Kennedy
State Medicaid Director
Louisiana Department of Health and Hospitals
628 N. 4th Street
P.O. Box 91030
Baton Rouge, LA 70821

Dear Ms. Kennedy:

I am responding to your request for reconsideration of the decision to disapprove Louisiana's Medicaid state plan amendment (SPA) 12–66B, which was submitted to the Centers for Medicare and Medicaid Services (CMS) on December 20, 2012, and disapproved on December 11, 2014. I am scheduling a hearing on your request for reconsideration to be held on April 30, 2015, at the Department of Health and Human Services, Centers for Medicare and Medicaid Services, Division of Medicaid & Children's Health, Dallas Regional Office, 1301 Young Street, Room 730, Dallas, TX 75202.

I am designating Mr. Benjamin R. Cohen as the presiding officer. If these arrangements present any problems, please contact Mr. Cohen at (410) 786–3169. In order to facilitate any communication that may be necessary between the parties prior to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the state at the hearing. If the hearing date is not acceptable, Mr. Cohen can set another date mutually agreeable to the parties. The hearing will be governed by the procedures prescribed by federal regulations at 42 CFR part 430.

In part, this SPA would revise the current pharmacy reimbursement methodology for estimated acquisition cost (EAC) which is currently calculated as average acquisition cost (AAC) of the drug dispensed to a new

calculation of AAC adjusted by a multiplier of 1.1 for multiple source drugs and 1.01 for single source drugs. In addition, this SPA would apply a reimbursement methodology of wholesale acquisition cost (WAC) adjusted by a multiplier of 1.05 for state-defined specialty therapeutic classes of drugs.

The issues to be considered at the hearing are:

- Whether the state's proposed increased payment methodology under Louisiana Medicaid SPA 12–66–B complies with the requirements of section 1902(a)(30)(A) of the Act which requires, in part, that states have methods and procedures to assure that payment rates are consistent with efficiency, economy, and quality of care.
- Whether the state demonstrated that the proposed payment increases are consistent with the aggregate upper payment limits set in implementing regulations at 42 CFR 447.512 which provide that payments for drugs are to be based on the lower of: 1) the ingredient EAC of the drug and a reasonable dispensing fee; or 2) the provider's usual and customary charges to the general public.
- Whether the proposed calculation of EAC used in calculating upper payment limits (based on a multiple of the AAC) is consistent with the definition of EAC in 42 CFR 447.502, which defines EAC as ''the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler in the package size of drug most frequently purchased by providers.''

In the event that CMS and the state come to agreement on resolution of the issues which formed the basis for disapproval, this SPA may be moved to approval prior to the scheduled hearing.

Sincerely,

Andrew M. Slavitt

Section 1116 of the Social Security Act (42 U.S.C. 1316; 42 CFR 430.18) (Catalog of Federal Domestic Assistance program No. 13.714. Medicaid Assistance Program.)

Dated: March 13, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2015–06226 Filed 3–17–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0684]

Identification of Alternative In Vitro Bioequivalence Pathways Which Can Reliably Ensure In Vivo Bioequivalence of Product Performance and Quality of Non-Systemically Absorbed Drug Products for Animals; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public meeting; request for comments.

The Food and Drug Administration (FDA) is announcing a public meeting entitled ''Identification of Alternative In Vitro Bioequivalence Pathways Which Can Reliably Ensure In Vivo Bioequivalence of Product Performance and Quality of Non-Systemically Absorbed Drug Products for Animals''. The purpose of the public meeting is to discuss the use of in vitro methods as a mechanism for assessing the in vivo product bioequivalence (BE) of non-systemically absorbed drug products intended for use in veterinary species. FDA is seeking additional public comment to the docket, and is requesting that any written comments be submitted by May 18, 2015.

Date and Time: The public meeting will be held on April 16, 2015, from 9 a.m. to 4 p.m.

Location: The public meeting will be held at the Center for Veterinary Medicine (CVM), Food and Drug Administration, 7519 Standish Pl., 3rd Floor, Conference Room A, Rockville, MD 20855. Parking is free.

Contact Person: Aleta Sindelar, CVM, Food and Drug Administration, 7519 Standish Pl., Rm. 144, Rockville, MD 20855, 240–276–9230, FAX: 240–276–9241, email: *BioequivalencePublicMeetingRegistration@fda.hhs.gov.*

Registration: Registration is free and available on a first-come, first-served basis. Persons interested in requesting an opportunity to speak during the open public comment period must register by April 8, 2015, and must include a brief summary of comments with their registration. Those individuals will be contacted prior to the meeting regarding their participation. Persons interested in attending this meeting who are not requesting an opportunity to speak at the meeting must register by April 14, 2015. For general questions about the meeting, for assistance registering for the meeting, to request an opportunity to make an oral presentation, or to request special accommodations due to a disability, contact Aleta Sindelar (see *Contact Person*). Please include your name, organization, and contact information. Early registration for the meeting is encouraged due to limited time and space.

SUPPLEMENTARY INFORMATION:

I. Background

Given the imprecision and logistic challenges associated with clinical endpoint BE studies, FDA is exploring alternative pathways that can be applied to help ensure the equivalence of product performance and quality for those products that are non-systemically absorbed (locally acting).

The assessment of in vivo BE of non-systemically absorbed drug products has been a longstanding challenge facing drug manufacturers and regulators of human and animal health products. Although blood level BE trials remain the standard for comparing drug products that are systemically absorbed and that act at a target site reached via the blood (systemic circulation), such studies cannot confirm product in vivo BE when a drug is either not systemically absorbed or when it is associated with therapeutic effects occurring proximal to the site of absorption. To date, unless the active pharmaceutical ingredient met the criteria for highly soluble, as defined in CVM Guidance #171 entitled ''Waivers of In Vivo Demonstration of Bioequivalence of Animal Drugs in Soluble Powder Oral Dosage Form Products and Type A Medicated Articles,'' clinical endpoint BE trials have provided the only option for generating inter-product comparisons. FDA is exploring whether an alternative in vitro BE approach may be considered when blood level BE studies are either not feasible or not appropriate, and when products do not meet the criteria for applying a Guidance #171-based biowaiver.

The assumption underlying the application of the in vitro BE approach is that equivalence in product physicochemical attributes and in vitro product performance translates to equivalence in product in vivo behavior. For sponsors with a right of reference to underlying safety and effectiveness data, the criteria for similarity of physicochemical attributes would be defined on the basis of the underlying dataset to confirm the comparability of the original formulation and pre- and post-approval changes in formulation or method of product manufacture. In the case of generic products, a more rigid approach to sameness would be used in terms of product composition and physicochemical characteristics. In both situations, physicochemical comparisons would be based upon a battery of in vitro test procedures, including a comparison of in vitro dissolution behavior under a range of physiologically-relevant conditions.

Examples of the kinds of products where in vitro bioequivalence concepts can potentially be applied include some orally administered products (*e.g.,* Type A medicated articles), solutions, emulsions, ointments, creams, suspensions, transdermal products, and intra-mammary formulations. Due to unique issues raised by products

employing modified release technologies, only immediate release formulations would be candidates for the in vitro BE assessment. For orally administered products, in vitro BE would be limited to disintegrated dosage forms. In cases when the administered drug acts both locally and systemically, blood level data may be used to confirm drug product BE of the systemic effects (and to confirm comparability of in vivo product disintegration in cases where multiple drugs are combined in a single solid oral dosage forms), while the additional in vitro dissolution data could be used to support the comparability of the local actions.

The in vitro BE approach should not be construed as a biowaiver, but rather as an alternative set of tests that would be handled in a manner consistent with that of an in vivo BE study. Specifically, (1) because an in vitro BE approach is not a biowaiver, sponsors would still need to meet the same environmental safety and human food safety requirements associated with products undergoing in vivo BE studies; (2) one in vitro study may not suffice when there are multiple product strengths (*e.g.,* varying concentrations of an intra-mammary infusion); and (3) the in vitro method could be applied both to fully soluble and poorly soluble compounds. In vitro BE determinations would be based upon a battery of in vitro dissolution studies and physicochemical tests. Links to additional background material are provided on the Agency's Web site at: *http://www.fda.gov/AnimalVeterinary/NewsEvents/WorkshopsConferences Meetings/ucm435459.htm.*

To assist FDA in developing guidance for demonstrating in vitro BE, with this notice the Agency is convening an open forum, providing a summary of what the Agency envisions as considerations pivotal to the BE assessment and inviting public comment on the various components of an in vitro BE determination.

II. Participation in a Public Meeting

While oral presentations from specific individuals and organizations may be limited due to time constraints during the public meeting, stakeholders may submit electronic or written comments discussing any issues of concern to the administrative record (the docket) for the rulemaking. All relevant data and documentation should be submitted with the comments. Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Comments, Transcripts, and Recorded Video

Information and data submitted voluntarily to FDA during the public meeting will become part of the administrative record for the rulemaking and will be accessible to the public at *http://www.regulations.gov.* The transcript of the proceedings from the public meeting will become part of the administrative record for the rulemaking. Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov* under the docket number found in brackets in the heading of this document, and at FDA's Web site at *http://www. fda. gov/AnimalVeterinary/NewsEvents/WorkshopsConferencesMeetings/ucm435459.htm.* It may also be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

Additionally, the public can access the meeting remotely by using the following Adobe Connect link: *https://collaboration. fda. gov/cvm_bioequivalence_meeting/.* The link will become active shortly before the meeting begins at 9 a.m. on April 16, 2015. Anyone interested in viewing the meeting remotely using this link will need to register as a guest using the registration information in this document. The Agency will be recording the meeting for subsequent viewing by the public. Once the recording has been made 508 compliant, it will be accessible at FDA's CVM Web site at *http://www. fda. gov/Animal Veterinary/News Events/WorkshopsConferences Meetings/ucm435459.htm.*

Dated: March 12, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–06119 Filed 3–17–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0941]

Port Access Route Study: In the Chukchi Sea, Bering Strait and Bering Sea

AGENCY: Coast Guard, DHS.

ACTION: Notice; withdrawal.

SUMMARY: The Coast Guard published a document in the **Federal Register** of February 19, 2015, (80 FR 8892) concerning the Port Access Route Study (PARS) in the Chukchi Sea, Bering Strait and Bering Sea. The February 19, 2015, PARS document was erroneously published and should be disregarded in its entirety.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of study or any of the meetings, call or email LT Kody Stitz, Seventeenth Coast Guard District (dpw); telephone (907) 463–2270; email *Kody.J.Stitz@uscg.mil* or Mr. David Seris, Seventeenth Coast Guard District (dpw); telephone (907) 463–2267; email *David.M.Seris@uscg.mil.*

SUPPLEMENTARY INFORMATION: For correct information on the Port Access Route Study please see the Notice of Study published in the **Federal Register** on December 5, 2014 (79 FR 72157); and the Notice of Public Meetings published in the **Federal Register** on February 25, 2015 (80 FR 10137).

To electronically access all information referenced in this notice of correction visit *http://www.regulations.gov* and search for ''USCG–2014–0941''.

Dated: March 3, 2015.

D.B. Abel,

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

[FR Doc. 2015–05372 Filed 3–17–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–15]

30-Day Notice of Proposed Information Collection: Standardized Form for Collecting Information Regarding Race and Ethnic Data

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 17, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Anna Guido@hud.gov* or telephone 202–402–5535. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 2, 2014 at 79 FR 71443.

A. Overview of Information Collection

Title of Information Collection: Standardized Form for Collecting Information Regarding Race and Ethnic Data.

OMB Approval Number: 2535–0113.

Type of Request: Reinstatement with change of a previously approved collection.

Form Numbers: HUD–27061.

Description of the need for the information and proposed use: HUD's standardized form for the Collection of Race and Ethnic Data complies with OMB's revised standards for Federal Agencies issued, October 30, 1997. These standards apply to HUD Program Office and partners that collect, maintain, and report Federal Data on race and ethnicity for program administrative reporting.

Members of Affected Public: Individuals or Households, Business or other-for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimation of the total number of hours needed to prepare the information collection including number of responses, frequency of responses, and hours of responses: This proposal will result in no significant increase in the current information collection burden. An estimation of the total number of hours needed to provide the information for each grant application is 1 hour; however, the burden will be assessed against each individual grant program submission under the Paperwork Reduction Act; number of respondents is an estimated 11,000; 60% of responses will be quarterly and 40% annually.

Status of the Proposed Information Collection: Extension of a currently approved collection.

Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 11, 2015.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–06199 Filed 3–17–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[156D0102DM DLSN00000.000000 DS61200000 DX61201]

Proposed Renewal of Information Collection: OMB Control Number 1040–0001, DOI Programmatic Clearance for Customer Satisfaction Surveys

AGENCY: Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, we (Department of the Interior, DOI) plan to ask the Office of Management and Budget (OMB) to extend the approval for the information collection (IC) described below. This IC is scheduled to expire June 30, 2015. We invite the general public and other Federal agencies to take this opportunity to comment on this IC.

DATES: Consideration will be given to all comments received by *May 18, 2015.*

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Office of Policy Analysis; Attention: Don Bieniewicz; Mail Stop 3530; 1849 C Street NW., Washington, DC 20240. If you wish to email comments, the email address is: *Donald_Bieniewicz@ios.doi.gov.* Reference ''DOI Programmatic Clearance for Customer Satisfaction Surveys, OMB Control Number: 1040–0001'' in your email subject line. Include your name and return address in your email message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, see the contact information provided in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for renewal of information collection.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members

of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)).

The Government Performance and Results Act of 1993 (GPRA) (Pub. L. 103–62) requires agencies to ''improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction.'' Executive Order 13571 on ''Streamlining Service Delivery and Improving Customer Service'' requires Federal agencies to establish ''mechanisms to solicit customer feedback on Government services.'' To fulfill this responsibility, DOI bureaus and offices must collect data from their respective user groups to better understand the needs and desires of the public and to respond accordingly.

The proposed renewal covers all of the organizational units and bureaus in DOI. Bureaus and offices will voluntarily obtain information from their customers and stakeholders. No one survey will cover all the topic areas; rather, these topic areas serve as a guide within which the agencies will develop questions. Topic areas include:

(1) Communication/information/education. Questions will focus on customer satisfaction with aspects of communication/information/products/education offered. Respondents may be asked for feedback regarding the following attributes of the services provided:

(a) Timeliness.
(b) Consistency.
(c) Ease of Use and Usefulness.
(d) Ease of Information Access.
(e) Helpfulness and Effectiveness.
(f) Quality.
(g) Value for fee paid for information/product/service.
(h) Level of engagement in communications process (*i.e.,* whether respondent feels he/she was asked for input and whether or not that input was considered).

(2) Disability accessibility. This area will focus on customer satisfaction data related to disability access to DOI buildings, facilities, trails, etc.

(3) Management practices. This area covers questions relating to how well customers are satisfied with DOI management practices and processes, what improvements they might make to specific processes, and whether or not they feel specific issues were addressed and reconciled in a timely, courteous, and responsive manner.

(4) Resource management. We will ask customers and partners to provide satisfaction data related to DOI's ability to protect, conserve, provide access to, and preserve natural resources that we manage.

(5) Rules, regulations, policies. This area focuses on obtaining feedback from customers regarding fairness, adequacy, and consistency in enforcing rules, regulations, and policies for which DOI is responsible. It will also help us understand public awareness of rules and regulations and whether or not they are explained in a clear and understandable manner.

(6) Service delivery. We will seek feedback from customers regarding the manner in which DOI delivers services. Attributes will range from the courtesy of staff to timeliness of service delivery and staff knowledge of the services being delivered.

(7) Technical assistance. Questions developed within this topic area will focus on obtaining customer feedback regarding attributes of technical assistance, including timeliness, quality, usefulness, and the skill level of staff providing this assistance.

(8) Program-specific. Questions for this area will reflect the specific details of a program that pertain to its customer respondents. The questions will address very specific and/or technical issues related to the program. The questions will be geared toward gaining a better understanding about how to provide specific products and services and the public's attitude toward their usefulness.

(9) General demographics. Some general demographics may be used to augment satisfaction questions so that we can better understand the customer and improve how we serve that customer. We may ask customers how many times they have used a service, visited a facility within a specific timeframe, their ethnic group, or their race.

II. Data

(1) Title: DOI Programmatic Clearance for Customer Satisfaction Surveys.

OMB Control Number: 1040–0001.

Current Expiration Date: June 30, 2015.

Type of Review: Information Collection Renewal.

Affected Entities: DOI customers. We define customers as anyone who uses DOI resources, products, or services. This includes internal customers (anyone within DOI) as well as external customers (*e.g.,* the American public, representatives of the private sector, academia, and other government agencies). Depending upon their role in specific situations and interactions, citizens and DOI stakeholders and partners may also be considered customers. We define stakeholders to mean groups or individuals who have an expressed interest in and who seek to influence the present and future state of DOI's resources, products, and services. Partners are those groups, individuals, and agencies who are formally engaged in helping DOI accomplish its mission.

Estimated annual number of respondents: 120,000. We estimate approximately 60,000 respondents will submit DOI customer satisfaction surveys and 60,000 will submit comment cards.

Frequency of responses: On occasion.

(2) Annual reporting and recordkeeping burden:

Total time per response: 15 minutes for a customer survey; 3 minutes for a comment card.

Total number of estimated responses: 120,000.

Total annual reporting: 18,000 hours.

(3) Description of the need and use of the information: We use customer satisfaction surveys to help us fulfill our responsibilities to provide excellence in government by proactively consulting with those we serve. This programmatic clearance provides an expedited approval process for DOI bureaus and offices to conduct customer research through external surveys such as questionnaires and comment cards. We anticipate that the information obtained could lead to reallocation of resources, revisions in certain agency processes and policies, development of guidance related to customer services, and improvement in the way we serve the American public.

III. Request for Comments

The Department invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the

time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes 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, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the Department of the Interior; Office of Policy Analysis as indicated in the **ADDRESSES** section above. A valid picture identification is required for entry into the Department of the Interior.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: March 12, 2015.

Benjamin Simon,

Assistant Director, Office of Policy Analysis, U.S. Department of the Interior.

[FR Doc. 2015–06229 Filed 3–17–15; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2015–N050]; [FXES11130800000–154–FF08E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for 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 species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before April 17, 2015.

ADDRESSES: Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

Applicants

Permit No. TE–59536B

Applicant: Eric Drake, Sacramento, California

The applicant requests a permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County Distinct Population Segment (DPS) and Sonoma County DPS) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–59573B

Applicant: Andrew Krause, Lebec, California

The applicant requests a permit to take (harass by survey, capture, handle, and release) the giant kangaroo rat (*Dipodomys ingens*) and Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–59587B

Applicant: California Department of Water Resources, Sacramento, California

The applicant requests a permit to remove/reduce to possession the *Oenothera deltoides* subsp. *howellii* (Antioch Dunes evening-primrose) and *Erysimum capitatum* subsp. *angustatum* (Contra Costa wallflower) in conjunction with restoration activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–59592B

Applicant: Angela Johnson, Wauconda, California

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*), and take (harass by survey, locate, and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey and population monitoring throughout the range of the species in California, Nevada, Oregon, and Arizona, for the purpose of enhancing the species' survival.

Permit No. TE–833230

Applicant: Robert Aramayo, Albany, California

The applicant requests a permit to take (capture, collect, and collect vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–30659A

Applicant: Creekside Center for Earth Observation, Menlo Park, California

The applicant requests a permit to take (harass by survey, collect, and translocate) the mission blue butterfly (*Icaricia icarioides missionensis*) in conjunction with surveys and reintroduction programs throughout the range of the species in California for the purpose of enhancing the species survival.

Permit No. TE–817397

Applicant: John Storrer, Santa Barbara, California

The applicant requests a permit amendment to take (harass by survey,

capture, handle, release, collect tissue for genetic analysis, and collect voucher specimens) the California tiger salamander (Santa Barbara County DPS and Sonoma County DPS) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–237086

Applicant: Stillwater Sciences, Berkeley, California

The applicant requests a permit amendment to take (survey, capture, handle, and release) the Sierra Nevada yellow-legged frog (*Rana sierrae*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–148556

Applicant: Deborah Van Dooremolen, Las Vegas, Nevada

The applicant requests a permit renewal and amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and Yuma Ridgway's rail (*Rallas obsoletus yumanensis* (*R. longirostris y.*) (Yuma clapper rail) in conjunction with survey activities within Clark County, Nevada, for the purpose of enhancing the species' survival.

Permit No. TE–59890B

Applicant: Olberding Environmental, Incorporated, Folsom, California

The applicant requests a permit to take (harass by survey, capture, handle, release, and collect adult vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–012973

Applicant: ECORP Consulting, Incorporated, Rocklin, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, release, collect adult vouchers, and collect cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–148554

Applicant: Amber Heredia, Ladera Ranch, California

The applicant requests a permit renewal and amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey activities throughout the range of the species in California, Nevada, Arizona, New Mexico, and Utah, for the purpose of enhancing the species' survival.

Permit No. TE–29658A

Applicant: Cindy Dunn, San Diego, California

The applicant requests a permit renewal to take (survey by pursuit, live-capture, handle, and release) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–233291

Applicant: Margaret Mulligan, San Diego, California

The applicant requests a permit renewal to take (survey by pursuit, live-capture, handle, and release) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–179013

Applicant: Scott Werner, Ojai, California

The applicant requests a permit renewal to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (locate and monitor nests and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with survey and nest monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–832717

Applicant: Rodrick Dossey, Escondido, California

The applicant requests a permit renewal to remove/reduce to possession the *Monardella viminea* (*M. linoides* subsp. *v.*) (willowy monardella), *Arctostaphylos glandulosa* subsp. *crassifolia* (Del Mar manzanita), *Chorizanthe orcuttiana* (Orcutt's spineflower), *Fremontodendron mexicanum* (Mexican flannelbush), *Ambrosia pumila* (San Diego ambrosia), *Eryngium aristulatum* var. *parishii* (San Diego button-celery), *Pogogyne abramsii* (San Diego mesa mint), *Orcuttia californica* (California Orcutt grass), and *Chloropyron maritimum* subsp. *maritimum* (*Cordylanthus maritimus* subsp. *maritimus*) (salt marsh bird's beak) in conjunction with surveys in Imperial, Orange, Riverside, and San Diego Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–051236

Applicant: Erika Edison, La Mesa, California

The applicant requests a permit renewal to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (survey by pursuit, live-capture, handle, and release) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–051242

Applicant: Monica Alfaro, San Diego, California

The applicant requests a permit renewal to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (survey by pursuit, live-capture, handle, and release) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–161483

Applicant: Linette Lina, Orange, California

The applicant requests a permit renewal to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (locate and monitor nests and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with survey and nest monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–044846

Applicant: U.S. Geological Survey and National Park Service, Ventura, California

The applicant requests a permit renewal to remove/reduce to possession from lands under Federal jurisdiction the *Boechera hoffmannii* (*Arabis h.*) (Hoffmann's rock cress), *Arctostaphylos confertiflora* (Santa Rosa Island manzanita), *Berberis pinnata* subsp. *insularis* (island barberry), *Castilleja mollis* (soft-leaved paintbrush), *Dudleya traskiae* (Santa Barbara Island liveforever), *Galium buxifolium* (island bedstraw), *Gilia tenuiflora* subsp. *hoffmannii* (Hoffmann's slender-flowered gilia), *Malacothamnus fasciculatus* var. *nesioticus* (Santa Cruz Island bush-mallow), *Malacothrix indecora* (Santa Cruz Island malacothrix), *Malacothrix squalida* (Island malacothrix), *Phacelia insularis* subsp. *insularis* (island phacelia), and *Thysanocarpus conchuliferus* (Santa Cruz Island fringepod) in conjunction with genetic research and population studies in Channel Islands National Park, California, for the purpose of enhancing the species' survival.

Permit No. TE–082908

Applicant: Melanie Rocks, San Diego, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, and collect adult vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) and take (survey by pursuit, live-capture, handle, and release) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–60151B

Applicant: Lisa Franklin, Crestline, California

The applicant requests a new permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) and take (capture, handle, and release) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–082908

Applicant: Mary Belk, New Braunfels, Texas

The applicant requests a new permit to take (collect adult vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–60218B

Applicant: James Hickman, San Bernardino, California

The applicant requests a new permit to take (capture, handle, and release) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–768251

Applicant: Biosearch Associates, Santa Cruz, California

The applicant requests a permit renewal to take (capture, handle, and release) the Fresno kangaroo rat (*Dipodomys nitratoides exilis*) and Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*); take (capture, handle, mark, and release) the Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*); take (harass by survey, capture, handle, and release) the California red-legged frog (*Rana aurora draytonii*); take (harass by survey, capture, handle, mark, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*); and take (capture and release) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardi*), in conjunction with survey and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–233367

Applicant: Laura Gorman, Encinitas, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, release, and collect adult vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–050122

Applicant: California Department of Fish and Wildlife, Bishop, California

The applicant requests a permit amendment to take (capture, handle, mark, collect biological samples, radio-collar, survey, translocate, hold overnight, and release) the Sierra Nevada bighorn sheep (*Ovis canadensis sierrae*) in conjunction with survey and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive 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.

Dated: March 10, 2015.

Michael Long,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2015–06230 Filed 3–17–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[15XD4523WK DWK000000.000000 DS64900000 DQ.64920.15COPER]

Proposed Renewal of Information Collection: 1090–0007, American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Surveys

AGENCY: Office of Strategic Employee and Organization Development, Federal Consulting Group.

ACTION: Notice and request for comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Federal Consulting Group within the Department of the Interior announces that it has submitted a request for a proposed extension of information collection for the American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Surveys to the Office of Management and Budget and requests public comments on this submission. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: Office of Management and Budget has up to 60 days to approve or disapprove the information collection request, but may respond after 30 days; therefore, public comments should be submitted to Office of Management and Budget by April 17, 2015, in order to be assured of consideration.

ADDRESSES: Send your written comments by facsimile to (202) 395–5806 or email (*OIRA_Submission@omb.eop.gov*) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for the Department of the Interior (1090–0007). Also, please send a copy of your comments to Federal Consulting Group, Attention: Richard Tate, 1849 C St. NW., MS 2256, Washington, DC 20240–0001, or by facsimile to (202) 513–7686, or via email to *Richard_Tate@ios.doi.gov.* Individuals providing comments should reference Customer Satisfaction Surveys (OMB ID: 1090–0007).

FOR FURTHER INFORMATION CONTACT: To request additional information or copies of the form(s) and instructions, please write to the Federal Consulting Group (see contact information provided in the **ADDRESSES** section above). You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Office of Management and Budget regulation at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Public Law 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. The Office of Strategic Employee and Organization Development, Federal Consulting Group has submitted a request to the Office of Management and Budget to renew its approval of this collection of information for three years.

The proposed renewal of this information collection activity provides a means to consistently assess, benchmark, and improve customer satisfaction with Federal government agency programs and/or services within the Executive Branch. The Federal Consulting Group of the Department of the Interior serves as the executive agent for this methodology and has partnered with the Claes Fornell International Group (CFI Group) and the American Customer Satisfaction Index (ACSI) to offer the ACSI to Federal government agencies.

The CFI Group, a leader in customer satisfaction and customer experience management, offers a comprehensive model that quantifies the effects of quality improvements on citizen satisfaction. The CFI Group has developed the methodology and licenses it to the American Customer Satisfaction Index, an independent organization which produces the American Customer Satisfaction Index (ACSI). This national indicator is developed for different economic sectors each quarter, which are then published in *The Wall Street Journal.* The ACSI was introduced in 1994 by Professor Claes Fornell under the auspices of the University of Michigan, the American Society for Quality (ASQ), and the CFI Group. The ACSI monitors and benchmarks customer satisfaction across more than 200 companies and many U.S. Federal agencies.

The ACSI is the only cross-agency methodology for obtaining comparable measures of customer satisfaction with Federal government programs and/or services. Along with other economic objectives—such as employment and growth—the quality of outputs (goods and services) is a part of measuring living standards. The ACSI's ultimate purpose is to help improve the quality of goods and services available to American citizens.

ACSI surveys conducted by the Federal Consulting Group are subject to the Privacy Act of 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 552a). The agency information collection is an integral part of conducting an ACSI survey. The contractor will not be authorized to release any agency information upon completion of the survey without first obtaining permission from the Federal Consulting Group and the participating agency. In no case shall any new system of records containing privacy information be developed by the Federal Consulting Group, participating agencies, or the contractor collecting the data. In addition, participating Federal agencies may only provide information used to randomly select respondents from among established systems of records provided for such routine uses.

There is no other agency or organization able to provide the information accessible through the surveying approach used in this information collection. Further, the information will enable Federal agencies to determine customer satisfaction metrics with discrimination capability across variables. Thus, this information collection will assist Federal agencies in making the best use of resources in a targeted manner to improve service to the public.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, or other matters that are commonly considered private.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it is operating under a currently valid OMB control number. The Office of Management and Budget control number for this collection is 1090–0007. The control number will be displayed on the surveys used. Response to the surveys is voluntary.

II. Data

(1) Title: American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Surveys.

OMB Control Number: 1090–0007.

Current Expiration Date: March 31, 2015.

Frequency of Collection: Once per survey.

Description of Respondents: Individuals, Business, and State, Local, or Tribal Governments who have utilized Federal Government services.

Type of Review: Renewal.

(2) Annual reporting and record keeping burden.

Total Annual Burden Hours: 16,000.

Estimated Number of Respondents: Participation by Federal agencies in the ACSI is expected to vary as new customer segment measures are added or deleted. However, based on historical records, projected average estimates for the next three years are as follows:

Average Expected Annual Number of Customer Satisfaction Surveys: 100.

Respondents: 800 per survey.

Annual responses: 80,000.

Frequency of Response: Once per survey.

Average minutes per response: 12.0.

Burden hours: 16,000 hours.

(3) Description of the need and use of the information: The proposed renewal

of this information collection activity provides a means to consistently assess, benchmark, and improve customer satisfaction with Federal government agency programs and/or services within the Executive Branch.

(4) As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on November 18, 2014 (79 FR 68689–90). No comments were received. This notice provides the public with an additional 30 days in which to comment on the proposed information collection activity.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection by appointment with the Federal Consulting Group at the contact information given in the **ADDRESSES** section. The comments, with names and addresses, will be available for public view during regular business hours. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: March 12, 2015.

Jessica Reed,

Director, Federal Consulting Group.

[FR Doc. 2015–06241 Filed 3–17–15; 8:45 am]

BILLING CODE 4334–12–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR01115000, 15XR0680A1, RX.R0336900.0019100]

Notice of Public Meeting of the Yakima River Basin Conservation Advisory Group; Yakima River Basin Water Enhancement Project, Yakima, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, established by the Secretary of the Interior, will hold a public meeting. The Yakima River Basin Conservation Advisory Group is a Federal advisory committee that provides technical advice and counsel to the Secretary of the Interior and Washington State on the structure, implementation, and oversight of the Yakima River Basin Water Conservation Program.

DATES: The meeting will be held on Friday, April 10, 2015, from 9 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the Bureau of Reclamation, Yakima Field Office, 1917 Marsh Road, Yakima, Washington 98901.

FOR FURTHER INFORMATION CONTACT: Timothy McCoy, Manager, Yakima River Basin Water Enhancement Project, (509) 575–5848, extension 209; facsimile (509) 454–5612; or by email at *tmccoy@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Yakima River Basin conservation Advisory Group (CAG) provides recommendations to the Secretary of the Interior and the State of Washington on the structure and implementation of the basin conservation program; with that the group provides recommendations on rules, regulations, and administration to facilitate the voluntary sale and lease of water. The CAG provides oversight to the Yakima River Basin Conservation Plan, and provides an annual review of the implementation of the Water Conservation Program, including the applicable water conservation guidelines of the Secretary used by participating entities in preparing their individual water conservation plan.

Agenda. The primary purpose of the meeting is to update CAG members of the status of ongoing and future projects being funded with Yakima River Basin Water Enhancement Project funds. This meeting is open to the public.

Public Disclosure. 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: February 26, 2015.

Timothy McCoy,

Program Manager, Pacific Northwest Region.

[FR Doc. 2015–06258 Filed 3–17–15; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[15XD4523WK DWK000000.000000 DS64900000 DQ.64920.15COPER]

Proposed Renewal of Information Collection: 1090–0008, E-Government Web Site Customer Satisfaction Surveys (Formerly American Customer Satisfaction Index (ACSI) E-Government Web Site Customer Satisfaction Surveys)

AGENCY: Office of Strategic Employee and Organization Development, Federal Consulting Group, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Federal Consulting Group within the Department of the Interior announces that it has submitted a request for a proposed extension of information collection for the E-Government Web site Customer Satisfaction Surveys to the Office of Management and Budget, and requests public comments on this submission. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: Office of Management and Budget has up to 60 days to approve or disapprove the information collection request, but may respond after 30 days; therefore, public comments should be submitted to Office of Management and Budget by April 17, 2015, in order to be assured of consideration.

ADDRESSES: Send your written comments by facsimile to (202) 395–5806 or email (*OIRA_Submission@omb.eop.gov*) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for the Department of the Interior (1090–0008). Also, please send a copy of your comments to Federal Consulting Group, Attention: Richard Tate, 1849 C St. NW., MS 2256, Washington, DC 20240–0001, or by facsimile to (202) 513–7686, or via email to *Richard_Tate@ios.doi.gov.* Individuals providing comments should reference E-Government Web site Customer Satisfaction Surveys (OMB ID: 1090–0008).

FOR FURTHER INFORMATION CONTACT: To request additional information or copies of the form(s) and instructions, please write to the Federal Consulting Group (see contact information provided in the **ADDRESSES** section above). You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Office of Management and Budget regulation at 5 CFR part 1320, which implements the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. The Office of Strategic Employee and Organization Development, Federal Consulting Group has submitted a request to Office of Management and Budget to renew its approval of this collection of information for three years.

This information collection activity provides a means to consistently assess, benchmark, and improve customer satisfaction with Federal Government agency Web sites within the Executive Branch. The Federal Consulting Group of the Department of the Interior serves as the executive agent for this methodology and has partnered with ForeSee to offer this assessment to federal agencies.

ForeSee is a leader in customer satisfaction and customer experience management on the Web and related media. Its methodology (Customer Experience Analytics or CXA) is a derivative of one of the most respected, credible, and well known measures of customer satisfaction in the country, the American Customer Satisfaction Index (ACSI). The ForeSee CXA methodology combines survey data and a patented econometric model to precisely measure the customer satisfaction of Web site users, identify specific areas for improvement, and determine the impact of those improvements on customer satisfaction and future customer behaviors.

The ForeSee CXA is the only cross-agency methodology for obtaining comparable measures of customer satisfaction with Federal Government Web sites. The ultimate purpose of ForeSee CXA is to help improve the quality of goods and services available to American citizens, including those from the Federal government.

The E-Government Web site Customer Satisfaction Surveys will be completed subject to the Privacy Act of 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 522a). The agency information collection will be used solely for the purpose of the survey. The contractor will not be authorized to release any agency information upon completion of the survey without first obtaining permission from the Federal Consulting Group and the participating agency. In no case shall any new system of records containing privacy information be developed by the Federal Consulting Group, participating agencies, or the contractor collecting the data. In addition, participating Federal agencies may only provide information used to randomly selected respondents from among established systems of records provided for such routine uses.

There is no other agency or organization able to provide the information accessible through the surveying approach used in this information collection. Further, the information will enable Federal agencies to determine customer satisfaction metrics with discrimination capability across variables. Thus, this information collection will assist Federal agencies in making the best use of resources in a targeted manner to improve service to the public.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, or other matters that are commonly considered private.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it is operating under a currently valid Office of Management and Budget control number. The Office of Management and Budget control number for this collection is 1090–0008. The control number will be displayed on the surveys used. For expeditious administration of the surveys, the expiration date will not be displayed on the individual instruments. Response to the surveys is voluntary.

II. Data

(1) *Title:* American Customer Satisfaction Index (ACSI) E-Government Web Site Customer Satisfaction Surveys.

OMB Control Number: 1090–0008.

Current Expiration Date: March 31, 2015.

Frequency of Collection: Once per survey.

Description of Respondents: Individuals, Business, and State, Local, or Tribal Governments who have visited Federal Government Web sites.

Type of Review: Renewal.

(2) *Annual Reporting and Record Keeping Burden.*

Total Annual Burden Hours: 52,083.

Estimated Number of Respondents: Participation by Federal agencies will vary as new Web sites are added or deleted. However, based on our experience from the previous three-year approval period, the number of surveys has been very consistent with little change and estimate for the next three years are as follows:

Average Expected Annual Number of Customer Satisfaction Surveys: 250.

Respondents: 5,000 per survey.

Annual Responses: 1,250,000.

Frequency of Response: Once per survey.

Average Minutes per Response: 2.5.

Burden Hours: 52,083 hours.

(3) Description of the Need and Use of the Information: The proposed renewal of this information collection activity provides a means to consistently assess, benchmark and improve customer satisfaction with Federal government agency Web sites within the Executive Branch.

(4) As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on November 18, 2014 (79 FR 68688–89). No comments were received. This notice provides the public with an additional 30 days in which to comment on the proposed information collection activity.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper

performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection by appointment with the Federal Consulting Group at the contact information given in the **ADDRESSES** section. The comments, with names and addresses, will be available for public view during regular business hours. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: March 12, 2015.

Jessica Reed,

Director, Federal Consulting Group.

[FR Doc. 2015–06240 Filed 3–17–15; 8:45 am]

BILLING CODE 4334–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2015–N228; 91400–5110–0000; 91400–9410–0000]

Multistate Conservation Grant Program; Fiscal Year 2015 Priority List and Approval for Conservation Projects

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of priority list and approval of projects.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the Fiscal Year (FY) 2015 priority list of wildlife and sport fish conservation projects from the Association of Fish and Wildlife Agencies (AFWA). As required by the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000, AFWA submits a list of projects to us each year to consider for funding under the Multistate Conservation Grant Program. We have reviewed the list and have awarded all the grants from the list.

ADDRESSES: John C. Stremple, Multistate Conservation Grants Program Coordinator, Wildlife and Sport Fish Restoration Program, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: WSFR, Falls Church, VA 22041–3808.

FOR FURTHER INFORMATION CONTACT: John C. Stremple, (703) 358–2156 (phone) or *John_Stremple@fws.gov* (email).

SUPPLEMENTARY INFORMATION: The Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Improvement Act, Pub. L. 106–408) amended the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 *et seq.*) and established the Multistate Conservation Grant Program. The Improvement Act authorizes us to award grants of up to $3 million annually from funds available under each of the restoration acts, for a total of up to $6 million annually. Projects can be funded from both funds depending on the project activities. We may award grants to projects from a list of priority projects recommended to us by the Association of Fish and Wildlife Agencies. The Service Director, exercising the authority of the Secretary of the Interior, need not fund all projects on the list, but all projects funded must be on the list.

Grantees under this program may use funds for sport fisheries and wildlife management and research projects, boating access development, hunter safety and education, aquatic education, fish and wildlife habitat improvements, and other purposes consistent with the enabling legislation.

To be eligible for funding, a project must benefit fish and/or wildlife conservation for at least 26 States, for a majority of the States in any one Service Region, or for one of the regional associations of State fish and wildlife agencies. We may award grants to a State, a group of States, or one or more nongovernmental organizations. For the purpose of carrying out the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, we may award grants to the Service, if requested by AFWA, or to a State or a group of States. Also, AFWA requires all project proposals to address its National Conservation Needs, which AFWA announces annually at the same time it requests proposals. Further, applicants must provide certification that no activities conducted under a Multistate Conservation Grant will promote or encourage opposition to regulated hunting or trapping of wildlife, or to regulated angling or taking of fish.

AFWA committees and interested nongovernmental organizations that represent conservation organizations, sportsmen's and women's organizations, and industries that support or promote fishing, hunting, trapping, recreational shooting, bowhunting, or archery review and rank eligible project proposals. AFWA's Committee on National Grants recommends a final list of priority projects to the directors of the State fish and wildlife agencies for their approval by majority vote. By statute, AFWA then transmits the final approved list to the Service for funding under the Multistate Conservation Grant program by October 1 of the fiscal year. This year, AFWA sent us a list of 17 projects that they recommended for funding. We have awarded all of the recommended projects for FY 2015. The list follows:

MULTISTATE CONSERVATION GRANT PROGRAM

[FY 2015 Projects]

ID	Title	Submitter	PR Funding [1]	DJ Funding [2]	Total 2015 grant
1 ..	Multistate Conservation Grant Program Coordination.	AFWA	$43,560	$43,560	$87,120

MULTISTATE CONSERVATION GRANT PROGRAM—Continued

[FY 2015 Projects]

ID	Title	Submitter	PR Funding [1]	DJ Funding [2]	Total 2015 grant
2 ..	State Fish and Wildlife Agency Administration and Coordination.	AFWA	149,160	149,160	298,320.50
3 ..	State Fish and Wildlife Agency Director Travel Administration and Coordination.	AFWA	64,075	64,075	128,150
4 ..	Coordination of Farm Bill Program Implementation to Optimize Fish and Wildlife Benefits to States.	AFWA	124,500	83,000	207,500
5 ..	Coordination of the Industry, Federal and State Agency Coalition.	AFWA	108,480	108,480	216,960
6 ..	Understanding the Trends in Public Values toward Wildlife as a Key to Meeting Current and Future Wildlife Management Challenges.	MAFWA & WAFWA	226,933.50	226,933.50	453,867
7 ..	Educating Lawyers, Law Students, students of all ages the judiciary and the general public on state fish and wildlife management: Implementing AFWA's 2013–2015 Strategic Plan Goal 2.	AFWA	100,000	100,000	200,000
8 ..	Hunting, Fishing, and Sport Shooting Recruitment and Retention: A Practitioner's Guide.	NSSF	69,865.05	69,865.05	139,730.10
9 ..	National Survey of Ownership and Use of Traps by Trappers in the United States and evaluation of the use and implementation of BMPs by state fish and wildlife agencies.	AFWA	145,500	0	145,500
10	Promoting Strategic Fish Habitat Conservation through Regionally-coordinated Science and Collaboration.	NFHB	0	521,600	521,600
11	Development and Implementation of a National Initiative for Hunter and Shooting Sports Recruitment, Retention, and Reactivation.	WMI and CAHSS	207,900	0	207,900
12	Improving the Conservation of Fish and Wildlife Populations and Habitats During Energy Exploration, Development and Transmission Through Enhanced Industry/Agency Coordination.	AFWA	58,125	58,125	116,250
13	Boosting Fishing Participation by Boat Owners	ASA	0	60,000	60,000
14	Professional Development Workshops for effective communication and outreach regarding regulated trapping, established Best Management Practices, and furbearer management.	Max McGraw Wildlife Foundation.	116,150	0	116,150
15	Coordination of the 2016 National Survey Efforts (part A).	FWS	123,437	123,437	246,874
16	50 State Surveys Related to Fishing, Hunting, and Wildlife-Associated Recreation (part B).	Rockville Institute (Westat).	279,822	279,822	559,644
17	National-Level Results for the 2016 Survey of Fishing, Hunting and Wildlife-Associated Recreation (part A).	FWS/U.S. Census Bureau.	407,903	407,903	815,806
			2,225,410.55	2,295,960.55	4,521,371.10

[1] PR Funding: Pitman-Robertson Wildlife Restoration funds.
[2] DJ Funding: Dingell-Johnson Sport Fish Restoration funds.
AFWA: Association of Fish and Wildlife Agencies.
ASA: American Sportfishing Association.
CAHSS: Council to Advance Hunting and the Shooting Sports.
NFHB: National Fish Habitat Board.
NSSF: National Shooting Sports Foundation.
MAFWA: Midwest Association of Fish and Wildlife Agencies.
WAFWA: Western Association of Fish and Wildlife Agencies.
WMI: Wildlife Management Institute.

Dated: December 15, 2014.

Stephen Guertin,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–06097 Filed 3–17–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[156D0102DM DLSN00000.000000 DS61200000 DX61201]

Proposed Renewal of Information Collection: OMB Control Number 1090–0011, DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of the Secretary, Department of the Interior announces the proposed extension of a Generic Information Collection Request (Generic ICR): ''DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by *May 18, 2015.*

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Office of Policy Analysis; Attention: Don Bieniewicz; Mail Stop 3530; 1849 C Street NW., Washington, DC 20240. If you wish to email comments, the email address is: *Donald_Bieniewicz@ios.doi.gov.* Reference ''DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, OMB Control Number: 1090–0011'' in your email subject line. Include your name and return address in your email message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, see the contact information provided in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for renewal of information collection.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)).

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study.

II. Data

(1) *Title:* DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1090–0011.

Current Expiration Date: June 30, 2015.

Type of Review: Information Collection Renewal.

Affected Entities: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Expected Annual Number of Activities: 20.

Estimated annual number of respondents: 11,000 for surveys, 6,000 for comment cards, 500 for focus groups.

Frequency of responses: Once per request.

(2) Annual reporting and recordkeeping burden:

Average time per response: 15 minutes for surveys, 2 minutes for comment cards, 2 hours for focus groups.

Estimated total annual burden hours: 3,950 hours.

(3) *Description of the need and use of the information:* The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders.

III. Request for Comments

The Department invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes 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, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the Department of the Interior; Office of Policy Analysis as indicated in the **ADDRESSES** section above. A valid picture identification is required for entry into the Department of the Interior.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: March 12, 2015.

Benjamin Simon,

Assistant Director, Office of Policy Analysis, U.S. Department of the Interior.

[FR Doc. 2015–06242 Filed 3–17–15; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA00000 L12200000.DF0000 15X L1010BP]

Notice of Public Meeting, Albuquerque District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management (BLM) Albuquerque District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will meet on Friday, April 17, 2015, at the Socorro Field Office, 901 South Highway 85, Socorro, NM 87801, from 9 a.m.–4 p.m. The public may send written comments to the RAC at the BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM 87107.

FOR FURTHER INFORMATION CONTACT: Martín Visarraga, BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM 87107, 505–761–8902. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member Albuquerque District RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in New Mexico's Albuquerque District.

Planned agenda items include updates on the SunZia Southwest Transmission Project; the Kinder Morgan Lobos CO2 Pipeline Project; the upcoming move of the Rio Puerco Field Office and transition to a mobile workforce; and the Rio Puerco Resource Management Plan. There will also be a discussion on fee increases for the Kasha-Katuwe Tent Rocks National Monument and Datil Well Campground, sustainable resource efforts, and recreation opportunities for the Albuquerque District.

A half-hour comment period during which the public may address the RAC will begin at 11 a.m. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

Michael H. Tupper,

Deputy State Director, Lands and Resources.

[FR Doc. 2015–06228 Filed 3–17–15; 8:45 am]

BILLING CODE 4310–FB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–949]

Certain Audio Processing Hardware and Software and Products Containing Same; Institution of investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 9, 2015, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Andrea Electronics Corp., of Bohemia, New York. A letter supplementing the complaint was filed on March 3, 2015. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audio processing hardware and software and products containing same by reason of infringement of certain claims of U.S. Patent No. 5,825,898 (''the '898 patent''); U.S. Patent No. 6,483,923 (''the '923 patent''); U.S. Patent No. 6,049,607 (''the '607 patent''); U.S. Patent No. 6,363,345 (''the '345 patent''); and U.S. Patent No. 6,377,637 (''the '637 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, as supplemented, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2014).

Scope of Investigation: Having considered the complaint, the U.S.

International Trade Commission, on March 11, 2015, *ordered that* —

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain audio processing hardware and software and products containing same by reason of infringement of one or more of claims 1–28 of the '898 patent; claims 1–16 of the '923 patent; claims 1–12 and 25–37 of the '607 patent; claims 1–25, 38–40, and 42–47 of the '345 patent; and claims 1–14 of the '637 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors, 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) Notwithstanding any Commission Rules that would otherwise apply, the presiding Administrative Law Judge shall hold an early evidentiary hearing, find facts, and issue an early decision, as to whether the complainant has standing to assert each of the asserted patents. Any such decision shall be in the form of an initial determination (ID). Petitions for review of such an ID shall be due five calendar days after service of the ID; any replies shall be due three business days after service of a petition. The ID will become the Commission's final determination 30 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 CFR 210.43, 210.44, and 210.45. The Commission expects the issuance of an early ID relating to the standing issues within 100 days of institution, except that the presiding ALJ may grant a limited extension of the ID for good cause shown. The issuance of an early ID finding complainant does not have standing to assert the asserted patents shall stay the investigation unless the Commission orders otherwise; any other decision shall not stay the investigation or delay the issuance of a final ID covering the other issues of the investigation.

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Andrea Electronics Corp., 65 Orville Drive, Suite One, Bohemia, NY 11716.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Acer Inc., 8F, 88, Sec. 1, Xintai 5th Rd. Xixhi, New Taipei City 221, Taiwan
Acer America Corp., 333 West San Carlos Street, Suite 1500, San Jose, CA 95110
ASUSTeK Computer Inc., No. 15, Li-Te Rd., Beitou District, Taipei 112, Taiwan
ASUS Computer International, 800 Corporate Way, Fremont, CA 94539
Dell Inc., One Dell Way, Round Rock, TX 78682
Hewlett Packard Co., 3000 Hanover Street, Palo Alto, CA 94304–1185
Lenovo Group Ltd., Shangdi Information Industry Base, No 6 Chuang Ye Road, Haidan District, 100085 Beijing, China
Lenovo Holding Co., Inc., 1009 Think Place, Morrisville, NC 27650
Lenovo (United States) Inc., 1009 Think Place, Morrisville, NC 27650
Toshiba Corp., 1–1, Shibaura 1-chome, Toshiba Building, Minato-Ku, Tokyo 105–8001, Japan
Toshiba America, Inc., 1251 Avenue of the Americas, Suite 4110, New York, NY 10020
Toshiba America Information Systems, Inc., 9740 Irvine Boulevard, Irvine, CA 92618
Realtek Semiconductor Corp., No. 2, Innovation Road II, Hsinchu Science Park, Hsinchu 300, Taiwan

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 12, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–06081 Filed 3–17–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–916]

Certain Non-Volatile Memory Chips and Products Containing the Same; Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 30) granting a joint motion to terminate the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2661. Copies of all non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission

may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov/*. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 4, 2014, based on a complaint filed by Spansion LLC (''Spansion''). 79 FR 32312–13 (June 4, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain non-volatile memory chips and products containing the same by reason of infringement of four U.S. patents. The notice of investigation named as respondents Macronix International Co., Ltd.; Macronix Asia Limited; Macronix (Hong Kong) Co., Ltd.; Macronix America, Inc. (collectively, ''Macronix''); Acer Inc.; Acer America Corp.; ADT-Corp.; Amazon.com, Inc.; ASRock Inc.; ASRock America, Inc.; ASUSTeK Computer Inc.; Asus Computer International; Belkin International, Inc.; D-Link Corporation; D-Link Systems, Inc.; Leap Motion, Inc.; Lowe's Companies, Inc.; Lowe's Home Centers, LLC (f/k/a Lowe's Home Centers, Inc.); Microsoft Corp.; Nintendo Co., Ltd.; Nintendo of America, Inc.; Sercomm Corporation; Vonage Holdings Corp.; Vonage America Inc.; and Vonage Marketing LLC.

On January 29, 2015, Spansion and all respondents filed an unopposed motion to terminate the investigation based on a settlement agreement between Spansion and Macronix. On the same day, Spansion and Macronix filed a joint motion to limit service of their settlement agreement pursuant to Commission Rule 210.21(b)(1). On February 9, 2015, Commission investigative attorney Monisha Deka (''IA'') filed a response in support of both motions.

On February 18, 2015, the ALJ issued the subject ID granting both motions and terminating the investigation. The ALJ noted the parties' assertion that the settlement agreement between Spansion and Macronix fully resolves the investigation with respect to all respondents and that there are no other agreements between the parties concerning the subject matter of this investigation. The ALJ further found no evidence that termination based on the settlement agreement would impose any undue burdens on public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. To the contrary, the ALJ found that termination is in the public interest because it would avoid needless litigation and conserve public resources.

The ALJ found that Spansion and Macronix filed a confidential and public version of the settlement agreement in compliance with Commission Rule 210.21(b). The ALJ additionally found that because the settlement agreement at issue is confidential between Spansion and Macronix, there was good cause to limit service of that agreement to Spansion, the Macronix respondents, and the IA. No petitions for review of the ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 12, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–06170 Filed 3–17–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–910]

Certain Television Sets, Television Receivers, Television Tuners, and Components Thereof, Capabilities and Components Thereof; Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond in the above-captioned investigation. The Commission is soliciting comments from the public on public interest issues raised by the recommended relief, specifically that if the Commission were to find a violation of section 337, 19 U.S.C. 1337, that the Commission issue limited exclusion orders and cease and desist orders directed to the respondents. The ALJ rejected the respondents' arguments that the public interest stands in the way of relief for the complainants. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bond issued in this investigation on February 27, 2015. Comments should address whether issuance of a limited exclusion order and/or cease and desist orders in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like

or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the limited exclusion order and/or cease and desist orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on Tuesday, April 7, 2015.

By order of the Commission.

Issued: March 13, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–06172 Filed 3–17–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,665]

Mondi Bags USA, LLC, New Philadelphia Plant, Including Workers Whose Wages Are Reported Under Graphic Packaging Industrial, New Philadelphia, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 11, 2014, applicable to workers of Mondi Bags USA, LLC, New Philadelphia Plant, New Philadelphia, Ohio. The Notice of Determination was published in the **Federal Register** on December 30, 2014 (79 FR 78495).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers' firm is engaged in the production of multiwall bags.

The investigation confirmed that the worker group includes workers whose wages are reported under Graphic Packaging Industrial. Based on these findings, the Department is amending this certification to include those workers.

The amended notice applicable to TA–W–85,665 is hereby issued as follows:

All workers of Mondi Bags USA, LLC, New Philadelphia Plant, including workers whose wages are reported under Graphic Packaging Industrial, New Philadelphia, Ohio, who became totally or partially separated from employment on or after November 13, 2013 through December 11, 2016, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 24th day of February, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–06169 Filed 3–17–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,243; TA–W–85,243A]

Riverside Manufacturing Company Main Sewing Plant Including Workers Whose Wages are Reported Under Affinity Apparel and Including On-Site Leased Workers From Ambassador Personnel Riverside, Georgia; Riverside Manufacturing Company ReComTec Division Including Workers Whose Wages Are Reported Under Affinity Apparel and Including On-Site Leased Workers From Ambassador Personnel Riverside, Georgia; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 24, 2014, applicable to workers of Riverside Manufacturing Company, Main Sewing Plant, including on-site leased workers from Ambassador Personnel, Riverside, Georgia (TA–W–85,243) and Riverside Manufacturing Company, ReComTec Division, including on-site leased workers from Ambassador Personnel, Riverside, Georgia (TA–W–85,243A). The Notice of Determination was published in the **Federal Register** on July 24, 2014 (79 FR 43094).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers' firm is engaged in the production of apparel.

The investigation confirmed that the worker group includes workers whose wages are reported under Affinity Apparel. Based on these findings, the Department is amending this certification to include those workers.

The amended notice applicable to TA–W–85,243 is hereby issued as follows:

All workers of Riverside Manufacturing Company, Main Sewing Plant, including workers whose wages are reported under Affinity Apparel, and including on-site leased workers from Ambassador Personnel, Riverside, Georgia (TA–W–85,243) and Riverside Manufacturing Company, ReComTec Division, including workers whose wages are reported under Affinity Apparel, and including on-site leased workers from Ambassador Personnel, Riverside, Georgia (TA–W–85,243A), who became totally or partially separated from employment on or after April 16, 2013 through June 24, 2016, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 25th day of February, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–06168 Filed 3–17–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,483]

SMC Electrical Products, Inc., a Subsidiary of Becker Mining America, Inc., Including On-Site Leased Workers From Bristol Computer Services, Kelly Services and Ensin Maintenance Services, Barboursville, West Virginia; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment

Assistance on September 25, 2014, applicable to workers of SMC Electrical Products, Inc., a subsidiary of Becker Mining America, Inc., including on-site leased workers from Bristol Computer Services and Kelly Services, Barboursville, West Virginia (TA–W–85,483). The Department's Notice of Determination was published in the **Federal Register** on September 11, 2014 (79 FR 54291).

At the request of a state workforce official, the Department reviewed the certification for workers of the subject firm. The firm is engaged in the production of electrical power control systems.

The investigation confirmed that workers of Ensin Maintenance Services were employed on-site and were sufficiently under the control of the subject firm to be considered leased workers.

The amended notice applicable to TA–W–85,483 and TA–W–85,483A is hereby issued as follows:

All workers of SMC Electrical Products, Inc., a subsidiary of Becker Mining America, Inc., including on-site leased workers from Bristol Computer Services, Kelly Services and Ensin Maintenance Services, Barboursville, West Virginia (TA–W–85,483) and SMC Electrical Products, Inc., a subsidiary of Becker Mining America, Inc., including on-site leased workers from Bristol Computer Services and Kelly Services, Delta, Colorado (TA–W–85,483A) who became totally or partially separated from employment on or after August 13, 2013 through September 26, 2016 are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 25th day of February, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–06171 Filed 3–17–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 30, 2015.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 30, 2015.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 26th day of February 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[24 TAA petitions instituted between 2/9/15 and 2/20/15]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85822	United States Steel Corporation (Union)	Fairfield, AL	02/09/15	02/06/15
85823	Wilco Machine and Fabrication (Company)	Marlow, OK	02/10/15	02/09/15
85824	New Beginnings Fitness Center (Company)	Kenai, AK	02/11/15	02/10/15
85825	OxyHeal Health Group, Inc. (State/One-Stop)	Jacksonville, NC	02/11/15	02/10/15
85826	The Safariland Group (State/One-Stop)	Ontario, CA	02/11/15	02/10/15
85827	Plews, Inc. (dba Plews & Edelmann) (Company)	Dixon, IL	02/11/15	02/10/15
85828	Serva Group (Company)	Catoosa, OK	02/11/15	02/10/15
85829	Sony Puerto Rico, Inc. (State/One-Stop)	Guaynabo, PR	02/11/15	02/10/15
85830	Woodbridge Ventures, LLC-DBA Woodbridge Lansing (State/One-Stop)	Lansing, MI	02/13/15	02/12/15
85831	Carefusion (Workers)	Dublin, OH	02/18/15	02/13/15
85832	Berry Plastics (State/One-Stop)	Brookville, PA	02/18/15	02/13/15
85833	Milestone Systems USA (State/One-Stop)	Burnsville, MN	02/18/15	02/13/15
85834	Mondelez International (Company)	Wilkes Barre, PA	02/18/15	02/16/15
85835	S4Carlisle Publishing Services (Company)	Dubuque, IA	02/18/15	02/16/15
85836	Waukesha Bearings (Company)	West Greenwich, RI	02/18/15	02/13/15
85837	Sonoco (State/One-Stop)	Wapato, WA	02/18/15	02/11/15
85838	Bethany Christian Services (Workers)	Holland, MI	02/18/15	02/10/15
85839	Camtec (State/One-Stop)	Cambridge, MD	02/19/15	02/18/15
85840	Nestle USA Inc (State/One-Stop)	Glendale, CA	02/19/15	02/18/15
85841	Bradken (Energy Business Unit) (Union)	Chehalis, WA	02/19/15	02/17/15
85842	Sypris Tech (Workers)	Morganton, NC	02/19/15	01/13/15
85843	Sabic Innovative Plastics US LLC (Workers)	Washington, WV	02/19/15	02/17/15
85844	A Schulman, Inc. (Company)	Stryker, OH	02/20/15	02/19/15
85845	Powerex, Inc. (Company)	Youngwood, PA	02/20/15	02/19/15

[FR Doc. 2015–06164 Filed 3–17–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Bloodborne Pathogens Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Bloodborne Pathogens Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 17, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201412-1218-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Bloodborne Pathogens Standard information collection. The Bloodborne Pathogen Standard is an occupational safety and health standard that prevents occupational exposure to bloodborne pathogens. The standard's information collection requirements are essential components that protect workers from occupational exposure. The information is used by employers and workers to implement the protection required by the Standard. OSHA compliance officers will use some of the information in enforcing the Standard. The collections of information contained in the Bloodborne Pathogens Standard include a written exposure control plan, documentation of workers' hepatitis B vaccinations and post-exposure evaluations and follow-up medical visits, training, related recordkeeping and a sharps injury log. Information generated in accordance with these provisions provides the employer and the worker with means to provide protection from the adverse health effects associated with occupational exposure to bloodborne pathogens. Occupational Safety and Health Act sections 2(b)(9), 6, and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0180.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on March 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 7, 2014 (79 FR 60503).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0180. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Bloodborne Pathogens Standard.

OMB Control Number: 1218–0180.

Affected Public: Private Sector—businesses or other for profits.

Total Estimated Number of Respondents: 691,669.

Total Estimated Number of Responses: 17,815,712.

Total Estimated Annual Time Burden: 5,528,742 hours.

Total Estimated Annual Other Costs Burden: $46,093,897.

Dated: March 12, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–06162 Filed 3–17–15; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *February 9, 2015 through February 20, 2015.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,714, Superior Industries International Arkansas, LLC, Fayetteville, Arizona. December 10, 2013.

85,718, Sylvania, Danvers, Massachusetts. December 10, 2013.

85,753, U.S. Steel Tubular Products, Inc., Houston, Texas. January 6, 2014.

85,756, Crown Casting LLC, Hodges, South Carolina. January 7, 2014.

85,760, Medtronic Ablation Frontiers, Inc., Carlsbad, California. January 13, 2014.

85,761, Bright Source Energy, Oakland, California. January 13, 2014.

85,767, Gerresheimer Glass, Millville, New Jersey. January 18, 2014.

85,773, Johnson Controls, Inc., Holland, Michigan. January 20, 2014.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

85,694, Tyco Fire Protection Products, Westminster, Massachusetts.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased

imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

85,752, Lear Corporation, Southfield, Michigan.

85,762, Advanced Ion Beam Technology, Inc., Danvers, Massachusetts.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,700, Sport Mart Inc., Charleston, West Virginia.

85,741, Maersk Agency USA, Inc., Charlotte, North Carolina.

85,766, Dallas Airmotive, Inc., Neosho, Missouri.

85,769, Rural Metro Ambulance, Salem, Oregon.

85,808, Jones Apparel US LLC., Lawrenceburg, Tennessee.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

85,784, Power Products, LLC., Menomonee Falls, Wisconsin.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

85,678, SST Truck Company, LLC., Garland, Texas.

I hereby certify that the aforementioned determinations were issued during the period of *February 9, 2015 through February 20, 2015.* These determinations are available on the Department's Web site *www.tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC this 9th day of March 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–06163 Filed 3–17–15; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 15–010]

Notice of Intent to Grant a Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a partially exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the invention described and claimed in U.S. Patent Application Serial No. 13/987,251 entitled Fluid Harmonic Absorber and U.S. Patent No. 8,939,178 entitled Variable-Aperture Reciprocating Reed Valve to Thornton Tomasetti, Inc., having its principal place of business in New York, NY. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Mr. Sammy A. Nabors, Technology Transfer Office/ZP30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Sumara M. Thompson-King,

General Counsel.

[FR Doc. 2015–06231 Filed 3–17–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–016)]

NASA Advisory Council; Ad Hoc Task Force on STEM Education; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Ad Hoc Task Force on Science, Technology, Engineering and Mathematics (STEM) of the NASA Advisory Council (NAC). This Task Force reports to the NAC.

DATES: Friday, April 3, 2015, 9:00 a.m. to 3:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 4U25 (Education Conference Room), 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Beverly Girten, Executive Secretary for the Ad Hoc Task Force on STEM Education, NASA Headquarters, Washington, DC 20546, (202) 358–0212, or *beverly.e.girten@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll free access number 844–467–6272 or toll access number 720–259–6462, and then the numeric participant passcode: 329152 followed by the # sign. To join via WebEx on April 3, the link is *https://nasa.webex.com/,* the meeting number is 991 182 832 and the password is Brianna$1 (Password is case sensitive.) *Note:* If dialing in, please ''mute'' your telephone. The agenda for the meeting will include the following:

—Introduction of Task Force Members
—Task Force Terms of Reference
—Federal STEM Strategic Plan and Federal Partners
—NASA Strategic Plan and Education
—NASA Education Overview
—NASA Education Implementation Plan Progress

Attendees will be requested to sign a register and to comply with NASA

Headquarters security requirements, including the presentation of a valid picture ID before receiving access to NASA Headquarters. Due to the Real ID Act, Public Law 109–13, any attendees with drivers licenses issued from non-compliant states/territories must present a second form of ID [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, U.S. citizens and Permanent Residents (green card holders) can provide full name and citizenship status 3 working days in advance by contacting Dr. Beverly Girten, via email at *beverly.e.girten@nasa.gov*. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–06232 Filed 3–17–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–031]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules.

DATES: NARA must receive requests for copies in writing by April 17, 2015. Once NARA completes appraisal of the records, we will send you a copy of the schedule you requested. NARA staff usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these and we will provide them once we have completed the appraisal as well. You have 30 days after we send the documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. If you would also like the appraisal reports, please say so in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), by mail at: National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, by telephone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media-neutral unless specified otherwise. An item in a schedule is media-neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media-neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of individuals directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Defense, Defense Logistics Agency (DAA–0361–2014–0013, 1 item, 1 temporary item). Master files of an electronic information system that contains records relating to criminal incidents that occurred at agency facilities.

2. Department of Defense, Defense Logistics Agency (DAA–0361–2014–

0014, 2 items 2 temporary items). Master files of an electronic information system that contains records relating to personnel security background investigations.

3. Department of Defense, Defense Logistics Agency (DAA–0361–2015–0004, 1 item 1 temporary item). Records documenting fuel deliveries to naval ships or shore facilities.

4. Department of Defense, National Reconnaissance Office (N1–525–14–1, 1 item, 1 temporary item). Records related to administrative information technology and communications policy files.

5. Department of the Navy, Office of the General Counsel (DAA–0428–2015–0001, 1 item, 1 temporary item). Master files of an electronic information system used to track, organize, and view legal discovery documents.

6. Department of State, Bureau of Energy Resources (DAA–0059–2015–0002, 3 items, 3 temporary items). Records of the Office of Energy Diplomacy including project files, working files, and background material.

7. Department of Veterans Affairs, Office of Congressional and Legislative Affairs (DAA–0015–2014–0003, 1 item, 1 temporary item). Records relating to audits and performance reviews including comments, drafts, and final reports.

8. Court Services and Offenders Supervision Agency for the District of Columbia, Community Justice Programs (DAA–0562–2013–0004, 1 item, 1 temporary item). Master files of an electronic information system used to generate substance abuse treatment plans for defendants and offenders.

9. Court Services and Offenders Supervision Agency for the District of Columbia, Community Supervision Services (DAA–0562–2013–0011, 1 item, 1 temporary item). Case files of offenders under probation or parole.

10. Court Services and Offenders Supervision Agency for the District of Columbia, Community Supervision Services (DAA–0562–2013–0023, 1 item, 1 temporary item). Master files of an electronic information system used to manage the physical location of offender case files.

11. Court Services and Offenders Supervision Agency for the District of Columbia, Community Supervision Services (DAA–0562–2013–0025, 1 item, 1 temporary item). Master files of an electronic information system used to track the physical location of supervised offenders wearing tracking devices.

12. Court Services and Offenders Supervision Agency for the District of Columbia, Pretrial Services Agency (DAA–0562–2013–0026, 1 item, 1 temporary item). Master files of an electronic information system used to determine pre-trial release conditions and compliance of defendants.

13. National Archives and Records Administration, Research Services (N2–70–14–1, 2 items, 2 temporary items). Records of the Bureau of Mines, consisting of Petroleum Division records relating to petroleum in foreign countries and Technical Cooperation Administration country files. These records were accessioned to the National Archives but lack sufficient historical value to warrant their continued preservation.

14. Recovery Accountability and Transparency Board, Agency-wide (DAA–0220–2014–0015, 11 items, 11 temporary items). Web site and social media records including content, media, and management and support files.

Dated: March 11, 2015.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2015–06186 Filed 3–17–15; 8:45 am]

BILLING CODE 7515–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Finance, Budget & Program Committee Meeting of the Board of Directors Meeting; Sunshine Act

TIME & DATE: 2:00 p.m., Monday, March 23, 2015.

PLACE: NeighborWorks America—Gramlich Boardroom, 999 North Capitol Street NE., Washington, DC 20002.

STATUS: Open (with the exception of Executive Session).

CONTACT PERSON: Jeffrey Bryson, General Counsel/Secretary, (202) 760–4101; *jbryson@nw.org.*

AGENDA:

I. CALL TO ORDER

II. Executive Session: Management Update

III. Audio Visual Contract Decision

IV. Training Tool Restart

V. Sustainable Homeownership

VI. FY16 Federal Budget

VII. Management Updates

VIII. Adjournment

Jeffrey T. Bryson,

EVP & General Counsel/Corporate Secretary.

[FR Doc. 2015–06281 Filed 3–16–15; 11:15 am]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[EA–2014–114; NRC–2015–0062]

Honeywell International, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a confirmatory order to Honeywell International, Inc. (Honeywell), confirming an agreement reached in an Alternative Dispute Resolution session held on December 9, 2014. As part of the agreement, Honeywell will conduct presentations and training to its employees regarding the policy for raising employee concerns, addressing safety issues, and management response to employee concerns; modify existing processes and develop new processes that provide for ongoing support for employee protection requirements; and review and update its Safety Conscious Work Environment policy and incorporate aspects of the NRC's Safety Culture Policy, as appropriate. The NRC will refrain from issuing a Notice of Violation or proposing a civil penalty.

DATES: The confirmatory order was effective on March 11, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0062 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–2015–0062. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For questions about this Order, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents 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 available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Daniel Lenehan, telephone: 301–415–3501, email: *Daniel.Lenehan@nrc.gov;* or Shahram Ghasemian, telephone: 301–415–3591, email: *Shahram Ghasemian@nrc.gov.* Both are staff of the Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

The text of the Order is attached.

Dated at Rockville, Maryland, this 11th day of March, 2015.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Director, Office of Enforcement.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of Honeywell International, Inc., Metropolis, Illinois

[Docket No. 04003392, License No. SUB–526, EA–14–114]

CONFIRMATORY ORDER MODIFYING LICENSE (EFFECTIVE IMMEDIATELY)

I.

Honeywell International Inc. (Honeywell or Licensee) is the holder of Materials License No. SUB–526, issued by the U. S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 40 on May 11, 2007, and Materials License Nos. 12–15023–02E and 15–19986–01E, issued by the NRC pursuant to 10 CFR part 30 on September 7, 2012 and October 2, 2014, respectively. The licenses authorize the operation of Honeywell's Metropolis, Illinois, facility; and specific licenses for exempt distribution of byproduct material at Honeywell's St. Charles, Illinois; and Olathe, Kansas facilities in accordance with conditions specified therein.

This confirmatory order (Order) is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on December 9, 2014.

II.

On May 29, 2013, the NRC Office of Investigations (OI) initiated an investigation to determine whether a contractor at Honeywell's Metropolis, Illinois facility, Bluestone, LLC (Bluestone), terminated one of its employees for, in part, notifying both Honeywell and Bluestone of a safety concern. The investigation was completed on May 15, 2014, and was documented in OI Report No. 2–2013–030. Based upon evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR 40.7, ''Employee protection,'' involving a former Bluestone employee who was terminated for, in part, notifying both Honeywell and Bluestone that the employee smelled alcohol on the employee's immediate supervisor's breath onsite and during duty hours. By letter dated September 26, 2014, the NRC identified to Honeywell the apparent violation of 10 CFR 40.7, ''Employee protection,'' and offered Honeywell the opportunity to provide a response in writing, attend a pre-decisional enforcement conference, or to request alternative dispute resolution (ADR) in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and Honeywell and, if possible, assist the NRC and Honeywell in reaching an agreement on resolving the matter.

In response to the NRC's letter, Honeywell chose to participate in ADR. On December 9, 2014, the NRC and Honeywell met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. During that ADR session, a preliminary settlement agreement was reached, and this Order is issued pursuant to that agreement.

III.

The NRC acknowledges that Bluestone no longer provides services as a contractor at Honeywell's Metropolis, Illinois facility.

During the ADR mediation session, a preliminary settlement agreement was reached. The elements of the agreement, as signed by both parties, consisted of the following:

1. Communication:

Conducting presentations by senior Honeywell managers to inform Honeywell's employees and the employees of Honeywell's contractors of Honeywell's policy regarding raising employee concerns and management treatment of such concerns.

2. Training:

Presenting training regarding raising safety concerns, addressing safety issues, and management response to employee concerns.

3. Work Process:

Modifying existing processes and developing new processes that provide for ongoing management support for employee protection requirements.

4. Policy Guidance:

Reviewing and updating Honeywell's Safety Conscious Work Environment (SCWE) policy and incorporating applicable aspects of NRC's Safety Culture Policy, as appropriate.

5. Enforcement Consideration:

During the ADR process, Honeywell neither admitted nor denied that a violation occurred. This confirmatory order, therefore, should not be used as evidence that a violation in fact occurred or that Honeywell agrees that a violation occurred. The NRC will refrain from issuing a Notice of Violation or proposing a civil penalty for all matters discussed in the NRC's letter of September 26, 2014 (EA–14–114).

On February 26, 2015, Honeywell consented to issuing this Order with the commitments described in Section V below. Honeywell further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV.

Since Honeywell has agreed to take additional actions to address NRC concerns, as set forth below in Section V, the NRC has concluded that its concerns can be resolved through the effective implementation of Honeywell's commitments.

I find that Honeywell's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Honeywell's commitments be confirmed by this Order. Based on the above and Honeywell's consent, this Confirmatory Order is immediately effective upon issuance.

V.

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 40, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NOS. SUB–526, 12–15023–02E, and 15–19986–01E ARE MODIFIED AS FOLLOWS:

Note: Except as otherwise indicated, the terms in Section V apply only to Honeywell's facility in Metropolis, Illinois. Any reference to Honeywell employees and supervisors includes all Honeywell and contractor employees and supervisors working at Honeywell's facility in Metropolis, Illinois. Any reference to ''Supervisor'' shall mean: a) Honeywell salaried exempt employees,

and b) first line contractor supervisors and above.

A. *Communication.*

1. By no later than sixty (60) calendar days after the issuance of this confirmatory order (Order), one or more members of Honeywell's management, at a level at least equal to the Plant Manager at Honeywell's Metropolis, Illinois facility, will issue site-wide written communication to all employees at the Honeywell's Metropolis facility and to all personnel engaged in NRC-regulated activities at the Olathe Service Center (Olathe, Kansas) and System Sensor (St. Charles, Illinois) facilities, reinforcing Honeywell's commitment to maintaining a safety conscious work environment (SCWE) and reaffirming Honeywell's insistence upon the protection of employees' right and obligation to raise safety issues.

2. By no later than ninety (90) calendar days after the issuance of this Order, Honeywell shall communicate its SCWE policy to Honeywell employees at Honeywell's Metropolis, Illinois facility in one or more all-hands meetings, providing employees with the opportunity to ask questions in a live forum.

3. By no later than ninety (90) calendar days after the issuance of this Order, Honeywell shall place posters in strategic areas throughout Honeywell Metropolis, Illinois facility to promote SCWE and inform employees of avenues available to employees to raise concerns including the NRC.

4. By no later than ninety (90) calendar days after the issuance of this Order, Honeywell shall develop and distribute pocket-sized cards that discuss avenues available to employees to raise concerns including the NRC. Honeywell shall distribute these cards to all employees at Honeywell's Metropolis, Illinois facility, and to all personnel engaged in NRC regulated activities at the Olathe Service Center (Olathe, Kansas) and System Sensor (St. Charles, Illinois) facilities.

5. By no later than one (1) year after the issuance of this Order, a Honeywell representative shall provide a presentation at a public forum about Honeywell's SCWE policy and its compliance program relating to the NRC's Employee Protection Rule.

B. *Training.*

1. Honeywell shall review its existing general employee training to ensure coverage of NRC's Employee Protection Rule (10 CFR 40.7). The training will include insights from the underlying matter and SCWE, case studies, and behavioral observation. This review will be completed and documented within one hundred twenty (120) calendar days of the issuance of this Order. If this review reveals a need to revise the general employee training, Honeywell shall make the appropriate revisions within one hundred eighty (180) calendar days of the issuance of this Order.

2. By no later than one hundred eighty (180) calendar days after the issuance of this Order, Honeywell shall develop initial SCWE training for all employees and behavioral observation supervisor training to include discussion of the NRC's Employee Protection Rule, case studies and table top role playing. This will be included in any return-to-work training for all employees and in all new supervisor training. Honeywell shall provide annual refresher training for Honeywell supervisors after the initial training. Honeywell shall use a training instructor (internal or external) with expertise in SCWE and NRC regulations to conduct such training.

3. By no later than one hundred eighty (180) calendar days after the issuance of this Order, Honeywell shall modify its existing B-council training to include behavioral observation and SCWE topics twice every twelve (12) months.

4. By no later than two hundred seventy (270) calendar days after the issuance of this Order, Honeywell shall develop and provide biennial SCWE and behavioral observation training for employees to include case studies and the NRC's Employee Protection Rule (10 CFR 40.7). Honeywell shall use a training instructor (internal or external) with expertise in SCWE and NRC regulations for such training. This training shall be included in the new employee training.

5. By no later than two hundred seventy (270) calendar days after the issuance of this Order, Honeywell shall develop and provide initial SCWE training for all personnel engaged in NRC-regulated activities at the Metropolis, IL, Olathe Service Center (Olathe, Kansas) and System Sensor (St. Charles, Illinois) facilities to include the NRC's Employee Protection Rule (10 CFR 30.7). Honeywell shall provide annual refresher training after the initial training. Honeywell shall use a training instructor (internal or external) with expertise in SCWE and NRC regulations to conduct such training.

C. *Work Process.*

1. By no later than ninety (90) calendar days after the issuance of this Order, Honeywell shall modify the Incident Tracking and Corrective Action (ITCA) process to accept anonymous submissions from employees. Honeywell shall update the ITCA procedure on checking, processing and addressing any concerns. In case of non-anonymous submissions, employees may request a copy of the submission as entered into the ITCA.

2. By no later than ninety (90) calendar days after the issuance of this Order, Honeywell shall establish a procedure to include guidance on monitoring and processing concerns and informing management of concerns received through the Honeywell SCWE hotline.

3. By no later than one hundred twenty (120) calendar days after the issuance of this Order, Honeywell shall develop and include a provision in any new or renewed agreements with its contractors that expressly highlights the contractor's obligation to comply with the applicable NRC Employee Protection Rule (10 CFR 40.7).

4. By no later than one hundred twenty (120) calendar days after the issuance of this Order, Honeywell shall ensure that new and renewed contracts entered into by Honeywell require contractors, when any formal adverse action is taken against a contractor employee at the Metropolis, Illinois facility (*i.e.,* terminations, suspensions and written reprimands) to certify that the formal adverse action was not taken for reasons prohibited by the NRC's Employee Protection Rule (10 CFR 40.7).

5. By no later than one hundred twenty (120) calendar days after the issuance of this Order, Honeywell shall modify the Honeywell Designated Representative (HDR) procedure to require the HDR to periodically inquire about any concerns raised through a contractor's concerns resolutions program that have not been submitted to any of Honeywell's concerns resolution avenues. The HDR shall enter such concerns in Honeywell's ITCA system as appropriate.

6. By no later than one hundred twenty (120) calendar days after the issuance of this Order, Honeywell shall develop and implement a procedure for behavioral observation activities.

D. *Policy Guidance.*

1. By no later than ninety (90) calendar days after the issuance of this Order, Honeywell shall review and update Honeywell's SCWE policy and incorporate into the SCWE policy the applicable aspects of the NRC's Safety Culture Policy statement as appropriate.

In the event of the transfer of the operating license of an applicable Honeywell facility to another entity, the commitments for such facility shall survive any transfer of ownership.

The Director, Office of Enforcement, may, in writing, relax or rescind any of

the above conditions upon demonstration by Honeywell of good cause.

In consideration for the actions and/or initiatives that Honeywell agrees to undertake, as outlined above, the NRC agrees not to pursue any further enforcement action based on the notice of apparent violation of employee protection requirements (Case no. EA–14–114, Office of Investigations report No. 2–2013–030), dated May 15, 2014.

VI.

Any person adversely affected by this Confirmatory Order, other than Honeywell International Inc., may request a hearing within 30 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, 10 CFR 2.301. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited

excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than Honeywell requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Confirmatory Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland, this 11th day of March, 2015.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,
Director, Office of Enforcement.

[FR Doc. 2015–06243 Filed 3–17–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0046]

Information Collection: Billing Instructions for NRC Cost Type Contracts

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, Billing Instructions for NRC Cost Type Contracts.

DATES: Submit comments by May 18, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0046. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Tremaine Donnell, Office of Information Services, Mail Stop: T–5 F53, 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: Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0046 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0046. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2015–0046 on this Web site.
- 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.* A copy of the collection of information and related instructions may be obtained without charge and available in ADAMS under Accession No. ML14329A236. The supporting statement is available in ADAMS under Accession No. ML15027A404.
- 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.
- NRC's Clearance Officer: A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

Please include Docket ID NRC–2015–0046 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* ''Billing Instructions for NRC Cost Type Contracts.''
2. *OMB approval number:* 3150–0109.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* None.
5. *How often the collection is required or requested:* Monthly and on occasion.

6. *Who will be required or asked to respond:* NRC Contractors.

7. *The estimated number of annual responses:* 1506.

8. *The estimated number of annual respondents:* 41.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 752.

10. *Abstract:* In administering its contracts, the NRC provides billing instructions for its contractors to follow in preparing invoices. These instructions stipulate the level of detail in which supporting data must be submitted for NRC review. The review of this information ensures that all payments made by the NRC for valid and reasonable costs are in accordance with the contract terms and conditions.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 12th day of March, 2015.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2015–06154 Filed 3–17–15; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74485; File No. SR–DTC–2015–02]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical Revisions to the DTC Settlement Service Guide

March 12, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 [2] thereunder, notice is hereby given that on March 3, 2015, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) [3] of the Act and Rule 19b–4(f)(4) [4] thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of technical amendments to the Settlement Service Guide (''Guide'') in order to make technical changes and updates to its text.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to the proposed rule change the Guide would be revised to:

(i) Refer to the ''Settlement User Interface'' rather than the ''Settlement Web'', ''Participant Terminal System'' and ''Participant Browser Service'';

(ii) update the text of the Settling Bank Processing Schedule and other text in the Guide to reflect that DTC end-of-day net settlement is processed through the National Settlement Service (NSS) of the Federal Reserve System, specifically, that DTC submits to the Federal Reserve Bank of New York a file to debit and credit Federal Reserve accounts of Settling Banks simultaneously;

(iii) delete references to the ''U.S. program'' of EuroCCP (which has ceased to exist) as well as any references to related DTC processing provisions that are obsolete as a result;

(iv) simplify and update other text, including descriptions of processes and timeframes, contact information for settlement processing and cross-references; and

(v) conform grammar and usage throughout the Guide.

Implementation Date

The proposed rule changes would become effective immediately.

2. Statutory Basis

The proposed rule change would update the Guide to make technical changes and updates to the Guide to reflect current terminology, systems functionality, practices and processing timeframes, which would simplify and clarify the Guide's text. Therefore, DTC believes the proposed rule change is consistent with the requirements of: (i) The Act, in particular Section 17A(b)(3)(F) of the Act,[6] which requires that the rules of the clearing agency be designed, *inter alia,* to promote the prompt and accurate clearance and settlement of securities transactions, and (ii) Rule 17Ad–22(d)(9) [7] promulgated under the Act which requires, *inter alia,* that a clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to identify and evaluate the risks and costs associated with using its services, because the proposed changes simplify and clarify the Guide's text for the users of DTC's services.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact, or impose any burden, on competition.

(C) Clearing Agency'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 yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] Each term not otherwise defined herein has the respective meaning set forth in DTC's rules (the ''Rules'').

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 240.17Ad–22(d)(9).

19(b)(3)(A)[8] of the Act and paragraph (f) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–DTC–2015–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–DTC–2015–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2015–02 and should be submitted on or before April 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06089 Filed 3–17–15; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74488; File No. SR–FINRA–2014–047]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 to a Proposed Rule Change To Adopt FINRA Rule 2241 (Research Analysts and Research Reports) in the Consolidated FINRA Rulebook

March 12, 2015.

I. Introduction

On November 14, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule to adopt NASD Rule 2711 (Research Analysts and Research Reports) as a FINRA rule, with several modifications; amend NASD Rule 1050 (Registration of Research Analysts) and Incorporated NYSE Rule 344 to create an exception from the research analyst qualification requirement; and renumber NASD Rule 2711 as FINRA Rule 2241 in the consolidated FINRA rulebook. The proposal was published for comment in the **Federal Register** on November 24, 2014.[3] The Commission received four comments on the proposal.[4] On February 19, 2015, FINRA filed Amendment No. 1 responding to the comments received to the proposal as well as to propose amendments in response to these comments. On February 20, 2015, the Commission issued an order instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposal. The order was published for comment in the **Federal Register** on February 26, 2015.[6]

The proposed rule change, as modified by Amendment No. 1, is described in Items II and III below, which Items have been substantially prepared by FINRA.[7] The Commission is publishing this notice to solicit comments from interested persons on the proposal as amended by Amendment No. 1.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing Amendment No. 1 to SR–FINRA–2014–047, a proposed rule change to adopt NASD Rule 2711 (Research Analysts and Research Reports) as a FINRA rule, with several modifications. The proposed rule change also would amend NASD Rule 1050 (Registration of Research Analysts) and Incorporated NYSE Rule 344 to create an exception from the research analyst qualification requirement. The proposed rule change would renumber NASD Rule 2711 as FINRA Rule 2241 in the consolidated FINRA rulebook.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 73622 (Nov. 18, 2014); 79 FR 69939 (Nov. 24, 2014) (''Notice''). On January 6, 2015, FINRA consented to extending the time period for the Commission to either approve or disapprove the proposed rule change, or to institute proceedings to determine whether to approve or disapprove the proposed rule change, to February 20, 2015.

[4] See *infra* note 12.

[5] 15 U.S.C. 78s(b)(2)(B).

[6] Exchange Act Release No. 74339 (Feb. 20, 2015); 80 FR 10528 (Feb. 26, 2015). The comment period closes on March 19, 2015.

[7] For a comparison of the changes of the rule text between the proposal as originally noticed and the proposal as amended by Amendment No. 1, *see* Exhibit 4 to SR–FINRA–2014–047.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule Filing History

On November 14, 2014, FINRA filed with the Securities and Exchange Commission (''Commission'') SR–FINRA–2014–047,[8] a proposed rule change to adopt in the consolidated FINRA rulebook (''Consolidated FINRA Rulebook'')[9] NASD Rule 2711 (Research Analysts and Research Reports) with several modifications as FINRA Rule 2241.[10] The proposed rule change also would amend NASD Rule 1050 (Registration of Research Analysts) and Incorporated NYSE Rule 344 (Research Analysts and Supervisory Analysts) to create an exception from the research analyst qualification requirements.

The Commission published the proposed rule change for public comment in the **Federal Register** on November 24, 2014.[11] The Commission received four comment letters directed to the filing.[12] Based on comments received, FINRA is filing this Amendment No. 1 to respond to the comments and to propose amendments, where appropriate. The amendment also includes a few technical, non-substantive changes.

Proposal

As described in greater detail in the Proposing Release, the proposed rule change would retain the core provisions of the current rules, broaden the obligations on members to identify and manage research-related conflicts of interest, restructure the rules to provide some flexibility in compliance without diminishing investor protection, extend protections where gaps have been identified, and provide clarity to the applicability of existing rules. Where consistent with protection of users of research, the proposed rule change reduces burdens where appropriate. The description below is the proposal as amended by Amendment No. 1.[13]

Definitions

FINRA is proposing to mostly maintain the definitions in current NASD Rule 2711, with the following modifications:

- Minor changes to the definition of ''investment banking services'' to clarify that such services include all acts in furtherance of a public or private offering on behalf of an issuer.[14]
- clarification in the definition of ''research analyst account'' that the definition does not apply to a registered investment company over which a research analyst or member of the research analyst's household has discretion or control, provided that the research analyst or member of the research analyst's household has no financial interest in the investment company, other than a performance or management fee.[15]
- exclusion from the definition of ''research report'' of communications concerning open-end registered investment companies that are not listed or traded on an exchange (''mutual funds'').[16]
- exclusion from the definition of ''research report'' of communications that constitute private placement memoranda and comparable offering-related documents prepared in connection with investment banking services transactions, other than those that purport to be research.[17]
- move into the definitional section the definitions of ''third-party research report'' and ''independent third-party research report'' that are now in a separate provision of the rule.[18]
- adoption of a definition of ''sales and trading personnel'' to include persons in any department or division, whether or not identified as such, who perform any sales or trading service on behalf of a member.[19]

Identifying and Managing Conflicts of Interest

FINRA is proposing to create a new section entitled ''Identifying and Managing Conflicts of Interest.'' This section contains an overarching provision that requires members to establish, maintain and enforce written policies and procedures reasonably designed to identify and effectively manage conflicts of interest related to the preparation, content and distribution of research reports and public appearances by research analysts and the interaction between research analysts and persons outside of the research department, including investment banking and sales and trading personnel, the subject companies and customers.[20] The written policies and procedures must be reasonably designed to promote objective and reliable research that reflects the truly held opinions of research analysts and to prevent the use of research or research analysts to manipulate or condition the market or favor the interests of the member or a current or prospective customer or class of customers.[21] These provisions, therefore, set out the fundamental obligation for a member to establish and maintain a system to identify and mitigate conflicts to foster integrity and fairness in its research products and services.

Prepublication Review

FINRA is proposing that the required policies and procedures must prohibit prepublication review, clearance or approval of research reports by persons engaged in investment banking services activities and restrict or prohibit such

[8] *See* Securities Exchange Act Release No. 73622 (November 18, 2014), 79 FR 69939 (November 24, 2014) (Notice of Filing File No. SR–FINRA–2014–047) (''Proposing Release''). The comment period closed on December 15, 2014.

[9] The current FINRA rulebook includes, in addition to FINRA Rules, (1) NASD Rules and (2) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[10] On the same date, FINRA also filed a companion proposal to create FINRA Rule 2242 to address conflicts of interest related to the publication and distribution of debt research reports (''debt research proposal''). *See* Securities Exchange Act Release No. 73623 (November 18, 2014), 79 FR 69905 (November 24, 2014) (Notice of Filing File No. SR–FINRA–2014–048).

[11] *See* Securities Exchange Act Release No. 73622 (November 18, 2014), 79 FR 69939 (November 24, 2014) (Notice of Filing File No. SR–FINRA–2014–047).

[12] *See* Letter from Hugh D. Berkson, Executive Vice President and President-Elect, Public Investors Arbitration Bar Association, to Brent J. Fields, Secretary, SEC, dated December 15, 2014 (''PIABA Equity''); Letter from Kevin Zambrowicz, Associate General Counsel and Managing Director, and Sean Davy, Managing Director, Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary, SEC, dated December 15, 2014 (''SIFMA''); Letter from Stephanie R. Nicolas, Wilmer Cutler Pickering Hale and Dorr LLP, to Brent J. Fields, Secretary, SEC, dated December 16, 2014 (''WilmerHale Equity''); and Letter from William Beatty, President, North American Securities Administrators Association, Inc., to Brent J. Fields, Secretary, SEC, dated December 19, 2014 (''NASAA Equity'').

[13] *See* Notice for a description of the original proposal. *See also* Exhibit 4 to SR–FINRA–2014–047 for a comparison of changes made in the rule text in Amendment No. 1.

[14] *See* proposed FINRA Rule 2241(a)(5). The current definition includes, without limitation, many common types of investment banking services. FINRA is proposing to add the language ''or otherwise acting in furtherance of'' either a public or private offering to further emphasize that the term ''investment banking services'' is meant to be construed broadly.

[15] *See* proposed FINRA Rule 2241(a)(9).

[16] *See* proposed FINRA Rule 2241(a)(11).

[17] *See* proposed FINRA Rule 2241(a)(11)(D).

[18] *See* proposed FINRA Rules 2241(a)(3) and (14). FINRA believes it creates a more streamlined and user friendly rule to combine defined terms in a single definitional section.

[19] *See* proposed FINRA Rule 2241(a)(12).

[20] *See* proposed FINRA Rule 2241(b)(1).

[21] *See* proposed FINRA Rule 2241(b)(2).

review, clearance or approval by other persons not directly responsible for the preparation, content and distribution of research reports, other than legal and compliance personnel.[22]

Coverage Decisions

The proposed rule change would require that the policies and procedures restrict or limit input by the investment banking department into research coverage decisions to ensure that research management independently makes all final decisions regarding the research coverage plan.[23]

Supervision and Control of Research Analysts

The proposed rule change would require that the policies and procedures prohibit persons engaged in investment banking activities from supervision or control of research analysts, including influence or control over research analyst compensation evaluation and determination.[24]

Research Budget Determinations

The proposed rule change would require that the policies and procedures limit determination of the research department budget to senior management, excluding senior management engaged in investment banking services activities.[25]

Compensation

The proposed rule change would require that the policies and procedures prohibit compensation based upon specific investment banking services transactions or contributions to a member's investment banking services activities.[26] The policies and procedures further must require a committee that reports to the member's board of directors—or if none exists, a senior executive officer—to review and approve at least annually the compensation of any research analyst who is primarily responsible for preparation of the substance of a research report. The committee may not have representation from a member's investment banking department. The committee must consider, among other things, the productivity of the research analyst and the quality of his or her research and must document the basis for each research analyst's compensation.[27] These provisions are consistent with the requirements in current Rule 2711(d).

Information Barriers

The proposed rule change would require that the policies and procedures establish information barriers or other institutional safeguards reasonably designed to ensure that research analysts are insulated from the review, pressure or oversight by persons engaged in investment banking services activities or other persons, including sales and trading personnel, who might be biased in their judgment or supervision.[28]

Retaliation

The proposed rule change would require that the policies and procedures prohibit direct or indirect retaliation or threat of retaliation against research analysts employed by the member or its affiliates by persons engaged in investment banking services activities or other employees as the result of an adverse, negative, or otherwise unfavorable research report or public appearance written or made by the research analyst that may adversely affect the member's present or prospective business interests.[29]

Quiet Periods

The proposed rule change would require that the policies and procedures define quiet periods of a minimum of 10 days after an initial public offering (''IPO''), and a minimum of three days after a secondary offering, during which the member must not publish or otherwise distribute research reports, and research analysts must not make public appearances, relating to the issuer if the member has participated as an underwriter or dealer in the IPO or, with respect to the quiet periods after a secondary offering, acted as a manager or co-manager of that offering.[30]

With respect to these quiet-period provisions, the proposed rule change reduces the current 40-day quiet period for IPOs to a minimum of 10 days after the completion of the offering for any member that participated as an underwriter or dealer, and reduces the 10-day secondary offering quiet period to a minimum of three days after the completion of the offering for any member that has acted as a manager or co-manager in the secondary offering. The proposed rule change maintains exceptions to the quiet periods for research reports or public appearances concerning the effects of significant news or a significant event on the subject company and, for secondary offerings, research reports or public appearances pursuant to SEC Rule 139 regarding a subject company with ''actively-traded securities.''

The proposed rule change also eliminates the current quiet periods 15 days before and after the expiration, waiver or termination of a lock-up agreement.

Solicitation and Marketing

In addition, the proposed rule change requires firms to adopt written policies and procedures to restrict or limit activities by research analysts that can reasonably be expected to compromise their objectivity.[31] This includes the existing prohibitions on participation in pitches and other solicitations of investment banking services transactions and road shows and other marketing on behalf of issuers related to such transactions. FINRA notes that consistent with existing guidance analysts may listen to or view a live webcast of a transaction-related road show or other widely attended presentation by investment banking to investors or the sales force from a remote location, or another room if they are in the same location.[32]

The proposed rule change also adds Supplementary Material .01, which codifies the existing interpretation that the solicitation provision prohibits members from including in pitch materials any information about a member's research capacity in a manner that suggests, directly or indirectly, that the member might provide favorable research coverage.[33]

Joint Due Diligence and Other Interactions With Investment Banking

The proposed rule establishes a new proscription with respect to joint due diligence activities—*i.e.,* due diligence by the research analyst in the presence of investment banking department personnel—during a specified time period. Specifically, proposed Supplementary Material .02 states that FINRA interprets the overarching principle requiring members to, among other things, establish, maintain and enforce written policies and procedures

[22] *See* proposed FINRA Rule 2241(b)(2)(A).

[23] *See* proposed FINRA Rule 2241(b)(2)(B).

[24] *See* proposed FINRA Rule 2241(b)(2)(C).

[25] *See* proposed FINRA Rule 2241(b)(2)(D).

[26] *See* proposed FINRA Rule 2241(b)(2)(E).

[27] *See* proposed FINRA Rule 2241(b)(2)(F).

[28] *See* proposed FINRA Rule 2241(b)(2)(G).

[29] *See* proposed FINRA Rule 2241(b)(2)(H).

[30] *See* proposed FINRA Rule 2241(b)(2)(I). Consistent with the Jumpstart Our Business Startups Act (''JOBS Act''), those quiet periods do not apply following the IPO or secondary offering of an Emerging Growth Company (''EGC''), as that term is defined in Section 3(a)(80) of the Exchange Act.

[31] *See* proposed FINRA Rule 2241(b)(2)(L).

[32] *See* NASD *Notice to Members* 07–04 (January 2007) and NYSE *Information Memo* 07–11 (January 2007).

[33] *See* proposed FINRA Rule 2241.01 and *Notice to Members* 07–04 (January 2007).

that address the interaction between research analysts and those outside of the research department, including investment banking and sales and trading personnel, subject companies and customers, to prohibit the performance of joint due diligence prior to the selection of underwriters for the investment banking services transaction.

The proposed rule continues to prohibit investment banking department personnel from directly or indirectly directing a research analyst to engage in sales or marketing efforts related to an investment banking services transaction, and directing a research analyst to engage in any communication with a current or prospective customer about an investment banking services transaction.[34] Supplementary Material .03 clarifies that three-way meetings between research analysts and a current or prospective customer in the presence of investment banking department personnel or company management about an investment banking services transaction are prohibited by this provision.[35] FINRA believes that the presence of investment bankers or issuer management could compromise a research analyst's candor when talking to a current or prospective customer about a deal. Supplementary Material .03 also retains the current requirement that any written or oral communication by a research analyst with a current or prospective customer or internal personnel related to an investment banking services transaction must be fair, balanced and not misleading, taking into consideration the overall context in which the communication is made.

Promises of Favorable Research and Prepublication Review by Subject Company

FINRA is proposing to maintain the current prohibition against promises of favorable research, a particular research recommendation, rating or specific content as inducement for receipt of business or compensation.[36] The proposed rule further requires policies and procedures to prohibit prepublication review of a research report by a subject company for purposes other than verification of facts.[37] Supplementary Material .05 maintains the current guidance applicable to the prepublication submission of a research report to a subject company. Specifically, sections of a draft research report may be provided to non-investment banking personnel or the subject company for factual review, provided that: (1) The draft sections do not contain the research summary, research rating or price target; (2) a complete draft of the report is provided to legal or compliance personnel before sections are submitted to non-investment banking personnel or the subject company; and (3) any subsequent proposed changes to the rating or price target are accompanied by a written justification to legal or compliance and receive written authorization for the change. The member also must retain copies of any draft and the final version of the report for three years.[38]

Personal Trading Restrictions

FINRA is proposing to require that firms establish written policies and procedures that restrict or limit research analyst account trading in securities, any derivatives of such securities and funds whose performance is materially dependent upon the performance of securities covered by the research analyst.[39] Such policies and procedures must ensure that research analyst accounts, supervisors of research analysts and associated persons with the ability to influence the content of research reports do not benefit in their trading from knowledge of the content or timing of a research report before the intended recipients of such research have had a reasonable opportunity to act on the information in the research report.[40] The proposal maintains the current prohibitions on research analysts receiving pre-IPO shares in the sector they cover and trading against their most recent recommendations. However, members may define financial hardship circumstances, if any, in which a research analyst would be permitted to trade against his or her most recent recommendation.[41] The proposed rule change includes Supplementary Material .10, which provides that FINRA would not consider a research analyst account to have traded in a manner inconsistent with a research analyst's recommendation where a member has instituted a policy that prohibits any research analyst from holding securities, or options on or derivatives of such securities, of the companies in the research analyst's coverage universe, provided that the member establishes a reasonable plan to liquidate such holdings consistent with the principles in paragraph (b)(2)(J)(i) and such plan is approved by the member's legal or compliance department.[42]

Content and Disclosure in Research Reports

With a couple of modifications, the proposed rule change maintains the current disclosure requirements. The proposed rule change adds a requirement that a member must establish, maintain and enforce written policies and procedures reasonably designed to ensure that purported facts in its research reports are based on reliable information.[43] FINRA has included this provision because it believes members should have policies and procedures to foster verification of facts and trustworthy research on which investors may rely. The policies and procedures also must be reasonably designed to ensure that any recommendation, rating or price target has a reasonable basis and is accompanied by a clear explanation of any valuation method used and a fair presentation of the risks that may impede achievement of the recommendation, rating or price target.[44]

In addition, the proposed rule change would require a member to disclose in any research report at the time of publication or distribution of the report:[45]

- If the research analyst or a member of the research analyst's household has a financial interest in the debt or equity securities of the subject company (including, without limitation, whether it consists of any option, right, warrant, future, long or short position), and the nature of such interest;[46]
- if the research analyst has received compensation based upon (among other factors) the member's investment banking revenues;[47]
- if the member or any of its affiliates: (i) Managed or co-managed a public offering of securities for the subject company in the past 12 months; (ii) received compensation for investment banking services from the subject company in the past 12 months; or (iii) expects to receive or intends to seek compensation for investment banking services from the subject company in the next three months;[48]
- if, as of the end of the month immediately preceding the date of

[34] *See* proposed FINRA Rule 2241(b)(2)(M).
[35] *See* proposed FINRA Rule 2241.03.
[36] *See* proposed FINRA Rule 2241(b)(2)(K).
[37] *See* proposed FINRA Rule 2241(b)(2)(N).
[38] *See* proposed FINRA Rule 2241.05.
[39] *See* proposed FINRA Rule 2241(b)(2)(J).
[40] *See* proposed FINRA Rule 2241(b)(2)(J)(i).
[41] *See* proposed FINRA Rule 2241(b)(2)(J)(ii).
[42] *See* proposed FINRA Rule 2241.10.
[43] *See* proposed FINRA Rule 2241(c)(1)(A).
[44] *See* proposed FINRA Rule 2241(c)(1)(B).
[45] *See* proposed FINRA Rule 2241(c)(4).
[46] *See* proposed FINRA Rule 2241(c)(4)(A).
[47] *See* proposed FINRA Rule 2241(c)(4)(B).
[48] *See* proposed FINRA Rule 2241(c)(4)(C).

publication or distribution of a research report (or the end of the second most recent month if the publication or distribution date is less than 30 calendar days after the end of the most recent month), the member or its affiliates have received from the subject company any compensation for products or services other than investment banking services in the previous 12 months;[49]

- if the subject company is, or over the 12-month period preceding the date of publication or distribution of the research report has been, a client of the member, and if so, the types of services provided to the issuer. Such services, if applicable, must be identified as either investment banking services, non-investment banking services, non-investment banking securities-related services or non-securities services;[50]
- if the member was making a market in the securities of the subject company at the time of publication or distribution of the research report;[51] and
- if the research analyst received any compensation from the subject company in the previous 12 months.[52]

The proposed rule change would also expand upon the current ''catch-all'' disclosure, which mandates disclosure of any other material conflict of interest of the research analyst or member that the research analyst knows or has reason to know of at the time of the publication or distribution of a research report. The proposed rule change goes beyond the existing provision by requiring disclosure of material conflicts known not only by the research analyst, but also by any ''associated person of the member with the ability to influence the content of a research report.''[53] The proposed rule change defines a person with the ''ability to influence the content of a research report'' as an associated person who is required to review the content of the research report or has exercised authority to review or change the research report prior to publication or distribution. This term does not include legal or compliance personnel who may review a research report for compliance purposes but are not authorized to dictate a particular recommendation, rating or price target.[54] The ''reason to know'' standard in this provision would not impose a duty of inquiry on the research analyst or others who can influence the content of a research report. Rather, it would cover disclosure of those conflicts that should reasonably be discovered by those persons in the ordinary course of discharging their functions.

The proposed rule change also maintains the requirement to disclose when a member or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company.[55] The determination of beneficial ownership would continue to be based upon the standards used to compute ownership for the purposes of the reporting requirements under Section 13(d) of the Exchange Act.

The proposal modifies the exception for disclosure that would reveal material non-public information regarding specific potential future investment banking transactions of the subject company to include specific potential future investment banking transactions of other companies, such as a competitor of the subject company.[56] The proposal also continues to permit a member that distributes a research report covering six or more companies (compendium report) to direct the reader in a clear manner as to where the applicable disclosures can be found. An electronic compendium research report may hyperlink to the disclosures. A paper compendium report must include a toll-free number or a postal address where the reader may request the disclosures. In addition, paper compendium reports may include a web address where the disclosures can be found.[57]

Disclosures in Public Appearances

The proposal groups in a separate provision the disclosures required when a research analyst makes a public appearance.[58] The required disclosures remain substantively the same as under the current rules[59] including if the member or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company, as computed in accordance with Section 13(d) of the Exchange Act. Unlike in research reports, the ''catch all'' disclosure requirement in public appearances applies only to a conflict of interest of the research analyst or member that the research analyst knows or has reason to know at the time of the public appearance. FINRA understands that supervisors or legal and compliance personnel, who otherwise might be captured by the definition of an associated person ''with the ability to influence,'' typically do not have the opportunity to review and insist on changes to public appearances, many of which are extemporaneous in nature. The proposal also retains the current requirement in NASD Rule 2711(h)(12) to maintain records of public appearances sufficient to demonstrate compliance by research analysts with the applicable disclosure requirements.[60]

Disclosure Required by Other Provisions

With respect to both research reports and public appearances, members and research analysts would continue to be required to comply with applicable disclosure provisions of FINRA Rule 2210 and the federal securities laws.[61]

Termination of Coverage

The proposed rule change retains with non-substantive modifications the provision in the current rules that requires a member to notify its customers if it intends to terminate coverage of a subject company.[62] Such notification must be made promptly[63] using the member's ordinary means to disseminate research reports on the subject company to its various customers. Unless impracticable, the notice must be accompanied by a final research report, comparable in scope and detail to prior research reports, and include a final recommendation or rating. If impracticable to provide a final research report, recommendation or rating, a firm must disclose to its customers the reason for terminating coverage.

Distribution of Member Research Reports

The proposal requires firms to establish, maintain and enforce written policies and procedures reasonably designed to ensure that a research report is not distributed selectively to internal trading personnel or a particular customer or class of customers in advance of other customers that the firm has previously determined are entitled to receive the research report.[64] The proposal includes further guidance to explain that firms may provide different research products and services to different classes of customers, provided the products are not differentiated based on the timing of receipt of potentially market moving information and the firm

[49] *See* proposed FINRA Rule 2241(c)(4)(D).

[50] *See* proposed FINRA Rule 2241(c)(4)(E).

[51] *See* proposed FINRA Rule 2241(c)(4)(G).

[52] *See* proposed FINRA Rule 2241(c)(4)(H).

[53] *See* proposed FINRA Rule 2241(c)(4)(I).

[54] *See* proposed FINRA Rule 2241.08.

[55] *See* proposed FINRA Rule 2241(c)(4)(F).

[56] *See* proposed FINRA Rule 2241(c)(5).

[57] *See* proposed FINRA Rule 2241(c)(7).

[58] *See* proposed FINRA Rule 2241(d).

[59] *See* NASD Rules 2711(h)(1), (h)(2)(B) and (C), (h)(3) and (h)(9).

[60] *See* proposed FINRA Rule 2241(d)(3).

[61] *See* proposed FINRA Rule 2241(e).

[62] *See* proposed FINRA Rule 2241(f).

[63] While current Rule 2711(f)(6) does not contain the word ''promptly,'' FINRA has interpreted the provision to require prompt notification of termination of coverage of a subject company.

[64] *See* proposed FINRA Rule 2241(g).

discloses its research dissemination practices to all customers that receive a research product.[65]

Distribution of Third-Party Research Reports

The proposal would maintain the existing third-party disclosure requirements,[66] incorporating the change to the ''catch-all'' provision to include material conflicts of interest that an associated person of the member with the ability to influence the content of a research report knows or has reason to know at the time of the distribution of the third-party research report. In addition, the proposed rule change would require members to disclose any other material conflict of interest that can reasonably be expected to have influenced the member's choice of a third-party research provider or the subject company of a third-party research report.[67]

In addition, the proposal continues to address qualitative aspects of third-party research reports. For example, the proposal maintains, but in the form of policies and procedures, the existing requirement that a registered principal or supervisory analyst review and approve third-party research reports distributed by a member. To that end, the proposed rule change requires a member to establish, maintain and enforce written policies and procedures reasonably designed to ensure that any third-party research it distributes contains no untrue statement of material fact and is otherwise not false or misleading. For the purpose of this requirement, a member's obligation to review a third-party research report extends to any untrue statement of material fact or any false or misleading information that should be known from reading the research report or is known based on information otherwise possessed by the member.[68] The proposal further prohibits a member from distributing third-party research if it knows or has reason to know that such research is not objective or reliable.[69]

The proposal maintains the existing exceptions for ''independent third-party research reports.'' Specifically, such research does not require principal pre-approval or, where the third-party research is not ''pushed out,'' the third-party disclosures.[70] As to the latter, a member will not be considered to have distributed independent third-party research where the research is made available by the member: (a) Upon request; (b) through a member-maintained Web site; or (c) to a customer in connection with a solicited order in which the registered representative has informed the customer, during the solicitation, of the availability of independent research on the solicited equity security and the customer requests such independent research.

Finally, under the proposed rule change, members also must ensure that a third-party research report is clearly labeled as such and that there is no confusion on the part of the recipient as to the person or entity that prepared the research report.[71]

Exemption for Firms With Limited Investment Banking Activity

The current rule exempts firms with limited investment banking activity—those that over the previous three years, on average per year, have managed or co-managed 10 or fewer investment banking transactions and generated $5 million or less in gross revenues from those transactions—from the provisions that prohibit a research analyst from being subject to the supervision or control of an investment banking department employee because the potential conflicts with investment banking are minimal.[72] However, those firms remain subject to the provision that requires the compensation of a research analyst to be reviewed and approved annually by a committee that reports to a member's board of directors, or a senior executive officer if the member has no board of directors.[73] That provision further prohibits representation on the committee by investment banking department personnel and requires the committee to consider the following factors when reviewing a research analyst's compensation: (1) The research analyst's individual performance, including the research analyst's productivity and the quality of research; (2) the correlation between the research analyst's recommendations and the performance of the recommended securities; and (3) the overall ratings received from clients, the sales force and peers independent of investment banking, and other independent ratings services.[74] The proposed rule change extends the exemption for firms with limited investment banking activity so that such firms would not be subject to the compensation committee provision. The proposal still prohibits these firms from compensating a research analyst based upon specific investment banking services transactions or contributions to a member's investment banking services activities.[75]

The proposed rule change further exempts firms with limited investment banking activity from the provisions restricting or limiting research coverage decisions and budget determination. In addition, the proposal exempts eligible firms from the requirement to establish information barriers or other institutional safeguards to insulate research analysts from the review or oversight by investment banking personnel or other persons, including sales and trading personnel, who may be biased in their judgment or supervision. However, those firms still are required to establish information barriers or other institutional safeguards reasonably designed to ensure that research analysts are insulated from *pressure* by investment banking and other non-research personnel who might be biased in their judgment or supervision.

Exemption From Registration Requirements for Certain ''Research Analysts''

The proposed rule change amends the definition of ''research analyst'' for the purposes of the registration and qualification requirements to limit the scope to persons who produce ''research reports'' and whose primary job function is to provide investment research (*e.g.,* registered representatives or traders generally would not be included).[76] The revised definition is not intended to carve out anyone for whom the preparation of research is a significant component of their job; rather, it is intended to provide relief for those who produce research reports on an occasional basis. The existing

[65] *See* proposed FINRA Rule 2241.07.

[66] NASD Rule 2711(h)(13)(A) currently requires the distributing member firm to disclose the following, if applicable: (1) If the member owns 1% or more of any class of equity securities of the subject company; (2) if the member or any affiliate has managed or co-managed a public offering of securities of the subject company or received compensation for investment banking services from the subject company in the past 12 months, or expects to receive or intends to seek compensation for such services in the next three months; (3) if the member makes a market in the subject company's securities; and (4) any other actual, material conflict of interest of the research analyst or member of which the research analyst knows or has reason to know at the time the research report is distributed or made available.

[67] *See* proposed FINRA Rule 2241(h)(4).

[68] *See* proposed FINRA Rules 2241(h)(1) and (h)(3).

[69] *See* proposed FINRA Rule 2241(h)(2).

[70] *See* proposed FINRA Rule 2241(h)(5) and (6).

[71] *See* proposed FINRA Rule 2241(h)(7).

[72] *See* NASD Rule 2711(k).

[73] *See* NASD Rule 2711(d)(2).

[74] *See* NASD Rule 2711(d) and (k).

[75] *See* proposed FINRA Rules 2241(b)(2)(E) and (i).

[76] *See* proposed NASD Rule 1050(b) and proposed Incorporated NYSE Rule 344.10.

research rules, in accordance with the mandates of the Sarbanes-Oxley Act of 2002 (''Sarbanes-Oxley''), are constructed such that the author of a communication that meets the definition of a ''research report'' is a ''research analyst,'' irrespective of his or her title or primary job.

Attestation Requirement

The proposed rule change would delete the requirement to attest annually that the firm has in place written supervisory policies and procedures reasonably designed to achieve compliance with the applicable provisions of the rules, including the compensation committee review provision.

Obligations of Persons Associated With a Member

Proposed Supplementary Material .09 would clarify the obligations of each associated person under those provisions of the proposed rule change that require a member to restrict or prohibit certain conduct by establishing, maintaining and enforcing particular written policies and procedures. Specifically, the proposal provides that, consistent with FINRA Rule 0140, persons associated with a member must comply with such member's policies and procedures as established pursuant to proposed FINRA Rule 2241.[77] In addition, consistent with Rule 0140, Supplementary Material .09 states that it shall be a violation of proposed Rule 2241 for an associated person to engage in the restricted or prohibited conduct to be addressed through the establishment, maintenance and enforcement of policies and procedures required by Rule 2241, including applicable Supplementary Material.

General Exemptive Authority

The proposed rule change would provide FINRA, pursuant to the Rule 9600 Series, with authority to conditionally or unconditionally grant, in exceptional and unusual circumstances, an exemption from any requirement of the proposed rule for good cause shown, after taking into account all relevant factors and provided that such exemption is consistent with the purposes of the rule, the protection of investors, and the public interest.[78]

Response to Comments

In connection with Amendment No. 1, FINRA also responded to the comments received on the original proposal as proposed in the Notice, included below.

General Support

Three of the four commenters to the proposal expressed general support for the proposal.[79]

Definitions and Terms

One commenter requested that the proposal define the term ''sales and trading personnel'' as ''persons who are primarily responsible for performing sales and trading activities, or exercising direct supervisory authority over such persons.'' [80] The commenter's proposed definition is intended to clarify that the proposed restrictions on sales and trading personnel activities should not extend to: (1) Senior management who do not directly supervise those activities but have a reporting line from such personnel (*e.g.,* the head of equity capital markets); or (2) persons who occasionally function in a sales and trading capacity. FINRA intends for the sales and trading personnel conflict management provisions to apply to individuals who perform sales and trading functions, irrespective of their job title or the frequency of engaging in the activities. As such, FINRA does not intend for the rule to capture as sales and trading personnel senior management, such as the chief executive officer, who do not engage in or supervise day-to-day sales and trading activities. However, FINRA believes the applicable provisions should apply to individuals who may occasionally perform or directly supervise sales and trading activities; otherwise, investors could be put at risk with respect to the research or transactions involved when those individuals are functioning in those capacities because the conflict management procedures and proscriptions and required disclosures would not apply. Therefore, FINRA has proposed to amend the rule to define sales and trading personnel to include ''persons in any department or division, whether or not identified as such, who perform any sales or trading service on behalf of a member.'' FINRA notes that this proposed definition is more consistent with the definition of ''investment banking department'' in the current and proposed rules.

One commenter asked FINRA to include an exclusion from the definition of ''research report'' for private placement memoranda and similar offering-related documents prepared in connection with investment banking services transactions.[81] The commenter noted that such offering-related documents typically are prepared by investment banking personnel or non-research personnel on behalf of investment banking personnel. The commenter asserted that absent an express exception, the proposals could turn investment banking personnel into research analysts and make the rule unworkable. The commenter noted that NASD Rule 2711(a) excludes communications that constitute statutory prospectuses that are filed as part of a registration statement and contended that the basis for that exception should apply equally to private placement memoranda and similar offering-related documents.

The definition of ''research report'' is generally understood not to include such offering-related documents prepared in connection with investment banking services transactions. In the course of administering the filing review programs under FINRA Rules 2210 (Communications with the Public), 5110 (Corporate Financing Rule), 5122 (Member Private Offerings) and 5123 (Private Placements of Securities), FINRA has not received any inquiries or addressed any issues that indicate there is confusion regarding the scope of the research analyst rules as applied to offering-related documents prepared in connection with investment banking activities. Nonetheless, to provide firms with greater clarity as to the status of such offering-related documents under the proposal, FINRA proposes to amend the proposed rule change to exclude private placement memoranda and similar offering-related documents prepared in connection with investment banking services transactions other than those that purport to be research from the definition of ''research report.''

One commenter asked FINRA to refrain from using the concept of ''reliable'' research in the proposals as it may inappropriately connote accuracy in the context of a research analyst's opinions.[82] However, another commenter supported the requirement to have policies and procedures reasonably designed to ensure that research reports are based on reliable

[77] *See* proposed FINRA Rule 2241.09. FINRA Rule 0140(a), among other things, provides that persons associated with a member shall have the same duties and obligations as a member under the Rules.

[78] *See* proposed FINRA Rule 2241(j).

[79] SIFMA, WilmerHale Equity and PIABA Equity.

[80] WilmerHale Equity. For consistency with the debt research proposal, FINRA also proposes to amend the proposed rule change to use the term ''sales and trading personnel.''

[81] WilmerHale Equity.

[82] SIFMA.

information.[83] As discussed in detail in Item 5 of the Proposing Release, FINRA believes that the term ''reliable'' is commonly understood and notes that the term is used in certain research-related provisions in Sarbanes-Oxley without definition. FINRA does not believe the term connotes accuracy of opinions.

One commenter asked FINRA to eliminate as redundant the term ''independently'' from the provisions permitting non-research personnel to have input into research coverage, so long as research management ''independently makes all final decisions regarding the research coverage plan.'' [84] The commenter asserted that inclusion of ''independently'' is confusing since the proposal would permit input from non-research personnel into coverage decisions. FINRA has included ''independently'' to make clear that research management alone is vested with making final coverage decisions. Thus, for example, a firm could not have a committee that includes a majority of research management personnel but also other individuals make final coverage decisions by a vote. As such, FINRA declines to eliminate the term as suggested.

Policies and Procedures

The rule proposal would adopt a policies and procedures approach to identification and management of research-related conflicts of interest and require those policies and procedures to prohibit or restrict particular conduct. Commenters expressed several concerns with the approach.

Two commenters asserted that the mix of a principles-based approach with prescriptive requirements was confusing in places and posed operational challenges. In particular, the commenters recommended eliminating the minimum standards for the policies and procedures.[85] One of those commenters had previously expressed support for the proposed policies-based approach with minimum requirements,[86] but asserted that the proposed rule text requiring procedures to ''at a minimum, be reasonably designed to prohibit'' specified conduct is either superfluous or confusing. Another commenter opposed a shift to a policies and procedures scheme ''without also maintaining the proscriptive nature of the current rules.'' The commenter therefore favored retaining the proscriptive approach in the current rules and also requiring that firms maintain policies and procedures designed to ensure compliance.[87] One commenter questioned the necessity of the ''preamble'' requiring policies and procedures that ''restrict or limit activities by research analysts that can reasonably be expected to compromise their objectivity'' that precedes specific prohibited activities related to investment banking transactions.[88] Finally, some commenters suggested FINRA eliminate language in the supplementary material that provides that the failure of an associated person to comply with the firm's policies and procedures constitutes a violation of the proposed rule itself.[89] These commenters argued that because members may establish policies and procedures that go beyond the requirements set forth in the rule, the provision may have the unintended consequence of discouraging firms from creating standards in their policies and procedures that extend beyond the rule. One of those commenters suggested that the remaining language in the supplementary material adequately holds individuals responsible for engaging in restricted or prohibited conduct covered by the proposals.[90]

As discussed in more detail in the Proposing Release, FINRA believes the framework will maintain the same level of investor protection in the current rules while providing both some flexibility for firms to align their compliance systems with their business model and philosophy and imposing additional obligations to proactively identify and manage emerging conflicts. Even under a policies and procedures approach, the proposals would effectively maintain, with some modifications, the key proscriptions in the current rules—*e.g.,* prohibitions on prepublication review, supervision of research analysts by investment banking and participation in pitches and road shows. FINRA disagrees that the ''preamble'' to some of those prohibitions is unnecessary. As with the more general overarching principles-based requirement to identify and manage conflicts of interest, the introductory principle that requires written policies and procedures to restrict or limit activities by research analysts that can reasonably be expected to compromise their objectivity recognizes that FINRA cannot identify every conflict related to research at every firm and therefore requires proactive monitoring and management of those conflicts. FINRA does not believe this ''preamble'' language is redundant with the broader overarching principle because it applies more specifically to the activities of research analysts and, unlike the broader principle, would preclude the use of disclosure as a means of conflict management for those activities.

In light of the overarching principle that requires firms to establish, maintain and enforce written policies and procedures reasonably designed to identify and effectively manage research-related conflicts, the ''at a minimum'' language was meant to convey that additional conflicts management policies and procedures may be needed to address emerging conflicts that may arise as the result of business changes, such as new research products, affiliations or distribution methods at a particular firm. As discussed in the Proposing Release, FINRA intends for firms to proactively identify and manage those conflicts with appropriately designed policies and procedures. FINRA's inclusion of the ''at a minimum'' language was not intended to suggest that firms' written policies and procedures must go beyond the specified prohibitions and restrictions in the proposal where no new conflicts have been identified. However, FINRA believes the overarching requirement for policies and procedures reasonably designed to identify and effectively manage research-related conflicts suffices to achieve the intended regulatory objective, and therefore to eliminate any confusion, FINRA proposes to amend the proposal to delete the ''at a minimum'' language.

FINRA appreciates the commenters' concerns with respect to language in the supplementary material that would make a violation of a firm's policies a violation of the underlying rule. The supplementary material was intended to hold individuals responsible for engaging in the conduct that the policies and procedures effectively restrict or prohibit. FINRA agrees that purpose is achieved with the language in the supplementary material that states that, consistent with FINRA Rule 0140, ''it shall be a violation of [the Rule] for an associated person to engage in the restricted or prohibited conduct to be addressed through the establishment, maintenance and enforcement of policies and procedures required by [the Rule] or related Supplementary

[83] NASAA.

[84] WilmerHale Equity.

[85] SIFMA and WilmerHale Equity.

[86] Letter from Amal Aly, Managing Director and Associate General Counsel, SIFMA, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 14, 2008 regarding *Regulatory Notice* 08–55 (Research Analysts and Research Reports).

[87] NASAA Equity.

[88] WilmerHale Equity.

[89] SIFMA and WilmerHale Equity.

[90] WilmerHale Equity.

Material.'' Therefore, FINRA proposes to amend the proposed rule change to delete the language stating that a violation of a firm's policies and procedures shall constitute a violation of the rule itself.

Information Barriers

The proposed rule would require written policies and procedures to ''establish information barriers or other institutional safeguards reasonably designed to ensure that research analysts are insulated from the review, pressure or oversight by persons engaged in investment banking services activities or other persons, including sales and trading department personnel, who might be biased in their judgment or supervision.'' Some commenters suggested that ''review'' was unnecessary in this provision because the review of research analysts was addressed sufficiently in other parts of the proposed rule.[91] One commenter further suggested that the terms ''review'' and ''oversight'' are redundant.[92] FINRA does not agree that the terms ''review'' and ''oversight'' are coextensive, as the former may connote informal evaluation, while the latter may signify more formal supervision or authority. And while other provisions of the proposed rule change may address related conduct—*e.g.,* the provision that prohibits investment banking personnel from supervision or control of research analysts—this provision extends to ''other persons'' who may be biased in their judgment or supervision. Finally, FINRA notes that ''review, pressure or oversight'' mirrors language in Sarbanes-Oxley. Accordingly, FINRA declines to revise the proposed rule.

One commenter asked FINRA to clarify that the information barriers or other institutional safeguards required by the proposed rule are not intended to prohibit or limit activities that would otherwise be permitted under other provisions of the rule.[93] That was clearly FINRA's intent, and FINRA believes that the rules of statutory construction would compel that result.

The commenter also asserted that the terms ''bias'' and ''pressure'' are broad and ambiguous on their face and requested that FINRA clarify that for purposes of the information barriers requirement that they are intended to address persons who may try to improperly influence research.[94] As an example, the commenter asked whether a bias would be present if an analyst was pressured to change the format of a research report to comply with the research department's standard procedures or the firm's technology specifications. FINRA believes the terms ''pressure'' and ''bias'' are commonly understood, particularly in the context of rules intended to promote analyst independence and objectivity. To that end, FINRA notes that the terms appear in certain research-related provisions of Sarbanes-Oxley without definition. Thus, with respect to the commenter's example, FINRA does not believe a bias would be present simply because someone insists that a research analyst comply with formatting or technology specifications that do not otherwise implicate the rules.

One commenter asked FINRA to modify the information barriers or other institutional safeguards requirement to conform the provision to FINRA's ''reasonably designed'' standard for policies and procedures that members must adopt.[95] FINRA believes the change would be consistent with the standard for policies and procedures elsewhere in the proposals, and therefore proposes to amend the provision as requested.

One commenter opposed as overbroad the proposed expansion of the current ''catch-all'' disclosure requirement to include ''any other material conflict of interest of the research analyst or member that a research analyst *or an associated person of the member with the ability to influence* the content of a research report knows or has reason to know'' at the time of publication or distribution of research report.[96] (emphasis added) The commenter expressed concern about the emphasized language. Another commenter supported the proposed expansion of the current ''catch-all'' disclosure requirement.[97]

FINRA proposed the change to capture material conflicts of interest known by persons other than the research analyst (*e.g.,* a supervisor or the head of research) who are in a position to improperly influence a research report. FINRA defined ''ability to influence the content of a research report'' in supplementary material as ''an associated person who, in the ordinary course of that person's duties, has the authority to review the research report and change that research report prior to publication or distribution.'' The commenter stated that the proposed change could capture individuals (especially legal and compliance personnel) who might be required to disclose confidential information that is not covered by the exception in the proposals that would not require disclosure where it would ''reveal material non-public information regarding specific potential future investment banking transactions of the subject company.'' This is because, according to the commenter, legal and compliance may be aware of material conflicts of interest relating to the subject company that involve material non-public information regarding specific future investment banking transactions of a *competitor* of the subject company. The commenter also expressed concern the provision would slow down dissemination of research to canvass all research supervisors and management for conflicts. The commenter suggested that the change was unnecessary given other objectivity safeguards in the proposals that would guard against improper influence.

FINRA continues to believe that a potential gap exists in the current rules where a supervisor or other person with the authority to change the content of a research report knows of a material conflict. However, FINRA intended for the provision to capture only those individuals who are required to review the content of a particular research report or have exercised their authority to review or change the research report prior to publication or distribution. In addition, FINRA did not intend to capture legal or compliance personnel who may review a research report for compliance purposes but are not authorized to dictate a particular recommendation, rating or price target. FINRA proposes to amend the supplementary material in the proposals consistent with this clarification. In addition, FINRA proposes to modify the exception in proposed Rules 2241(c)(5) and (d)(2) (applying to public appearances) not to require disclosure that would otherwise reveal material non-public information regarding specific potential future investment banking transactions, whether or not the transaction involves the subject company.

One commenter requested confirmation that members may rely on hyperlinked disclosures for research reports that are delivered electronically, even if these reports are subsequently printed out by customers.[98] As long as a research report delivered electronically contains a hyperlink directly to the required disclosures, the standard will be satisfied.

[91] SIFMA and WilmerHale Equity.

[92] WilmerHale Equity.

[93] WilmerHale Equity.

[94] WilmerHale Equity.

[95] WilmerHale Equity.

[96] WilmerHale Equity.

[97] NASAA Equity.

[98] WilmerHale Equity.

Research Products With Differing Recommendations

The proposal requires firms to establish, maintain and enforce written policies and procedures reasonably designed to ensure that a research report is not distributed selectively to internal trading personnel or a particular customer or class of customers in advance of other customers that the firm has previously determined are entitled to receive the research report. The proposals also include supplementary material that explains that firms may provide different research products to different classes of customers—*e.g.,* long term fundamental research to all customers and short-term trading research to certain institutional customers—provided the products are not differentiated based on the timing of receipt of potentially market moving information and the firm discloses, if applicable, that one product may contain a different recommendation or rating from another product.

One commenter supported the provisions as proposed with general disclosure,[99] while another contended that FINRA should require members to disclose when their research products and services do, in fact, contain a recommendation contrary to the research product or service received by other customers.[100] The commenter favoring general disclosure asserted that disclosure of specific instances of contrary recommendations would impose significant burdens unjustified by the investor protection benefits. The commenter stated that a specific disclosure requirement would require close tracking and analysis of every research product or service to determine if a contrary recommendation exists. The commenter further stated that the difficulty of complying with such a requirement would be exacerbated in large firms by the number of research reports published and research analysts employed and the differing audiences for research products and services.[101] They asserted that some firms may publish tens of thousands of research reports each year and employ hundreds of analysts across various disciplines and that a given research analyst or supervisor could not reasonably be expected to know of all other research products and services that may contain differing views.

Importantly, the supplementary material states that products may lead to different recommendations or ratings, provided that each is consistent with the member's ratings system for each respective product. In other words, all differing recommendations or ratings must be reconcilable such that they are not truly at odds with one another. Since the proposals would not allow inconsistent recommendations that could mislead one or more investors, FINRA believes general disclosure of alternative products with different objectives and recommendations is appropriate relative to its investor protection benefits.

Quiet Periods

The proposal would eliminate or reduce the quiet periods during which a member may not publish or otherwise distribute research reports or make a public appearance following its participation in an offering. Citing recent enforcement actions in the research area, one commenter did not support elimination or reduction of the quiet periods.[102] As discussed in more detail in Item 3 of the Proposing Release, FINRA believes that the separation, disclosure and certification requirements in the current rules and Regulation AC have had greater impact on the objectivity of research than maintaining quiet periods during which research may not be distributed and research analysts may not make public appearances. FINRA noted that there is a cost to investors when they are deprived of information and analysis during quiet periods. FINRA believes that the proposed changes to the quiet periods would promote information flow to investors without jeopardizing the objectivity of research. FINRA also notes that the enforcement actions cited by the commenter that favors retaining the existing quiet periods did not involve the quiet period provisions of the rules, nor in FINRA's view would maintaining the current quiet periods have deterred the conduct in those cases.

Other commenters requested that FINRA retain the exceptions in NASD Rule 2711(f) that permits: (i) The publication and distribution of research or a public appearance concerning the effects of significant news or a significant event on the subject company during the quiet period; and (ii) the publication of distribution of research pursuant to Rule 139 under the Securities Act of 1933.[103] FINRA agrees that those exceptions should be included and therefore proposes to amend the proposed rule change accordingly.

Disclosure Requirements

Two commenters opposed the requirement in the equity proposal that members disclose, in an equity research report, if they or their affiliates maintain a significant financial interest in the debt of the research company.[104] The commenters noted that the debt research analyst proposal does not contain a dedicated requirement to disclose significant debt holdings; rather, it relies on the ''catch-all'' provision, which would require disclosure of a firm's debt holdings of a subject company only where it rises to an actual material conflict of interest. The commenters asserted that the reasoning in the debt proposal—*e.g.,* that firms do not have systems to track ownership of debt securities and that the number and complexity of bonds and the fact that a firm may be both long and short different bonds of the same issuer makes real-time disclosure of credit exposure difficult—applies equally to equity research. Another commenter supported the requirement in the equity proposal that members disclose, in an equity research report, if they or their affiliates maintain a significant financial interest in the debt of the research company.[105] One commenter also stated that while FINRA correctly noted that the United Kingdom's Financial Conduct Authority rules require disclosure of debt holdings in equity research reports, that requirement is more akin to the ''catch-all'' provision because the disclosure is limited to circumstances where the holdings ''may reasonably be expected to impair the objectivity of research recommendations'' or ''are significant in relation to the research recommendations.'' FINRA believes that amending the equity proposal to the treat disclosure of debt holdings consistent with the debt proposal would promote consistency and efficiency while maintaining the same level of investor protection. Therefore, FINRA proposes to amend the proposed rule change accordingly, including modifying a similar disclosure requirement when making public appearances.

Impact on Global Settlement

One commenter asked FINRA to confirm in any Regulatory Notice announcing adoption of the proposed rule change that provisions relating to research coverage and budget decisions and joint due diligence are intended to supersede the corresponding terms of the Global Research Analyst Settlement

[99] WilmerHale Equity.

[100] PIABA Equity.

[101] WilmerHale Equity.

[102] NASAA Equity.

[103] SIFMA, WilmerHale Equity.

[104] SIFMA, WilmerHale Equity.

[105] NASAA Equity.

(''Global Settlement'').[106] As discussed in the 2012 United States Government Accountability Office (''GAO'') Report on Securities Research,[107] FINRA does not believe that the terms of the Global Settlement should be modified through FINRA rulemaking and instead should be determined by the court overseeing the enforcement action. Therefore, FINRA does not intend for any provisions of the equity proposal that may be adopted to supersede provisions of the Global Settlement.

Exemptive Authority

One commenter opposed the provision that would give FINRA the authority to grant, in exceptional or unusual circumstances, an exemption from the requirement of the proposed rule for good cause shown.[108] The commenter stated that the provision had not been sufficiently justified by, among other things, providing examples of where an exemption would be justified. The purpose of exemptive authority is to provide a mechanism of relief in unusual factual circumstances that cannot be foreseen, where application of the rule would frustrate or be inconsistent with its intended purposes. As such, it is difficult if not impossible for FINRA to provide examples of where it would be appropriate to use the authority. However, as FINRA stated in the equity proposal rule filing, the scope of the rule's subject matter and the diversity of firm sizes, structures and research business and distribution models make it more likely that factual circumstances may arise that had not been contemplated by the rule. In addition, the authority is limited not only to exceptional circumstances, but also to a showing of good cause.

Implementation Date

One commenter requested that the implementation date be at least 12 months after SEC approval of the proposed rule change.[109] Another commenter similarly requested that FINRA provide a ''grace period'' of one year or the maximum time permissible, if that is less than one year, between the adoption of the proposed rule and the implementation date.[110] FINRA is sensitive to the time firms will require to update their policies and procedures and systems to comply with the proposal and will take those factors into consideration when establishing implementation dates.

FINRA believes that the foregoing fully responds to the issues raised by the commenters.

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be no later than 180 days following publication of the Regulatory Notice announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[111] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes the proposed rule change protects investors and the public interest by maintaining, and in some cases expanding, structural safeguards to insulate research analysts from influences and pressures that could compromise the objectivity of research reports and public appearances on which investors rely to make investment decisions. FINRA further believes that the proposed rule change prevents fraudulent and manipulative acts and practices by requiring firms to identify and manage, often with extensive disclosure, conflicts of interest related to the preparation, content and distribution of research. At the same time, the proposal furthers the public interest by increasing information flow to investors in select circumstances—*e.g.,* before and after the expiration of lock up provisions—where FINRA believes the integrity of research will not be compromised.

Moreover, the proposed rule change is consistent with Section 15D of the Act,[112] which requires rules reasonably designed to address conflicts of interest that can arise when research analysts recommend equity securities in research reports and public appearances. The proposed rule change requires firms to establish, maintain and enforce written policies and procedures reasonably designed to achieve compliance with the provisions of Section 15D, including: restricting prepublication clearance or approval of research reports by investment banking personnel or other persons not directly responsible for the preparation, content and distribution of research reports; prohibiting persons engaged in investment banking activities from supervision or control of research analysts, including influence or control over research analyst compensation evaluation and determination; prohibiting retaliation or threat of retaliation against research analysts for research or public appearances that are unfavorable to the member's business interests; establishing quiet periods after public offerings during which members that have participated in the offering may not publish or otherwise distribute research; and establishing structural or institutional safeguards to protect analysts from the review, pressure or oversight of investment bankers or other non-research personnel that might be biased in their judgment or supervision. In addition, the proposed rule change requires disclosures consistent with Section 15D, including the requirement to disclose any material conflict of interest of the research analyst or member that the research analyst knows or has reason to know at the time of publication or distribution of a research report or during a public appearance.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA provided a comprehensive statement regarding the burden on competition in the Proposing Release. FINRA's response to comments and proposed revisions as set forth in this Amendment No. 1 do not change FINRA's statement in the Proposing Release.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were solicited by the Commission in response to the publication of SR–FINRA–2014–047.[113] The Commission received four comment letters, which are summarized above.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 180 days after the date of publication of the initial notice in the **Federal Register** (*i.e.,* November 24, 2014) or within such longer period up to an additional 60 days (i) as the Commission may designate if it finds such longer period to be appropriate

[106] WilmerHale Equity.

[107] GAO, *Securities Research, Additional Actions Could Improve Regulatory Oversight of Analyst Conflicts of Interest,* January 2012.

[108] NASAA Equity.

[109] SIFMA.

[110] WilmerHale Equity.

[111] 15 U.S.C. 78*o*–3(b)(6).

[112] 15 U.S.C. 78*o*–6.

[113] *See* Proposing Release, *supra* note 3.

and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will issue an order approving or disapproving such proposed rule change, as amended.

V. 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: [114]

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2014–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–047. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2014–047 and should be submitted on or before April 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[115]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06092 Filed 3–17–15; 08:45 am]

BILLING CODE 8011–01–P

[114] *See supra* note 6.

[115] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74491; File No. SR–CBOE–2015–025]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

March 12, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 2, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective March 2, 2015. Currently, the Exchange assesses a $0.60 per contract fee for electronic executions by broker-dealers, non-Trading Permit Holders (''non-TPHs'') Market-Makers, Professionals/Voluntary Professionals and Joint Back-Offices (''JBOs'') in non-Penny Pilot equity, ETF, ETN and index options (excluding Underlying Symbol List A [3]) classes. The Exchange proposes increasing this transaction fee from $0.60 to $0.65 per contract. The Exchange notes that this increase is in line with the amount assessed by another exchange for similar transactions.[4]

The Exchange also seeks to append Footnote 16 to ''Clearing Trading Permit Holder Proprietary'' rows in the equity, ETF, ETN, Index, Specified Proprietary Index Options and Mini-Options rate tables. Footnote 16 of the Fees Schedule provides that ''Broker-Dealer transaction fees apply to broker-dealer orders (orders with ''B'' origin code), non-Trading Permit Holder market-maker orders (orders with ''N'' origin code), orders from specialists in the underlying security (orders with ''Y'' origin code) and certain orders with ''F'' origin code (orders from OCC members that are not CBOE Trading Permit Holders).'' The Exchange believes appending Footnote 16 to the row in which the ''F'' origin code is listed clarifies that, in some instances, orders with the ''F'' origin code designation will be assessed Broker-Dealer transaction fees if the orders are from the Options Clearing Corporation (''OCC'') members that are not CBOE Trading Permit Holders (''TPHs''). The Exchange notes no substantive changes are being made by this change, rather the Exchange merely seeks to add further clarification and alleviate potential confusion.

On January 2, 2015, the Exchange established an FBW fee for an updated version of FBW (''FBW2''), which the Exchange had anticipated making

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Underlying Symbol List A consists of OEX, XEO, SPX (including SPXW), SPXpm, SRO, VIX, VXST, Volatility Indexes and binary options.

[4] *See* NASDAQ OMX PHLX LLC (''PHLX'') Pricing Schedule, Section II, Multiply Listed Options Fees.

available shortly thereafter to all TPHs.[5] The Exchange at that time also proposed adopting a fee waiver for the months of January and February 2015, as well as provide that, after March 1, 2015, the monthly fee for FBW2 login IDs would be waived for the first month.[6] The Exchange notes that FBW2 has not yet become available to TPHs, but that it intends to make it available shortly. In light of this delay, the Exchange proposes to delete the now outdated language and extend the fee waiver for the months of March and April 2015. Additionally, the Exchange will provide that after May 1, 2015 (instead of March 1, 2015) the monthly fee for FBW2 login IDs will be waived for the first month.[7] The purpose of the proposed fee waivers is to give new users time to become familiar with and fully acclimated to the new FBW workstation functionality. The Exchange notes that after May 2015 (and absent an applicable fee waiver noted above), TPHs will be charged each of $400 for FBW and FBW2 (*i.e.,* total of $800) if such users continue to use both FBW and FBW2.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

Increasing the fee for electronic executions by broker-dealers, non-TPHs, [*sic*] Market-Makers, Professionals/Voluntary Professionals and JBOs in non-Penny Pilot equity, ETF, ETN and Index options (excluding Underlying Symbol List A) classes is reasonable because the proposed fee amount is in line with the amount assessed by another exchange for similar transactions.[11]

The Exchange believes that this proposed change is equitable and not unfairly discriminatory because the Exchange will assess broker-dealers, non-TPH Market-Makers, Professionals/Voluntary Professionals and JBOs the same electronic options transaction fees in non-Penny Pilot options classes. The Exchange notes that it does not assess Customers the electronic options transaction fees in non-Penny Pilot options because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange notes that Market-Makers are assessed lower electronic options transaction fees in non-Penny Pilot options as compared to Professionals, JBOs, Broker Dealers and non-Trading Permit Holder Market-Makers because they have obligations to the market and regulatory requirements, which normally do not apply to other market participants (*e.g.,* obligations to make continuous markets). Further, Market-Makers pay a $0.65 per contract Marketing Fee for many non-Penny Pilot transactions, which broker-dealers, non-Trading Permit Holder Market-Makers, Professionals/Voluntary Professionals and JBOs do not pay.[12] Clearing Trading Permit Holder Proprietary orders are assessed lower options transaction fees in non-Penny Pilot options because they also have obligations, which normally do not apply to other market participants (*e.g.,* must have higher capital requirements, clear trades for other market participants, must be members of OCC). Accordingly, the differentiation between electronic transaction fees for Customers, Market-Makers, Clearing Trading Permit Holders and other market participants recognizes the differing obligations and contributions made to the liquidity and trading environment on the Exchange by these market participants.

Assessing higher fees for transactions in electronic, non-Penny Pilot classes is equitable and not unfairly discriminatory because in non-Penny Pilot classes the spreads are naturally larger than in Penny Pilot classes, and these wider spreads allow for greater profit potential. Limiting this fee increase to electronic transactions is equitable and not unfairly discriminatory because electronic trading requires constant system development and maintenance.

The Exchange always strives for clarity in its rules and Fees Schedule, so that market participants may best understand how rules and fees apply. The Exchange believes appending Footnote 16 to ''Clearing Trading Permit Holder Proprietary'' in the rates tables alleviates potential confusion. The alleviation of potential confusion will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

Finally, the Exchange believes it is reasonable to provide a waiver for the months of March and April 2015 because it allows new users time to become familiar with and fully acclimated to the new FBW functionality and incentivizes the users to begin this process as soon as the new functionality becomes available. The Exchange believes it is reasonable to provide a waiver for the first month for a new login ID beginning May 1, 2015, because it allows a new user after April 2015 to fully acclimate to the new FBW functionality. Additionally, the Exchange notes it is merely extending existing waivers to correspond with a delayed launch of FBW2.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because, while the fee increase will apply only to certain market participants, market participants have different obligations and different circumstances (as described in the ''Statutory Basis'' section above). The Exchange does not believe that the proposed rule change relating to the FBW 2 fee waivers will impose any burden on competition that

[5] *See* Securities Exchange Act Release No. 74134 (January 26, 2015), 80 FR 20 (January 30, 2015) (SR–CBOE–2015–005). The adopted fee for FBW2 is the same as the existing FBW fee (*i.e.,* $400 per month (per login ID).

[6] For example, if a user added a new login ID in March 2015, the user would have received a fee waiver for that login ID for March 2015.

[7] For example, if a user adds a new login ID in May 2015, the user would receive a fee waiver for that login ID for May 2015.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(4).

[11] *See* PHLX Pricing Schedule, Section II, Multiply Listed Options Fees.

[12] *See* CBOE Fees Schedule, Marketing Fee.

is not necessary or appropriate in furtherance of the purposes of the Act, because it applies to all Trading Permit Holders. The Exchange believes this proposal will not cause an unnecessary burden on intermarket competition because the electronic non-Penny Pilot transaction fee and fee amount is similar to fees assessed at other exchanges.[13] Additionally, the proposal relating to the FBW2 fee waivers only affect trading on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and paragraph (f) of Rule 19b–4 [15] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–025. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–025 and should be submitted on or before April 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06109 Filed 3–17–15; 8:45 am]

BILLING CODE 8011–01–P

[13] *See e.g.,* PHLX Pricing, Section II, Multiply Listed Options Fees.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74492 ; File No. SR–NYSEArca–2015–13]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule Relating to Market Maker Posting Credit Tiers

March 12, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 2, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') relating to Market Maker Posting Credit Tiers. The Exchange proposes to implement the fee change effective March 2, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to create an additional Market Maker Monthly Posting Credit Super Tier (''Super Tier II'') for Executions in Penny Pilot Issues and SPY. The Exchange proposes to implement the fee change effective March 2, 2015.

Currently, the Exchange has a Base Posting Credit rate, and two additional tiers with higher credit rates for Market Makers that meet certain volume criteria, as outlined in the table below.

MARKET MAKER MONTHLY POSTING CREDIT SUPER TIER AND QUALIFICATIONS FOR EXECUTIONS IN PENNY PILOT ISSUES AND SPY [8]

Tier	Qualification basis (average electronic executions per day)		Credit applied to posted electronic market maker executions in penny pilot issues (except SPY)	Credit applied to posted electronic market maker executions in SPY
Base			($0.28)	($0.28)
Select Tier	30,000 Contracts from Market Maker Posted Orders in All Issues.		(0.32)	(0.32)
Super Tier	80,000 Contracts from Market Maker Posted Orders in All Issues, or	200,000 Contracts Combined from all orders in Penny Pilot Issues, all account types, with at least 100,000 Contracts from Posted Orders in Penny Pilot Issues*.	(0.37)	(0.39)

* *Includes transaction volume from the Market Maker's affiliates.*

The Exchange is proposing to add another tier, Super Tier II, to provide an incentive for increased Market Maker activity on the Exchange.

As with the Super Tier, the proposed Super Tier II qualification would be 200,000 contracts, but only contracts traded for the account of a Market Maker would count and at least 110,000 of those contracts would have to be from Posted Orders or quotes from both Penny Pilot and non-Penny Pilot issues. Unlike Super Tier, contract volume from a Market Maker's affiliate would not be counted for determining whether a member qualified for fees in Super Tier II. Market Makers who meet the threshold for Super Tier II would receive a credit of $0.42 applied to Posted Electronic Market Maker executions in Penny Pilot issues, including SPY.

In addition, the Exchange proposes to make a non-substantive change to the title of the table to more accurately reflect its contents, such that it reads: ''MARKET MAKER MONTHLY POSTING CREDIT TIERS AND QUALIFICATIONS FOR EXECUTIONS IN PENNY PILOT ISSUES AND SPY.''

The Exchange is not proposing any other modifications to the Market Maker Posting Credits at this time.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[5] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable because adding a new Super Tier II would encourage Market Makers to post greater volumes in all issues, including non-Penny Pilot issues, in order to qualify for the Super Tier II credit of $0.42. The proposed change is also reasonable because it is designed to attract higher volumes of Market Maker Posted Orders to the Exchange, which would benefit all market participants by offering greater price discovery, increased transparency and trading opportunities on the Exchange. Encouraging Market Makers to send higher volumes of orders to the Exchange would also contribute to the Exchange's depth of book as well as to the top of book liquidity.

The Exchange also believes that the proposed credits are reasonable because they are within a range of similar credits available on other option exchanges.[6] The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it would apply to all Market Makers on an equal and non-discriminatory basis. The Exchange further believes that the proposed change is equitable and not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volumes in Market Maker Posted Orders, including both Penny Pilot issues and non-Penny Pilot issues.

The Exchange believes the non-substantive change to the title of the table would benefit all market participants as it would add clarity to the fee schedule.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would continue to encourage competition, including by attracting additional liquidity to the Exchange, which would continue to make the Exchange a more competitive venue for, among other things, order execution and price discovery. The Exchange does not believe that the proposed change will impair the ability of Market Makers or competing order execution venues to maintain their

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] *See, e.g.,* BATS Options Exchange fee schedule, *available at, http://www.batsoptions.com/support/fee_schedule/* (providing a ($0.42) credit for certain market maker volume); NASDAQ Options Market fee schedule, *available at, http://www.nasdaqtrader.com/Micro.aspx?id=optionsPricing* (same).

[7] 15 U.S.C. 78f(b)(8).

competitive standing in the financial markets.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act [8] and subparagraph (f)(2) of Rule 19b–4 thereunder,[9] because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act [10] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2015–13 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–NYSEArca–2015–13. 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–2015–13 and should be submitted on or before April 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06125 Filed 3–17–15; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–4046/803–00224]

T. Rowe Price Associates, Inc. and T. Rowe Price International Ltd; Notice of Application

March 12, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an exemptive order under Section 206A of the Investment Advisers Act of 1940 (the ''Advisers Act'') and Rule 206(4)–5(e) thereunder.

Applicant: T. Rowe Price Associates, Inc. (''TRPA'') and T. Rowe Price International Ltd (''TRPIL'' and, together with TRPA, the ''Advisers'' or the ''Applicants'').

Relevant Advisers Act Sections: Exemption requested under Section 206A of the Advisers Act and Rule 206(4)–5(e) thereunder from Rule 206(4)–5(a)(1) under the Advisers Act.

Summary of Application: The Applicants request that the Commission issue an order under Section 206A of the Advisers Act and Rule 206(4)–5(e) thereunder exempting them from Rule 206(4)–5(a)(1) under the Advisers Act to permit Applicants to receive compensation from certain government entities for investment advisory services provided to the government entities within the two-year period following a contribution by a covered associate of the Applicants to an official of the government entities.

DATES: *Filing Dates:* The application was filed on May 6, 2014, and an amended and restated application was filed on October 29, 2014.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 6, 2015, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Advisers Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, TRPA and TRPIL, T. Rowe Price Associates, Inc., 100 East Pratt Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: Kyle R. Ahlgren, Senior Counsel, or Melissa R. Harke, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the

application. The complete application may be obtained via the Commission's Web site either at *http://www.sec.gov/rules/iareleases.shtml* or by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm*, or by calling (202) 551–8090.

Applicant's Representations

1. The Applicants are registered with the Commission as investment advisers under the Advisers Act. T. Rowe Price Group, Inc. (''TRPG'') is the parent company of both Applicants. The Applicants serve as adviser or subadviser to companies that are registered with the Commission as investment companies (''RICs'') under the Investment Company Act of 1940 (the ''1940 Act''). In addition, TRPIL acts as an adviser to the T. Rowe Price Trust Company (''TRPTC'') in connection with assets of defined contribution and benefit plans of companies and governmental entities that are invested in the Emerging Markets Equity Trust Fund, a common trust fund exempt under Section 3(c)(11) of the 1940 Act and of which TRPTC is the Trustee (the ''Fund''). Certain public pension plans that are government entities of Wisconsin (the ''Clients'') have selected a RIC as an investment option for participants in participant-directed plans. One Client had been invested in the Fund since 2003 but divested its investment by May 2012. The investment decisions for the Clients are overseen by boards of trustees, and Gubernatorial appointees sit on these boards. Due to this power of appointment, the Governor is an ''official'' of each Client under Rule 206(4)–5(f)(6)(ii). The Governor, however, does not sit on any Client's board or have any direct involvement in any Client's investment decisions.

2. Applicants represent that Michael McGonigle (the ''Contributor'') is a Vice President of TRPG and TRPA. He has been a director of credit research in the Fixed Income Division since 2010 and is a member of the Fixed Income Steering Committee. In his role as a director of credit research, he supervises approximately 15 research analysts in TRPA and eight research analysts in TRPIL, some of whom may occasionally meet with government entity clients or prospective clients, or with consultants for prospective clients. The Contributor is, therefore, a ''covered associate'' of TRPA and TRPIL, as defined in Rule 206(4)–5(f)(2)(ii). The Advisers have identified only one meeting with a Wisconsin government entity client at which an analyst supervised by the Contributor was present since March 14, 2011, the effective date of Rule 206(4)–5 (the ''Rule''). The Contributor has not participated in any such meetings with any state or local government entity client or prospective client of the Advisers since the effective date of the Rule.

3. The recipient of the Contribution was Scott Walker (the ''Official''), the Governor of Wisconsin, who took office in January 2011. The Contribution was made on February 5, 2012 to the Official's recall primary election campaign for the amount of $250 (the ''Contribution''). The Wisconsin Campaign Finance Information System reported it as received by the campaign on February 26, 2012. Although not entitled to vote in Wisconsin elections, the Contributor was interested in the highly contentious and publicized recall election, given his political views that are in line with those of the Official. The Contributor remembers watching television coverage of the recall election and receiving telephone solicitations for political contributions during this time. To the best of the Contributor's recollection, he made the Contribution pursuant to such a telephone solicitation. The Contributor has never met the Official or dealt with the Official in any capacity. The Contributor has never solicited or coordinated any contributions for or on behalf of the Official. The Contribution is consistent with other political contributions made by the Contributor (which were made prior to the effective date of the Rule).

4. Applicants represent that the Clients' relationship with the Applicants pre-dates the Contribution. The Adviser's relationship with one Client dates back to at least 2003 when the Client invested in the Fund. This Client began withdrawing its investment from the Fund in 2011 and was fully divested in May 2012. The Clients with a RIC advised by the Advisers began their relationship with the Advisers in 2005 and 2008.

5. Applicants represent that at no time did any employees of the Applicants other than the Contributor have any knowledge of the Contribution prior to the Applicants' legal department's discovery of the Contribution. The Contribution was discovered in the course of compliance testing by the Advisers' legal department on or around March 18, 2014. Subsequently, the Applicants and the Contributor obtained the Official's agreement to return the full amount of the Contribution, which was returned on May 1, 2014. After identifying the Contribution, the Advisers established an escrow account and deposited in the account an amount equal to the sum of all fees paid to the Advisers, directly or indirectly, with respect to the Clients between February 5, 2012 through February 26, 2014. The Advisers have notified the Client invested in the Fund, each affected RIC, and each Client that offers as an investment option in a participant-directed plan an affected RIC that is directly advised by the Advisers, of the Contribution and the resulting two-year prohibition on compensation absent exemptive relief from the Commission. The Advisers have informed such Clients and each affected RIC that the fees attributable to the Clients since the date of the Contribution through the two-year period were being placed in escrow and that, absent exemptive relief from the Commission, those fees would be distributed in a way that is permissible under applicable laws and the Rule.

6. Applicants represent that the Advisers' policies and procedures regarding pay-to-play (''Pay-to-Play Policies and Procedures'') in place at the time of the Contribution required all employees to pre-clear contributions to state and local officials and candidates. Employees must annually certify their compliance with the Advisers' Code of Ethics, which describes the Advisers' preclearance policy for political contributions, through an Annual Verification Questionnaire (the ''Questionnaire''). The Questionnaire requires employees to certify their compliance with the Policy. The Contributor has completed his annual online training and Questionnaire certification each year since the effective date of the Rule. The legal department or specific business units of the Advisers also occasionally send reminder emails about the Policy. The Advisers have also started to include searches of public Web sites for contributions made by employees, and it was in the course of developing this testing program that the Contribution was discovered by the Advisers.

7. Applicants represent that to the best of the Contributor's recollection, the Contributor's violation of Applicant's Pay-to-Play Policies and Procedures resulted from his simply forgetting to pre-clear his contribution as required, due to his becoming impassioned about the recall election while watching televised reports about it and receiving a telephone solicitation while doing so. Applicants note that on May 31, 2012, pursuant to the Advisers' policies and procedures, the Contributor requested pre-clearance from Advisers' legal department to make a contribution to the Official's campaign for the recall general election and received permission to make a $150 contribution.

As noted above, however, the Contributor did not disclose the Contribution to the Applicants and the Applicants had no knowledge of the Contribution when the Contributor received approval for the May 31, 2012 contribution for the recall general election.

Applicant's Legal Analysis

1. Rule 206(4)–5(a)(1) under the Advisers Act prohibits a registered investment adviser from providing investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser. Each Client is a ''government entity,'' as defined in rule 206(4)–5(f)(5), the Contributor is a ''covered associate'' as defined in rule 206(4)–5(f)(2), and the Official is an ''official'' as defined in rule 206(4)–5(f)(6). Rule 206(4)–5(c) provides that when a government entity invests in a covered investment pool, the investment adviser to that covered investment pool is treated as providing advisory services directly to the government entity. The RICs and the Funds are ''covered investment pools,'' as defined in rule 206(4)–5(f)(3).

2. Section 206A of the Advisers Act grants the Commission the authority to ''conditionally or unconditionally exempt any person or transaction . . . from any provision or provisions of [the Advisers Act] or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Advisers Act].''

3. Rule 206(4)–5(e) provides that the Commission may exempt an investment adviser from the prohibition under Rule 206(4)–5(a)(1) upon consideration of the factors listed below, among others:

(1) Whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act;

(2) Whether the investment adviser: (i) Before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of the rule; and (ii) prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and (iii) after learning of the contribution: (A) Has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution; and (B) has taken such other remedial or preventive measures as may be appropriate under the circumstances;

(3) Whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the investment adviser, or was seeking such employment;

(4) The timing and amount of the contribution which resulted in the prohibition;

(5) The nature of the election (*e.g.*, federal, state or local); and

(6) The contributor's apparent intent or motive in making the contribution which resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

4. The Applicants request an order pursuant to section 206A and rule 206(4)–5(e), exempting them from the two-year prohibition on compensation imposed by rule 206(4)–5(a)(1) with respect to investment advisory services provided to the Clients within the two-year period following the Contribution.

5. The Applicants submit that the exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The Applicants further submit that the other factors set forth in Rule 206(4)–5 similarly weigh in favor of granting an exemption to the Applicants to avoid consequences disproportionate to the violation. The Applicants note that causing the Advisers to serve without compensation for a two-year period could result in a financial loss that is approximately 24,000 times the amount of the Contribution.

6. The Applicants represent that neither the Advisers nor the Contributor sought to interfere with the Clients' merit-based selection process for advisory services, nor did they seek to negotiate higher fees or greater ancillary benefits than would be achieved in arms'-length transactions. The Applicants note that the Advisers' relationship with the Clients pre-date the Contribution, and that one Client divested its investment in the Fund shortly after the Contribution. The Applicants represent that they have no reason to believe that the Contribution undermined the integrity of the market for advisory services or resulted in a violation of the public trust in the process for awarding contracts.

7. The Applicants note that the Advisers adopted and implemented pay-to-play policies and procedures on the Rule's effective date, March 14, 2011 that are fully compliant with the Rule's requirements. The Applicants further note that the Advisers began developing compliance testing that includes random searches of public campaign databases for contributions by employees. The Applicants represent that at no time did any employees of the Advisers other than the Contributor have any actual knowledge that the Contribution had been made prior to its discovery by the Advisers in March 2014. The Applicants further represent that the Advisers and the Contributor obtained the Official's agreement to return the Contribution, which was subsequently returned, and the Advisers established an escrow account for all fees attributable to the Clients' relationships with the Advisers accrued between February 5, 2012 and February 26, 2014.

8. The Applicants state that the Contributor's apparent intent in making the Contribution was not to influence the selection or retention of the Advisers, and that the Contribution was consistent with prior political donations made by the Contributor in support of other candidates who share the political views of the Official.

9. The Applicants represent that the Contributor has had no direct contact or involvement with any of the Clients, and that the Contributor's only indirect involvement with one of the Clients was through a single meeting at which a research analyst who reported to the Contributor met with the Client.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–06110 Filed 3–17–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74484; File No. SR–BATS–2015–20]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

March 12, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 2, 2015, BATS Exchange, Inc. (the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the ''Options Pricing'' section of its fee schedule effective immediately, in order to modify pricing charged by the Exchange's options platform (''BATS Options'') including adjusting the rebates associated with Customer Penny Pilot Add Volume Tier 1 and Professional and Firm Penny Pilot Add Volume Tiers 1 and 2, as further described below.

The Exchange proposes to adjust the rebate for Customer [6] orders in Penny Pilot Securities [7] that add liquidity and meet Customer Add Volume Tier 1 from $0.45 per contract to $0.40 per contract. Currently, the Exchange offers a $0.45 rebate for Customer orders that add liquidity and meet Customer Add Volume Tier 1, which requires that the Member has an ADV [8] equal to or greater than 0.05% of average TCV.[9] The Exchange notes that such change will be reflected in both the Standard Rates table and the Customer Penny Pilot Add Tiers under footnote 1 of the fee schedule.

The Exchange also proposes to adjust the rebate for Professional [10] and Firm [11] orders in Penny Pilot Securities that add liquidity and meet Professional/Firm Step-up Add Volume Tier 1 and Tier 2 from $0.44 per contract to $0.42 per contract. The Exchange currently offers a $0.44 rebate for Professional and Firm orders that add liquidity and meet Professional/Firm Step-Up Add Volume Tier 1 or Tier 2. Meeting Professional/Firm Step-up Add Volume Tier 1 requires that a Member has an Options Step-up Add TCV [12] from June 2014 baseline that is equal to or greater than 0.50%. Meeting Professional/Firm Step-up Add Volume Tier 2 requires that a Member has an Options Step-up Add TCV from September 2014 baseline equal to or greater than 0.30% and an ADV equal to or greater than 0.40% of average TCV. The Exchange is not proposing to amend the requirements for meeting Professional/Firm Step-up Add Volume Tier 1 or Tier 2. The Exchange notes that such changes will be reflected in both the Standard Rates table and the Professional and Firm Penny Pilot Add Volume Tiers under footnote 2 of the fee schedule.

The Exchange proposes to implement the amendments to its fee schedule effective immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[13] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[14] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive.

Volume-based rebates and fees such as the ones currently maintained on BATS Options have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes the proposed reduction of the rebate for orders that add liquidity for Customers that meet Customer Add Volume Tier 1 is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because it will provide Members with a greater incentive to increase their participation on BATS Options in order to receive a higher rebate by meeting a higher Customer Add Volume Tier. Currently, the difference between the rebate received for orders that qualify for Customer Add Volume Tier 1 and those that qualify for Customer Add Volume Tier 2 is only $0.03 per contract, but as proposed, the difference would be $0.08 per contract.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] ''Customer'' applies to any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (''OCC''), excluding any transaction for a ''Professional'' as defined in Exchange Rule 16.1.

[7] ''Penny Pilot Securities'' are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[8] ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day.

[9] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[10] ''Professional'' applies to any transaction identified by a Member as such pursuant to Exchange Rule 16.1.

[11] ''Firm'' applies to any transaction identified by a Member for clearing in the Firm range at the OCC.

[12] ''Options Step-up Add TCV'' means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

As such, the Exchange believes that increasing the difference in the rebates between the tiers will act to incentivize Members to increase their ADV as a percentage of TCV to 0.30% in order to qualify for Customer Add Volume Tier 2 and receive a rebate of $0.48 per contract. Such increased participation on BATS Options will result in higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes, which will benefit all participants on BATS Options.

The Exchange also believes that the proposed reduction of the rebates for Professional/Firm Step-up Add Volume Tier 1 and Tier 2 is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because, as stated above, the Exchange's tiered pricing structure is designed such that fees and rebates are related to the value of market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. As such, the Exchange believes that it is reasonable, fair, and equitable to lower the rebates associated with Professional/Firm Step-up Add Volume Tier 1 and Tier 2. In this same light, the Exchange notes that the proposed amendments would bring the rebate for Professional/Firm Step-up Add Volume Tier 1 and Tier 2 in line with that of the Market Maker Add Volume Tier. The Exchange also notes that Professional and Firm orders can continue to receive further enhanced rebates through the NBBO Setter Tiers and that any order that qualifies for either Professional/Firm Step-Up Add Volume Tier 1 or Tier 2 will also qualify for NBBO Setter Tier 1 where the order sets the national best bid or offer.

The Exchange reiterates that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. With respect to the proposed new rebates in Customer Add Volume Tier 1 and Professional/Firm Step-Up Tier 1 and Tier 2, the Exchange does not believe that any such changes burden competition, but instead, that they enhance competition, as they are intended to increase the competitiveness of and draw additional volume to BATS Options. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deem fee structures to be unreasonable or excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 thereunder.[16] 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–BATS–2015–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–20 and should be submitted on or before April 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06124 Filed 3–17–15; 8:45 am]

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[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74487; File No. SR–CHX–2015–02]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Concerning the CHX Routing Services

March 12, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on March 4, 2015, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

CHX proposes to clarify for Participants and non-Participants the Exchange's smart versus direct routing protocol.[3] On September 8, 2014, the Exchange filed a proposed rule change adopting, among other things, the CHX Routing Services, which is a Regulation NMS compliant outbound order routing service that is not yet operational (''the initial rule filing''), with the Securities and Exchange Commission (the ''Commission'').[4] The Exchange now submits this supplemental filing. The Exchange has designated this proposed rule change as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[5]

The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to clarify for Participants and non-Participants the Exchange's smart versus direct routing protocol related to the CHX Routing Services. As described in the initial rule filing, upon the triggering of a Routing Event,[6] the Exchange will route away Routable Orders,[7] or portions thereof, through CHXBD, LLC, which is an affiliated routing broker that will operate as a facility of the Exchange, which would then forward orders to a third-party routing broker for routing to the ultimate routing destination. All orders routed to the third-party routing broker will include instructions for the third-party routing broker to either direct route the order to a specific destination or to smart route the order, utilizing the third-party routing broker's routing technology, pursuant to a routing table provided and maintained by the Exchange.

The Exchange would like to clarify the smart versus direct routing protocol and to propose special handling of Routable Orders in relation to Protected Quotations[8] displayed on the Alternative Display Facility (''ADF'') operated by the Financial Industry Regulatory Authority (''FINRA'').[9] The Exchange does not propose to amend any CHX Rules nor substantively modify the CHX Routing Services in any other way.

Under footnote 50 of the initial rule filing,[10] the Exchange utilized the term ''routed order'' to describe smart versus direct routing. For clarity, ''routed order'' describes the portion of a Routable Order that is to be routed to satisfy Protected Quotations of external markets at a single price point. Thus, by replacing the term ''routed order'' with the more descriptive phrase ''the portion of a Routable Order that is to be routed'' and adding references to ''a single price point,'' the meaning of footnote 50 becomes clearer. The revised footnote 50 would read as follows:

Where the *portion of a Routable Order that is to be routed at a certain price point* is smaller than the aggregate size of two or more contra-side Protected Quotations that could be satisfied *at a single price point,* the Exchange will rely on the third-party routing broker to utilize its smart-routing technology to route the order pursuant to a routing table provided by the Exchange. Thus, the relevant snapshot of the NBBO for Regulation NMS purposes will be taken by the third-party routing broker and the third-party routing broker would route orders IOC and ISO. However, where the *portion of a Routable Order that is to be routed* is smaller than the size of one Protected Quotation that could be satisfied or is the same size as the aggregate size of one or more contra-side Protected Quotations that could be satisfied *at a single price point,* the Exchange will direct the third-party routing broker to route orders to specific routing destinations. Thus, the relevant snapshot of the NBBO will be taken by the Exchange and the Exchange would mark the directed orders IOC and ISO.

The Exchange also proposes to adopt special routing handling for Protected Quotations displayed on the ADF, as an exception to the aforementioned price point by price point determination to either smart or direct route an order. Specifically, upon the triggering of any Routing Event based on a Protected Quotation displayed on the ADF, the Exchange will route away the entire remaining balance of the Routable Order for smart routing by a third-party routing broker. The Exchange submits that this special handling is the most efficient way for the Exchange to meet its Regulation NMS obligations regarding Protected Quotation(s) displayed on the ADF and is consistent with the routing-related rules adopted pursuant to the initial rule filing.[11] Unexecuted remainders of smart routed orders returned to the Matching System from the third-party routing broker will be handled pursuant to Article 20, Rule 8(b)(7), as described under the initial rule filing.[12]

[3] CHX Article 1, Rule 1(s) defines ''Participant,'' in pertinent part, as ''any Participant Firm that holds a valid Trading Permit and any person associated with a Participant Firm who is registered with the Exchange under Articles 16 and 17 as a Market Maker Trader or Institutional Broker Representative, respectively. A Participant shall be considered a 'member' of the Exchange for purposes of the Exchange Act.''

[4] *See* Exchange Act Release No. 73150 (September 19, 2014), 79 FR 57603 (September 25, 2014) (SR–CHX–2014–15).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] CHX Article 19, Rule 3(a), which is not yet operative, details Routing Events.

[7] *CHX* Article 1, Rule 1(oo), which is not yet operative, defines ''Routable Order'' as ''any incoming limit order, as defined under Article 1, Rule 2(a)(1), of any size, not marked by any order modifiers or related terms listed under Article 1, Rule 2 that prohibit the routing of the order to another Trading Center.''

[8] *See* 17 CFR 242.600(b)(58).

[9] *See* FINRA Rule 6210.

[10] Footnote 50 of the initial rule filing provides:

Where the routed order is smaller than the aggregate size of two or more contra-side Protected Quotations that could be satisfied, the Exchange will rely on the third-party routing broker to utilize its smart-routing technology to route the order pursuant to a routing table provided by the Exchange. Thus, the relevant snapshot of the NBBO for Regulation NMS purposes will be taken by the third-party routing broker and the third-party routing broker would route orders IOC and ISO. However, where the routed order is smaller than the size of one Protected Quotation that could be satisfied or is the same size as the aggregate size of one or more contra-side Protected Quotations that could be satisfied, the Exchange will direct the third-party routing broker to route orders to specific routing destinations. Thus, the relevant snapshot of the NBBO will be taken by the Exchange and the Exchange would mark the directed orders IOC and ISO. *See supra* note 4.

[11] In the event the Exchange decides to modify its smart versus direct routing protocol, the Exchange will submit a proposed rule filing to that effect, pursuant to Rule 19b–4 under the Act.

[12] *See* CHX Article 20, Rule 8(b)(7), which is not yet operative.

2. Statutory Basis

The Exchange believes that the proposed clarification of the smart versus direct routing protocol described in the initial rule filing and special handling of the Protected Quotations displayed on the ADF is consistent with Section 6(b) of the Act in general [13] and furthers the objectives of Sections 6(b)(1) [14] and 6(b)(5) in particular.[15] Specifically, the Exchange believes that the proposed filing would further enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Participants and persons associated with its Participants, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, by clarifying the smart versus direct routing protocol for the benefit of Participants and non-Participants, in furtherance of the objectives of Section 6(b)(1). For similar reasons, the Exchange believes that the proposal is also designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and, in general, by protecting investors and the public interest, in furtherance of the objectives of Section 6(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Given that the proposed changes promote clarity as to existing rules and does not amend any rules, the Exchange believes that any burden on competition is necessary and appropriate as clarity of the Exchange's rules further the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(1).

[15] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A)(i) of the Act [16] and Rule 19b–4(f)(6).[17] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6).[19]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange asserts that waiver of this requirement would allow the Exchange to clarify its initial rule filing prior to the CHX Routing Services becoming operational, and notes that the Exchange provides these services in a highly competitive market in which market participants may avail themselves of a wide variety of options offered by self-regulatory organizations, alternative trading systems and other broker-dealers. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to clarify its rules in a timely manner and thereby avoid potential confusion. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[20]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–CHX–2015–02 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 No. SR–CHX–2015–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the CHX. 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 No. SR–CHX–2015–02 and should be submitted on or before April 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06091 Filed 3–17–15; 8:45 am]

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[16] 15 U.S.C. 78s(b)(3)(A)(i).

[17] 17 CFR 240.19b–4(f)(6).

[18] 15 U.S.C. 78s(b)(3)(a)(ii).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74489; File No. SR–MIAX–2015–13]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

March 12, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 27, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its current MIAX Market Maker[3] sliding scale for transaction fees to: (i) Modify the volume thresholds in tiers 1, 2, 3; (ii) increase the transaction fee for volume tier 1; and (iii) increase the Priority Customer rebate incentive for tier 1.

The sliding scale for MIAX Market Maker transaction fees is based on the substantially similar fees of the Chicago Board Options Exchange, Incorporated (''CBOE'').[4] Specifically, the program reduces a MIAX Market Maker's per contract transaction fee based on percentages of total national Market Maker volume of any options classes that trade on the exchange during the calendar month, based on the following scale:

Tier	Percentage of national Market Maker volume	Transaction fee per contract
1 ...	0.00%–0.05%	$0.25
2 ...	Above 0.05%–0.50%	0.17
3 ...	Above 0.50%–0.80%	0.12
4 ...	Above 0.80%–1.50%	0.07
5 ...	Above 1.50%	0.05

The sliding scale would apply to all MIAX Market Makers for transactions in all products except mini-options. By amending the volume tier calculations, the sliding scale will more closely align with that of CBOE.[5] A MIAX Market Maker's initial $0.25 per contract rate will be reduced if the MIAX Market Maker reaches the volume thresholds set forth in the sliding scale in a month. As a MIAX Market Maker's monthly volume increases, its per contract transaction fee would decrease. The Market Maker sliding scale will continue to apply to MIAX Market Maker (RMM, LMM, DLMM, PLMM, DPLMM) transaction fees in all products except mini-options. MIAX Market Makers will continue to be assessed a $0.02 per executed contract fee for transactions in mini-options.

The Exchange believes the proposed sliding scale is objective in that the fee reductions are based solely on reaching stated volume thresholds. The specific volume thresholds of the tiers were set based upon business determinations and an analysis of current volume levels. The specific volume thresholds and rates were set in order to encourage MIAX Market Makers to reach for higher tiers. The Exchange believes that the proposed changes to the tiered fee schedule may incent firms to display their orders on the Exchange and increase the volume of contracts traded here.

As mentioned above, the Exchange notes that the proposed sliding fee scale for MIAX Market Makers structured on contract volume thresholds is based on the substantially similar fees of the CBOE.[6] The Exchange also notes that a number of other exchanges have tiered fee schedules which offer different transaction fee rates depending on the monthly ADV of liquidity providing executions on their facilities.[7]

The Exchange also proposes to increase the rebate incentive for Priority Customer orders to correspond with the increase in the transaction fee for tier 1 of the MIAX Market Maker sliding scale. The Exchange offers MIAX Market Makers the opportunity to reduce transaction fees by $0.02 per contract in standard options if the Member or its affiliates of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, qualifies in a given month for Priority Customer Rebate Program volume tiers 3, 4, or 5 in the Fee Schedule. The Exchange proposes to amend the rebate incentive for Priority Customer orders in order to increase the rebate incentive for tier 1 to correspond with the increase in transaction fees for volume tier 1 of the MIAX Market Maker sliding scale. As proposed, any Member or its affiliates of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, that qualifies for Priority Customer Rebate Program volume tiers 3, 4, or 5 and is a MIAX Market Maker will be assessed $0.23 per contract for tier 1, $0.15 per contract for tier 2, $0.10 per contract for tier 3, $0.05 per contract for tier 4, and $0.03 per contract for tier 5 for transactions in standard options in lieu of the applicable transaction fees in the Market Maker sliding scale.

The Exchange believes that these incentives will encourage MIAX Market Makers to transact a greater number of orders on the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''MIAX Market Maker'' for purposes of the proposed sliding scale means any MIAX Market Maker including RMM, LMM, PLMM, DLMM, and DPLMM.

[4] *See* Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111); 57191 (January 24, 2008), 73 FR 5611 (January 30, 2008); 58321 (August 6, 2008), 73 FR 46955 (SR–CBOE–2008–78). *See also* CBOE Fees Schedule, p. 3.

[5] *See* Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111); 58321 (August 6, 2008), 73 FR 46955 (SR–CBOE–2008–78); 71295 (January 14, 2014), 79 FR 3443 (January 21, 2014) (SR–CBOE–2013–129).

[6] *See* Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111); 58321 (August 6, 2008), 73 FR 46955 (SR–CBOE–2008–78); 71295 (January 14, 2014), 79 FR 3443 (January 21, 2014) (SR–CBOE–2013–129).

[7] *See, e.g.,* International Securities Exchange, LLC, Schedule of Fees, Section IV, C; NASDAQ Options Market, Chapter XV, Section 2.

Finally, the Exchange proposes to modify the name of the title of the column in the chart from ''Contracts Per Month'' to ''Percentage Thresholds of National Market Maker Volume''. The Exchange believes that the new title more clearly describes the type of threshold methodology that is being used for the fee.

The proposed changes will become operative on March 1, 2015.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(4) of the Act [9] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The proposed volume based discount fee structure is not discriminatory in that all MIAX Market Makers are eligible to submit (or not submit) liquidity, and may do so at their discretion in the daily volumes they choose during the course of the billing period. All similarly situated MIAX Market Makers are subject to the same fee structure, and access to the Exchange is offered on terms that are not unfairly discriminatory. Volume based discounts have been widely adopted by options and equities markets, and are equitable because they are open to all MIAX Market Makers on an equal basis and provide discounts that are reasonably related to the value of an exchange's market quality associated with higher volumes. The proposed fee levels and volume thresholds are reasonably designed to be comparable to those of other options exchanges employing similar fee programs, and also to attract additional liquidity and order flow to the Exchange.

The Exchange's proposal to provide MIAX Market Makers the opportunity to reduce transaction fees by $0.02 per contract in standard options, provided certain criteria are met, is reasonable because the Exchange desires to offer all such market participants an opportunity to lower their transaction fees. The Exchange's proposal to offer MIAX Market Makers the opportunity to reduce transaction fees by $0.02 per contract in standard options, provided certain criteria are met, is equitable and not unfairly discriminatory because the Exchange offers all market participants, excluding Priority Customers, a means to reduce transaction fees by qualifying for volume tiers in the Priority Customer Rebate Program. The Exchange believes that offering all such market participants the opportunity to lower transaction fees by incentivizing them to transact Priority Customer order flow in turn benefits all market participants.

Finally, the Exchange believes that the proposed to change to the name of the title of the column in the chart from ''Contracts Per Month'' to ''Percentage Thresholds of National Market Maker Volume'' is reasonable in that the new title more clearly describes the type of threshold methodology that is being used for the fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange 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. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner that encourages market participants to provide liquidity and to send order flow to the Exchange.

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 rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2015–13 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–MIAX–2015–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2015–13, and should be submitted on or before April 8, 2015.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06093 Filed 3–17–15; 08:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74490; File No. SR–FINRA–2014–048]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 to a Proposed Rule Change To Adopt FINRA Rule 2242 (Debt Research Analysts and Debt Research Reports)

March 12, 2015.

I. Introduction

On November 14, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule to adopt new FINRA Rule 2242 (Debt Research Analysts and Debt Research Reports) to address conflicts of interest relating to the publication and distribution of debt research reports. The proposal was published for comment in the **Federal Register** on November 24, 2014.[3] The Commission received five comments on the proposal.[4] On February 19, 2015, FINRA filed Amendment No. 1 responding to the comments received to the proposal as well as to propose amendments in response to these comments. On February 20, 2015, the Commission issued an order instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposal. The order was published for comment in the **Federal Register** on February 26, 2015.[6]

The proposed rule change, as modified by Amendment No. 1, is described in Items II and III below, which Items have been substantially prepared by FINRA.[7] The Commission is publishing this notice to solicit comments from interested persons on the proposal as amended by Amendment No. 1.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing Amendment No. 1 to SR–FINRA–2014–048, a proposed rule change to adopt FINRA Rule 2242 (Debt Research Analysts and Debt Research Reports) to address conflicts of interest relating to the publication and distribution of debt research reports.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule Filing History

On November 14, 2014, FINRA filed with the Securities and Exchange Commission (''Commission'') SR–FINRA–2014–048,[8] a proposed rule change to adopt in the consolidated FINRA rulebook (''Consolidated FINRA Rulebook'')[9] Rule 2242 (Debt Research Analysts and Debt Research Reports) to address conflicts of interest relating to the publication and distribution of debt research reports.

The Commission published the proposed rule change for public comment in the **Federal Register** on November 24, 2014. The Commission received five comment letters directed to the filing.[10] Based on comments received, FINRA is filing this Amendment No. 1 to respond to the comments and to propose amendments, where appropriate. The Amendment also includes a few technical, non-substantive changes.

Proposal

As described in greater detail in the Proposing Release, the proposed rule change would adopt a tiered approach that, in general, would provide retail debt research recipients with extensive protections similar to those provided to recipients of equity research under current and proposed FINRA rules, with modifications to reflect the different nature and trading of debt securities,[11] while exempting from many of the provisions debt research distributed solely to eligible institutional investors.

Definitions

Most of the defined terms closely follow the defined terms for equity research in NASD Rule 2711, as amended by the equity research filing, with minor changes to reflect their application to debt research. The proposed definitions are set forth below.

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 73623 (Nov. 18, 2014); 79 FR 69905 (Nov. 24, 2014) (''Notice''). On January 6, 2015, FINRA consented to extending the time period for the Commission to either approve or disapprove the proposed rule change, or to institute proceedings to determine whether to approve or disapprove the proposed rule change, to February 20, 2015.

[4] See *infra* note 10.

[5] 15 U.S.C. 78s(b)(2)(B).

[6] Exchange Act Release No. 74340 (Feb. 20, 2015); 80 FR 10538 (Feb. 26, 2015). The comment period closes on March 19, 2015.

[7] For a comparison of the changes of the rule text between the proposal as originally noticed and the proposal as amended by Amendment No. 1, *see* Exhibit 4 to SR–FINRA–2014–048.

[8] *See* Securities Exchange Act Release No. 73623 (November 18, 2014), 79 FR 69905 (November 24, 2014) (Notice of Filing File No. SR–FINRA–2014–048) (''Proposing Release''). The comment period closed on December 15, 2014.

[9] The current FINRA rulebook includes, in addition to FINRA Rules, (1) NASD Rules and (2) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[10] *See* Letter from Hugh D. Berkson, Executive Vice President and President-Elect, Public Investors Arbitration Bar Association, to Brent J. Fields, Secretary, SEC, dated December 15, 2014 (''PIABA Debt''); Letter from Kevin Zambrowicz, Associate General Counsel and Managing Director, and Sean Davy, Managing Director, Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary, SEC, dated December 15, 2014 (''SIFMA''); Letter from Yoon-Young Lee, Wilmer Cutler Pickering Hale and Dorr LLP, to Brent J. Fields, Secretary, SEC, dated December 16, 2014 (''WilmerHale Debt''); Letter from William Beatty, President, North American Securities Administrators Association, Inc., Brent J. Fields, Secretary, SEC, dated December 19, 2014 (''NASAA Debt''); and Letter from Kurt N. Schacht, Managing Director, Standards and Financial Market Integrity, and Linda L. Rittenhouse, Director, Capital Markets Policy, CFA Institute, to Brent J. Fields, Secretary, SEC, dated February 9, 2015 (''CFA Institute'').

[11] The proposed rule change reflects proposed amendments to FINRA's equity research rules set forth in a companion filing to the proposed rule change (the ''equity research filing''). *See* Securities Exchange Act Release No. 73622 (November 18, 2014), 79 FR 69939 (November 24, 2014) (Notice of Filing File No. SR–FINRA–2014–047). *See also* Amendment No. 1 to SR–FINRA–2014–047.

Under the proposed rule change, the term ''debt research analyst'' would mean an associated person who is primarily responsible for, and any associated person who reports directly or indirectly to a debt research analyst in connection with, the preparation of the substance of a debt research report, whether or not any such person has the job title of ''research analyst.'' [12] The term ''debt research analyst account'' would mean any account in which a debt research analyst or member of the debt research analyst's household has a financial interest, or over which such analyst has discretion or control; provided, however, it would not include an investment company registered under the Investment Company Act over which the debt research analyst or a member of the debt research analyst's household has discretion or control, provided that the debt research analyst or member of a debt research analyst's household has no financial interest in such investment company, other than a performance or management fee. The term also would not include a ''blind trust'' account that is controlled by a person other than the debt research analyst or member of the debt research analyst's household where neither the debt research analyst nor a member of the debt research analyst's household knows of the account's investments or investment transactions.[13]

The proposed rule change would define the term ''debt research report'' as any written (including electronic) communication that includes an analysis of a debt security or an issuer of a debt security and that provides information reasonably sufficient upon which to base an investment decision, excluding communications that solely constitute an equity research report as defined in proposed Rule 2241(a)(11).[14] The proposed definition and exceptions noted below would generally align with the definition of ''research report'' in NASD Rule 2711, while incorporating aspects of the Regulation AC definition of ''research report.'' [15]

Communications that constitute statutory prospectuses that are filed as part of the registration statement would not be included in the definition of a debt research report. Further, communications that constitute private placement memoranda and comparable offering-related documents, other than those that purport to be research, would not be included in the definition of a debt research report. In general, the term debt research report also would not include communications that are limited to the following, if they do not include an analysis of, or recommend or rate, individual debt securities or issuers:

- Discussions of broad-based indices;
- commentaries on economic, political or market conditions;
- commentaries on or analyses of particular types of debt securities or characteristics of debt securities;
- technical analyses concerning the demand and supply for a sector, index or industry based on trading volume and price;
- recommendations regarding increasing or decreasing holdings in particular industries or sectors or types of debt securities; or
- notices of ratings or price target changes, provided that the member simultaneously directs the readers of the notice to the most recent debt research report on the subject company that includes all current applicable disclosures required by the rule and that such debt research report does not contain materially misleading disclosure, including disclosures that are outdated or no longer applicable.

The term debt research report also, in general, would not include the following communications, even if they include an analysis of an individual debt security or issuer and information reasonably sufficient upon which to base an investment decision:

- Statistical summaries of multiple companies' financial data, including listings of current ratings that do not include an analysis of individual companies' data;
- an analysis prepared for a specific person or a limited group of fewer than 15 persons;
- periodic reports or other communications prepared for investment company shareholders or discretionary investment account clients that discuss individual debt securities in the context of a fund's or account's past performance or the basis for previously made discretionary investment decisions; or
- internal communications that are not given to current or prospective customers.

The proposed rule change would define the term ''debt security'' as any ''security'' as defined in Section 3(a)(10) of the Exchange Act, except for any ''equity security'' as defined in Section 3(a)(11) of the Exchange Act, any ''municipal security'' as defined in Section 3(a)(29) of the Exchange Act, any ''security-based swap'' as defined in Section 3(a)(68) of the Exchange Act, and any ''U.S. Treasury Security'' as defined in paragraph (p) of FINRA Rule 6710.[16]

The proposed rule change would define the term ''debt trader'' as a person, with respect to transactions in debt securities, who is engaged in proprietary trading or the execution of transactions on an agency basis.[17]

The proposed rule change would provide that the term ''independent third-party debt research report'' means a third-party debt research report, in respect of which the person producing the report: (1) Has no affiliation or business or contractual relationship with the distributing member or that member's affiliates that is reasonably likely to inform the content of its research reports; and (2) makes content determinations without any input from the distributing member or that member's affiliates.[18]

The proposed rule change would define the term ''investment banking department'' as any department or division, whether or not identified as such, that performs any investment banking service on behalf of a member.[19] The term ''investment banking services'' would include, without limitation, acting as an underwriter, participating in a selling group in an offering for the issuer or otherwise acting in furtherance of a public offering of the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital or equity lines of credit or serving as placement agent for the issuer or

[12] *See* proposed FINRA Rule 2242(a)(1).

[13] *See* proposed FINRA Rule 2242(a)(2). The exclusion for a registered investment company over which a research analyst has discretion or control in the proposed definition mirrors proposed changes to the definition of ''research analyst account'' in the equity research rules.

[14] *See* proposed FINRA Rule 2242(a)(3). The proposed rule change does not incorporate a proposed exclusion from the equity research rule's definition of ''research report'' of communications concerning open-end registered investment companies that are not listed or traded on an exchange (''mutual funds'') because it is not necessary since mutual fund securities are equity securities under Section 3(a)(11) of the Exchange Act and therefore would not be captured by the proposed definition of ''debt research report'' in the proposed rule change.

[15] In aligning the proposed definition with the Regulation AC definition of research report, the proposed definition differs in minor respects from the definition of ''research report'' in NASD Rule 2711. For example, the proposed definition of ''debt research report'' would apply to a communication that includes an analysis of a debt security or an issuer of a debt security, while the definition of ''research report'' in NASD Rule 2711 applies to an analysis of equity securities of individual companies or industries.

[16] *See* proposed FINRA Rule 2242(a)(4).

[17] *See* proposed FINRA Rule 2242(a)(5).

[18] *See* proposed FINRA Rule 2242(a)(6).

[19] *See* proposed FINRA Rule 2242(a)(8).

otherwise acting in furtherance of a private offering of the issuer.[20]

The proposed rule change would define the term ''member of a debt research analyst's household'' as any individual whose principal residence is the same as the debt research analyst's principal residence.[21]

The proposed rule change would define ''public appearance'' as any participation in a conference call, seminar, forum (including an interactive electronic forum) or other public speaking activity before 15 or more persons or before one or more representatives of the media, a radio, television or print media interview, or the writing of a print media article, in which a debt research analyst makes a recommendation or offers an opinion concerning a debt security or an issuer of a debt security.[22]

Under the proposed rule change the term ''qualified institutional buyer'' has the same meaning as under Rule 144A of the Securities Act.[23]

The proposed rule change would define ''research department'' as any department or division, whether or not identified as such, that is principally responsible for preparing the substance of a debt research report on behalf of a member.[24] The proposed rule change would define the term ''subject company'' as the issuer whose debt securities are the subject of a debt research report or a public appearance.[25] Finally, the proposed rule change would define the term ''third-party debt research report'' as a debt research report that is produced by a person or entity other than the member.[26]

Identifying and Managing Conflicts of Interest

Similar to the proposed equity research rule, the proposed rule change contains an overarching provision that would require members to establish, maintain and enforce written policies and procedures reasonably designed to identify and effectively manage conflicts of interest related to the preparation, content and distribution of debt research reports, public appearances by debt research analysts, and the interaction between debt research analysts and persons outside of the research department, including investment banking, sales and trading and principal trading personnel, subject companies and customers.[27]

The proposed rule change introduces a distinction between sales and trading personnel and persons engaged in principal trading activities, where the conflicts addressed by the proposal are of most concern.

The written policies and procedures must be reasonably designed to promote objective and reliable debt research that reflects the truly held opinions of debt research analysts and to prevent the use of debt research reports or debt research analysts to manipulate or condition the market or favor the interests of the firm or current or prospective customers or class of customers.[28]

Prepublication Review

FINRA is proposing that the required policies and procedures must prohibit prepublication review, clearance or approval of debt research by persons involved in investment banking, sales and trading or principal trading, and either restrict or prohibit such review, clearance and approval by other non-research personnel other than legal and compliance.[29] The policies and procedures also must prohibit prepublication review of a debt research report by a subject company, other than for verification of facts.[30] The proposed rule change allows sections of a draft debt research report to be provided to non-investment banking personnel, non-principal trading personnel, non-sales and trading personnel or to the subject company for factual review, so long as: (a) The sections of the draft debt research report submitted do not contain the research summary, recommendation or rating; (b) a complete draft of the debt research report is provided to legal or compliance personnel before sections of the report are submitted to non-investment banking personnel, non-principal trading personnel, non-sales and trading personnel or the subject company; and (c) if, after submitting sections of the draft debt research report to non-investment banking personnel, non-principal trading personnel, non-sales and trading personnel or the subject company, the research department intends to change the proposed rating or recommendation, it must first provide written justification to, and receive written authorization from, legal or compliance personnel for the change. The member must retain copies of any draft and the final version of such debt research report for three years after publication.[31]

Coverage Decisions

With respect to coverage decisions, a member's written policies and procedures must restrict or limit input by investment banking, sales and trading and principal trading personnel to ensure that research management independently makes all final decisions regarding the research coverage plan.[32] However, the provision does not preclude personnel from these or any other department from conveying customer interests and coverage needs, so long as final decisions regarding the coverage plan are made by research management.

Solicitation and Marketing of Investment Banking Transactions

A member's written policies and procedures also must restrict or limit activities by debt research analysts that can reasonably be expected to compromise their objectivity.[33] This includes prohibiting participation in pitches and other solicitations of investment banking services transactions and road shows and other marketing on behalf of issuers related to such transactions. The proposed rule change adopts Supplementary Material that incorporates an existing FINRA interpretation for the equity research rules that prohibits in pitch materials any information about a member's debt research capacity in a manner that suggests, directly or indirectly, that the member might provide favorable debt research coverage.[34] By way of example, the Supplementary Material explains that FINRA would consider the publication in a pitch book or related materials of an analyst's industry ranking to imply the potential outcome of future research because of the manner in which such rankings are compiled. The Supplementary Material further notes that a member would be permitted to include in the pitch materials the fact of coverage and the name of the debt research analyst, since that information alone does not imply favorable coverage.

The proposed rule change also would prohibit investment banking personnel from directing debt research analysts to engage in sales or marketing efforts related to an investment banking

[20] *See* proposed FINRA Rule 2242(a)(9).

[21] *See* proposed FINRA Rule 2242(a)(10).

[22] *See* proposed FINRA Rule 2242(a)(11).

[23] *See* proposed FINRA Rule 2242(a)(12).

[24] *See* proposed FINRA Rule 2242(a)(14).

[25] *See* proposed FINRA Rule 2242(a)(15).

[26] *See* proposed FINRA Rule 2242(a)(16).

[27] *See* proposed FINRA Rule 2242(b)(1).

[28] *See* proposed FINRA Rule 2242(b)(2).

[29] *See* proposed FINRA Rule 2242(b)(2)(A) and (B).

[30] *See* proposed FINRA Rule 2242(b)(2)(N).

[31] *See* proposed FINRA Rule 2242.05 (Submission of Sections of a Draft Research Report for Factual Review).

[32] *See* proposed FINRA Rule 2242(b)(2)(C).

[33] *See* proposed FINRA Rule 2242(b)(2)(L).

[34] *See* proposed FINRA Rule 2242.01 (Efforts to Solicit Investment Banking Business).

services transaction or any communication with a current or prospective customer about an investment banking services transaction.[35] In addition, the proposed rule change adopts Supplementary Material to provide that, consistent with this requirement, no debt research analyst may engage in any communication with a current or prospective customer in the presence of investment banking department personnel or company management about an investment banking services transaction.[36]

Supervision

A member's written policies and procedures must limit the supervision of debt research analysts to persons not engaged in investment banking, sales and trading or principal trading activities.[37] In addition, they further must establish information barriers or other institutional safeguards reasonably designed to ensure that debt research analysts are insulated from the review, pressure or oversight by persons engaged in investment banking services, principal trading or sales and trading activities or others who might be biased in their judgment or supervision.[38]

Budget and Compensation

A member's written policies and procedures also must limit the determination of a firm's debt research department budget to senior management, excluding senior management engaged in investment banking or principal trading activities, and without regard to specific revenues or results derived from investment banking.[39] However, the proposed rule change would expressly permit all persons to provide input to senior management regarding the demand for and quality of debt research, including product trends and customer interests. It further would allow consideration by senior management of a firm's overall revenues and results in determining the debt research budget and allocation of expenses.

With respect to compensation determinations, a member's written policies and procedures must prohibit compensation based on specific investment banking services or trading transactions or contributions to a firm's investment banking or principal trading activities and prohibit investment banking and principal trading personnel from input into the compensation of debt research analysts.[40] Further, the firm's written policies and procedures must require that the compensation of a debt research analyst who is primarily responsible for the substance of a research report be reviewed and approved at least annually by a committee that reports to a member's board of directors or, if the member has no board of directors, a senior executive officer of the member.[41] This committee may not have representation from investment banking personnel or persons engaged in principal trading activities and must consider the following factors when reviewing a debt research analyst's compensation, if applicable: the debt research analyst's individual performance, including the analyst's productivity and the quality of the debt research analyst's research; and the overall ratings received from customers and peers (independent of the member's investment banking department and persons engaged in principal trading activities) and other independent ratings services.

Neither investment banking personnel nor persons engaged in principal trading activities may give input with respect to the compensation determination for debt research analysts. However, sales and trading personnel may give input to debt research management as part of the evaluation process in order to convey customer feedback, provided that final compensation determinations are made by research management, subject to review and approval by the compensation committee.[42] The committee, which may not have representation from investment banking or persons engaged in principal trading activities, must document the basis for each debt research analyst's compensation, including any input from sales and trading personnel.

Personal Trading Restrictions

Under the proposed rule change, a member's written policies and procedures must restrict or limit trading by a ''debt research analyst account'' in securities, derivatives and funds whose performance is materially dependent upon the performance of securities covered by the debt research analyst.[43] The procedures must ensure that those accounts, supervisors of debt research analysts and associated persons with the ability to influence the content of debt research reports do not benefit in their trading from knowledge of the content or timing of debt research reports before the intended recipients of such research have had a reasonable opportunity to act on the information in the report.[44] Furthermore, the procedures must generally prohibit a debt research analyst account from purchasing or selling any security or any option or derivative of such security in a manner inconsistent with the debt research analyst's most recently published recommendation, except that they may define circumstances of financial hardship (*e.g.,* unanticipated significant change in the personal financial circumstances of the beneficial owner of the research analyst account) in which the firm will permit trading contrary to that recommendation. In determining whether a particular trade is contrary to an existing recommendation, firms may take into account the context of a given trade, including the extent of coverage of the subject security. While the proposed rule change does not include a recordkeeping requirement, FINRA expects members to evidence compliance with their policies and procedures and retain any related documentation in accordance with FINRA Rule 4511.

The proposed rule change includes Supplementary Material .10, which provides that FINRA would not consider a research analyst account to have traded in a manner inconsistent with a research analyst's recommendation where a member has instituted a policy that prohibits any research analyst from holding securities, or options on or derivatives of such securities, of the companies in the research analyst's coverage universe, provided that the member establishes a reasonable plan to liquidate such holdings consistent with the principles in paragraph (b)(2)(J)(i) and such plan is approved by the member's legal or compliance department.[45]

Retaliation and Promises of Favorable Research

A member's written policies and procedures must prohibit direct or indirect retaliation or threat of retaliation against debt research analysts by any employee of the firm for publishing research or making a public appearance that may adversely affect the member's current or prospective business interests.[46] The policies and procedures also must prohibit explicit

[35] *See* proposed FINRA Rule 2242(b)(2)(M).

[36] *See* proposed FINRA Rule 2242.02(a) (Restrictions on Communications with Customers and Internal Personnel).

[37] *See* proposed FINRA Rule 2242(b)(2)(D).

[38] *See* proposed FINRA Rule 2242(b)(2)(H).

[39] *See* proposed FINRA Rule 2242(b)(2)(E).

[40] *See* proposed FINRA Rule 2242(b)(2)(D) and (F).

[41] *See* proposed FINRA Rule 2242(b)(2)(G).

[42] *See* proposed FINRA Rule 2242(b)(2)(D) and (G).

[43] *See* proposed FINRA Rule 2242(b)(2)(J).

[44] *See* proposed FINRA Rule 2242.07 (Ability to Influence the Content of a Research Report).

[45] *See* proposed FINRA Rule 2242.10.

[46] *See* proposed FINRA Rule 2242(b)(2)(I).

or implicit promises of favorable debt research, specific research content or a specific rating or recommendation as inducement for the receipt of business or compensation.[47]

Joint Due Diligence With Investment Banking Personnel

The proposed rule change establishes a proscription with respect to joint due diligence activities—*i.e.*, due diligence by the debt research analyst in the presence of investment banking department personnel—during a specified time period. Specifically, the proposed rule change states that FINRA interprets the overarching principle requiring members to, among other things, establish, maintain and enforce written policies and procedures that address the interaction between debt research analysts and those outside the research department, including investment banking department personnel, sales and trading personnel, principal trading personnel, subject companies and customers,[48] to prohibit the performance of joint due diligence prior to the selection of underwriters for the investment banking services transaction.[49]

Communications Between Debt Research Analysts and Trading Personnel

The proposed rule change delineates the prohibited and permissible interactions between debt research analysts and sales and trading and principal trading personnel. The proposed rule change would require members to establish, maintain and enforce written policies and procedures reasonably designed to prohibit sales and trading and principal trading personnel from attempting to influence a debt research analyst's opinions or views for the purpose of benefiting the trading position of the firm, a customer or a class of customers.[50] It would further prohibit debt research analysts from identifying or recommending specific potential trading transactions to sales and trading or principal trading personnel that are inconsistent with such debt research analyst's currently published debt research reports or from disclosing the timing of, or material investment conclusions in, a pending debt research report.[51]

The proposed rule change would permit sales and trading and principal trading personnel to communicate customers' interests to a debt research analyst, so long as the debt research analyst does not respond by publishing debt research for the purpose of benefiting the trading position of the firm, a customer or a class of customers.[52] In addition, debt research analysts may provide customized analysis, recommendations or trade ideas to sales and trading and principal trading personnel and customers, provided that any such communications are not inconsistent with the analyst's currently published or pending debt research, and that any subsequently published debt research is not for the purpose of benefiting the trading position of the firm, a customer or a class of customers.[53]

The proposed rule change also would permit sales and trading and principal trading personnel to seek the views of debt research analysts regarding the creditworthiness of the issuer of a debt security and other information regarding an issuer of a debt security that is reasonably related to the price or performance of the debt security, so long as, with respect to any covered issuer, such information is consistent with the debt research analyst's published debt research report and consistent in nature with the types of communications that a debt research analyst might have with customers. In determining what is consistent with the debt research analyst's published debt research, a member may consider the context, including that the investment objectives or time horizons being discussed differ from those underlying the debt research analyst's published views.[54] Finally, debt research analysts may seek information from sales and trading and principal trading personnel regarding a particular debt instrument, current prices, spreads, liquidity and similar market information relevant to the debt research analyst's valuation of a particular debt security.[55]

The proposed rule change clarifies that communications between debt research analysts and sales and trading or principal trading personnel that are not related to sales and trading, principal trading or debt research activities may take place without restriction, unless otherwise prohibited.[56]

Restrictions on Communications With Customers and Internal Sales Personnel

The proposed rule change would apply standards to communications with customers and internal sales personnel. Any written or oral communication by a debt research analyst with a current or prospective customer or internal personnel related to an investment banking services transaction must be fair, balanced and not misleading, taking into consideration the overall context in which the communication is made.[57]

Consistent with the prohibition on investment banking department personnel directly or indirectly directing a debt research analyst to engage in sales or marketing efforts related to an investment banking services transaction or directing a debt research analyst to engage in any communication with a current or prospective customer about an investment banking services transaction, no debt research analyst may engage in any communication with a current or prospective customer in the presence of investment banking department personnel or company management about an investment banking services transaction.

Content and Disclosure in Debt Research Reports

The proposed rule change would, in general, adopt the disclosures in the equity research rule for debt research, with modifications to reflect the different characteristics of the debt market. The proposed rule change would require members to establish, maintain and enforce written policies and procedures reasonably designed to ensure that purported facts in their debt research reports are based on reliable information.[58] In addition, the policies and procedures must be reasonably designed to ensure that any recommendation or rating has a reasonable basis and is accompanied by a clear explanation of any valuation

[47] *See* proposed FINRA Rule 2242(b)(2)(K).

[48] *See* proposed FINRA Rule 2242(b)(1)(C).

[49] *See* proposed FINRA Rule 2242.09 (Joint Due Diligence).

[50] *See* proposed FINRA Rule 2242.03(a)(1) (Information Barriers between Research Analysts and Trading Desk Personnel).

[51] *See* proposed FINRA Rule 2242.03(a)(2) (Information Barriers between Research Analysts and Trading Desk Personnel).

[52] *See* proposed FINRA Rule 2242.03(b)(1) (Information Barriers between Research Analysts and Trading Desk Personnel).

[53] *See* proposed FINRA Rule 2242.03(b)(2) (Information Barriers between Research Analysts and Trading Desk Personnel).

[54] *See* proposed FINRA Rule 2242.03(b)(3) (Information Barriers between Research Analysts and Trading Desk Personnel).

[55] *See* proposed FINRA Rule 2242.03(b)(4) (Information Barriers between Research Analysts and Trading Desk Personnel).

[56] *See* proposed FINRA Rule 2242.03(c) (Information Barriers between Research Analysts and Trading Desk Personnel).

[57] *See* proposed FINRA Rule 2242.02(b) (Restrictions on Communications with Customers and Internal Personnel).

[58] *See* proposed FINRA Rule 2242(c)(1)(A).

method used and a fair presentation of the risks that may impede achievement of the recommendation or rating.[59] While there is no obligation to employ a rating system under the proposed rule, members that choose to employ a rating system must clearly define in each debt research report the meaning of each rating in the system, including the time horizon and any benchmarks on which a rating is based. In addition, the definition of each rating must be consistent with its plain meaning.[60]

Consistent with the equity rules, irrespective of the rating system a member employs, a member must include in each debt research report limited to the analysis of an issuer of a debt security that includes a rating of the subject company the percentage of all subject companies rated by the member to which the member would assign a ''buy,'' ''hold'' or ''sell'' rating.[61] In addition, a member must disclose in each debt research report the percentage of subject companies within each of the ''buy,'' ''hold'' and ''sell'' categories for which the member has provided investment banking services within the previous 12 months.[62] All such information must be current as of the end of the most recent calendar quarter or the second most recent calendar quarter if the publication date of the debt research report is less than 15 calendar days after the most recent calendar quarter.[63]

If a debt research report limited to the analysis of an issuer of a debt security contains a rating for the subject company and the member has assigned a rating to such subject company for at least one year, the debt research report must show each date on which a member has assigned a rating to the debt security and the rating assigned on such date. This information would be required for the period that the member has assigned any rating to the debt security or for a three-year period, whichever is shorter.[64] Unlike the equity research rules, the proposed rule change does not require those ratings to be plotted on a price chart because of limits on price transparency, including daily closing price information, with respect to many debt securities.

The proposed rule change would require [65] a member to disclose in any debt research report at the time of publication or distribution of the report:

- If the debt research analyst or a member of the debt research analyst's household has a financial interest in the debt or equity securities of the subject company (including, without limitation, any option, right, warrant, future, long or short position), and the nature of such interest;
- if the debt research analyst has received compensation based upon (among other factors) the member's investment banking, sales and trading or principal trading revenues;
- if the member or any of its affiliates: managed or co-managed a public offering of securities for the subject company in the past 12 months; received compensation for investment banking services from the subject company in the past 12 months; or expects to receive or intends to seek compensation for investment banking services from the subject company in the next three months;
- if, as of the end of the month immediately preceding the date of publication or distribution of a debt research report (or the end of the second most recent month if the publication date is less than 30 calendar days after the end of the most recent month), the member or its affiliates have received from the subject company any compensation for products or services other than investment banking services in the previous 12 months; [66]
- if the subject company is, or over the 12-month period preceding the date of publication or distribution of the debt research report has been, a client of the member, and if so, the types of services provided to the issuer. Such services, if applicable, shall be identified as either investment banking services, non-investment banking securities-related services or non-securities services;
- if the member trades or may trade as principal in the debt securities (or in related derivatives) that are the subject of the debt research report;
- if the debt research analyst received any compensation from the subject company in the previous 12 months; and
- any other material conflict of interest of the debt research analyst or member that the debt research analyst or an associated person of the member with the ability to influence the content of a debt research report knows or has reason to know at the time of the publication or distribution of a debt research report.

The proposed rule change would incorporate a proposed amendment to the corresponding provision in the equity research rules that expands the existing ''catch all'' disclosure to require disclosure of material conflicts known not only by the research analyst, but also by any ''associated person of the member with the ability to influence the content of a research report.'' The proposed rule change defines a person with the ''ability to influence the content of a research report'' as an associated person who is required to review the content of the debt research report or has exercised authority to review or change the debt research report prior to publication or distribution. This term does not include legal or compliance personnel who may review a debt research report for compliance purposes but are not authorized to dictate a particular recommendation or rating.[67] The ''reason to know'' standard in the provision would not impose a duty of inquiry on the debt research analyst or others who can influence the content of a debt research report. Rather, it would cover disclosure of those conflicts that should reasonably be discovered by those persons in the ordinary course of discharging their functions.

The proposed rule change requires disclosure of firm ownership of debt securities in research reports or a public appearance to the extent those holdings constitute a material conflict of interest.[68]

The proposed rule change adopts an exception for disclosure that would reveal material non-public information regarding specific potential future investment banking transactions.[69] Similar to the equity research rules, the proposed rule change would require that disclosures be presented on the front page of debt research reports or the front page must refer to the page on which the disclosures are found. Electronic debt research reports, however, may provide a hyperlink directly to the required disclosures. All disclosures and references to disclosures required by the proposed rule must be clear, comprehensive and prominent.[70]

Like the equity research rule, the proposed rule change would permit a member that distributes a debt research report covering six or more companies (compendium report) to direct the reader in a clear manner to the

[59] *See* proposed FINRA Rule 2242(c)(1)(B).
[60] *See* proposed FINRA Rule 2242(c)(2).
[61] *See* proposed FINRA Rule 2242(c)(2)(A).
[62] *See* proposed FINRA Rule 2242(c)(2)(B).
[63] *See* proposed FINRA Rule 2242(c)(2)(C).
[64] *See* proposed FINRA Rule 2242(c)(3).
[65] *See* proposed FINRA Rule 2242(c)(4).
[66] *See also* discussion of proposed FINRA Rule 2242.04 (Disclosure of Compensation Received by Affiliates) below.
[67] *See* proposed FINRA Rule 2242.07.
[68] *See* proposed FINRA Rules 2242(c)(4)(H) and (d)(1)(E).
[69] *See* proposed FINRA Rule 2242(c)(5).
[70] *See* proposed FINRA Rule 2242(c)(6).

applicable disclosures. Electronic compendium reports must include a hyperlink to the required disclosures. Paper-based compendium reports must provide either a toll-free number or a postal address to request the required disclosures and also may include a web address of the member where the disclosures can be found.[71]

Disclosure of Compensation Received by Affiliates

The proposed rule change would provide that a member may satisfy the disclosure requirement with respect to receipt of non-investment banking services compensation by an affiliate by implementing written policies and procedures reasonably designed to prevent the debt research analyst and associated persons of the member with the ability to influence the content of debt research reports from directly or indirectly receiving information from the affiliate as to whether the affiliate received such compensation.[72] In addition, a member may satisfy the disclosure requirement with respect to the receipt of investment banking compensation from a foreign sovereign by a non-U.S. affiliate of the member by implementing written policies and procedures reasonably designed to prevent the debt research analyst and associated persons of the member with the ability to influence the content of debt research reports from directly or indirectly receiving information from the non-U.S. affiliate as to whether such non-U.S. affiliate received or expects to receive such compensation from the foreign sovereign. However, a member must disclose receipt of compensation by its affiliates from the subject company (including any foreign sovereign) in the past 12 months when the debt research analyst or an associated person with the ability to influence the content of a debt research report has actual knowledge that an affiliate received such compensation during that time period.

Disclosure in Public Appearances

The proposed rule change closely parallels the equity research rules with respect to disclosure in public appearances. Under the proposed rule, a debt research analyst must disclose in public appearances:[73]

- If the debt research analyst or a member of the debt research analyst's household has a financial interest in the debt or equity securities of the subject company (including, without limitation, whether it consists of any option, right, warrant, future, long or short position), and the nature of such interest;
- if, to the extent the debt research analyst knows or has reason to know, the member or any affiliate received any compensation from the subject company in the previous 12 months;
- if the debt research analyst received any compensation from the subject company in the previous 12 months;
- if, to the extent the debt research analyst knows or has reason to know, the subject company currently is, or during the 12-month period preceding the date of publication or distribution of the debt research report, was, a client of the member. In such cases, the debt research analyst also must disclose the types of services provided to the subject company, if known by the debt research analyst; or
- any other material conflict of interest of the debt research analyst or member that the debt research analyst knows or has reason to know at the time of the public appearance.

However, a member or debt research analyst will not be required to make any such disclosure to the extent it would reveal material non-public information regarding specific potential future investment banking transactions.[74] Unlike in debt research reports, the ''catch-all'' disclosure requirement in public appearances applies only to a conflict of interest of the debt research analyst or member that the analyst knows or has reason to know at the time of the public appearance. FINRA understands that supervisors or legal and compliance personnel, who otherwise might be captured by the definition of an associated person ''with the ability to influence,'' typically do not have the opportunity to review and insist on changes to public appearances, many of which are extemporaneous in nature.

The proposed rule change would require members to maintain records of public appearances by debt research analysts sufficient to demonstrate compliance by those debt research analysts with the applicable disclosure requirements for public appearances. Such records must be maintained for at least three years from the date of the public appearance.[75]

Disclosure Required by Other Provisions

With respect to both research reports and public appearances, the proposed rule change would require that, in addition to the disclosures required under the proposed rule, members and debt research analysts must comply with all applicable disclosure provisions of FINRA Rule 2210 (Communications with the Public) and the federal securities laws.[76]

Distribution of Member Research Reports

The proposed rule change requires firms to establish, maintain and enforce written policies and procedures reasonably designed to ensure that a debt research report is not distributed selectively to internal trading personnel or a particular customer or class of customers in advance of other customers that the member has previously determined are entitled to receive the debt research report.[77] The proposed rule change includes further guidance to explain that firms may provide different debt research products and services to different classes of customers, provided the products are not differentiated based on the timing of receipt of potentially market moving information and the firm discloses its research dissemination practices to all customers that receive a research product.[78]

In addition, a member that provides different debt research products and services for certain customers must inform its other customers that its alternative debt research products and services may reach different conclusions or recommendations that could impact the price of the debt security.[79]

Distribution of Third-party Debt Research Reports

FINRA is proposing to apply the supervisory review and disclosure obligations applicable to the distribution of third-party equity research similarly to third-party retail debt research. Moreover, the proposed rule change would incorporate the current standards for third-party equity research, including the distinction between independent and non-independent third-party research with respect to the review and disclosure requirements. In addition, the proposed rule change adopts an expanded requirement in the proposed equity research rules that requires members to disclose any other material conflict of interest that can reasonably be expected to have influenced the member's choice of a third-party research provider or the

[71] *See* proposed FINRA Rule 2242(c)(7).

[72] *See* proposed FINRA Rule 2242.04 (Disclosure of Compensation Received by Affiliates).

[73] *See* proposed FINRA Rule 2242(d)(1).

[74] *See* proposed FINRA Rule 2242(d)(2).

[75] *See* proposed FINRA Rule 2242(d)(3).

[76] *See* proposed FINRA Rule 2242(e).

[77] *See* proposed FINRA Rule 2242(f).

[78] *See* proposed FINRA Rule 2242.06 (Distribution of Member Research Products).

[79] *See* proposed FINRA Rule 2242.06 (Distribution of Member Research Products).

subject company of a third-party research report.

The proposed rule change would prohibit a member from distributing third-party debt research if it knows or has reason to know that such research is not objective or reliable.[80] A member would satisfy the standard based on its actual knowledge and reasonable diligence; however, there would be no duty of inquiry to definitively establish that the third-party research is, in fact, objective and reliable.

In addition, the proposed rule change would require a member to establish, maintain and enforce written policies and procedures reasonably designed to ensure that any third-party debt research report it distributes contains no untrue statement of material fact and is otherwise not false or misleading.[81] For the purpose of this requirement, a member's obligation to review a third-party debt research report extends to any untrue statement of material fact or any false or misleading information that should be known from reading the debt research report or is known based on information otherwise possessed by the member.

The proposed rule change would require that a member accompany any third-party debt research report it distributes with, or provide a Web address that directs a recipient to, disclosure of any material conflict of interest that can reasonably be expected to have influenced the choice of a third-party debt research report provider or the subject company of a third-party debt research report, including:

- If the member or any of its affiliates managed or co-managed a public offering of securities for the subject company in the past 12 months; received compensation for investment banking services from the subject company in the past 12 months; or expects to receive or intends to seek compensation for investment banking services from the subject company in the next three months;
- if the member trades or may trade as principal in the debt securities (or in related derivatives) that are the subject of the debt research report; and
- any other material conflict of interest of the debt research analyst or member that the debt research analyst or an associated person of the member with the ability to influence the content of a debt research report knows or has reason to know at the time of the publication or distribution of a debt research report.[82]

The proposed rule change would not require members to review a third-party debt research report prior to distribution if such debt research report is an independent third-party debt research report.[83] For the purposes of the disclosure requirements for third-party research reports, a member shall not be considered to have distributed a third-party debt research report where the research is an independent third-party debt research report and made available by a member upon request, through a member-maintained Web site, or to a customer in connection with a solicited order in which the registered representative has informed the customer, during the solicitation, of the availability of independent debt research on the solicited debt security and the customer requests such independent debt research.[84]

The proposed rule would require that members ensure that third-party debt research reports are clearly labeled as such and that there is no confusion on the part of the recipient as to the person or entity that prepared the debt research reports.[85]

Obligations of Persons Associated With a Member

The proposed rule change clarifies the obligations of each associated person under those provisions of the proposed rule that require a member to restrict or prohibit certain conduct by establishing, maintaining and enforcing particular policies and procedures. Specifically, the proposed rule change provides that, consistent with FINRA Rule 0140, persons associated with a member must comply with such member's written policies and procedures as established pursuant to the proposed rule. In addition, consistent with Rule 0140, the proposed rule states in Supplementary Material .08 that it shall be a violation of proposed Rule 2242 for an associated person to engage in the restricted or prohibited conduct to be addressed through the establishment, maintenance and enforcement of written policies and procedures required by provisions of FINRA Rule 2242, including applicable Supplementary Material.

Exemption for Members With Limited Investment Banking Activity

Similar to the equity research rule, the proposed rule change exempts from certain provisions regarding supervision and compensation of debt research analysts those members that over the previous three years, on average per year, have participated in 10 or fewer investment banking services transactions as manager or co-manager and generated $5 million or less in gross investment banking revenues from those transactions.[86] Specifically, members that meet those thresholds would be exempt from the requirement to establish, maintain and enforce policies and procedures that: prohibit prepublication review of debt research reports by investment banking personnel or other persons not directly responsible for the preparation, content or distribution of debt research reports (but not principal trading or sales and trading personnel, unless the member also qualifies for the limited principal trading activity exemption); restrict or limit investment banking personnel from input into coverage decisions; limit supervision of debt research analysts to persons not engaged in investment banking; limit determination of the research department budget to senior management, excluding senior management engaged in investment banking activities; require that compensation of a debt research analyst be approved by a compensation committee that may not have representation from investment banking personnel; and establish information barriers to insulate debt research analysts from the review or oversight by persons engaged in investment banking services or other persons who might be biased in their judgment or supervision.[87] However, the proposed rule would require that members with limited investment banking activity establish information barriers or other institutional safeguards reasonably designed to ensure debt research analysts are insulated from *pressure* by persons engaged in investment banking services activities or other persons, including persons engaged in principal trading or principal sales and trading activities, who might be biased in their judgment or supervision.[88]

While small investment banks may need those who supervise debt research analysts under such circumstances also to be involved in the determination of those analysts' compensation, the proposal still prohibits these firms from

[80] *See* proposed FINRA Rule 2242(g)(1).

[81] *See* proposed FINRA Rule 2242(g)(2).

[82] *See* proposed FINRA Rule 2242(g)(3).

[83] *See* proposed FINRA Rule 2242(g)(4).

[84] *See* proposed FINRA Rule 2242(g)(5).

[85] *See* proposed FINRA Rule 2242(g)(6). This requirement codifies guidance in *Notice to Members* 04–18 (March 2004) related to equity research reports.

[86] *See* proposed FINRA Rule 2242(h).

[87] *See* proposed FINRA Rule 2242(b)(2)(A)(i), (b)(2)(B), (b)(2)(C) (with respect to investment banking), (b)(2)(D)(i), (b)(2)(E) (with respect to investment banking), (b)(2)(G) and (b)(2)(H)(i) and (iii).

[88] For the purposes of proposed FINRA Rule 2242(h), the term ''investment banking services transactions'' includes the underwriting of both corporate debt and equity securities but not municipal securities.

compensating a debt research analyst based upon specific investment banking services transactions or contributions to a member's investment banking services activities. Members that qualify for this exemption must maintain records sufficient to establish eligibility for the exemption and also maintain for at least three years any communication that, but for this exemption, would be subject to all of the requirements of proposed FINRA Rule 2242(b).

Exemption for Limited Principal Trading Activity

The proposed rule change includes an exemption from certain provisions regarding supervision and compensation of debt research analysts for members that engage in limited principal trading activity where: (1) In absolute value on an annual basis, the member's trading gains or losses on principal trades in debt securities are $15 million or less over the previous three years, on average per year; and (2) the member employs fewer than 10 debt traders; provided, however, such members must establish information barriers or other institutional safeguards reasonably designed to ensure debt research analysts are insulated from pressure by persons engaged in principal trading or sales and trading activities or other persons who might be biased in their judgment or supervision.[89] Specifically, members that meet those thresholds would be exempt from the requirement to establish, maintain and enforce policies and procedures that: prohibit prepublication review of debt research reports by principal trading or sales and trading personnel or other persons not directly responsible for the preparation, content or distribution of debt research reports (but not investment banking personnel, unless the firm also qualifies for the limited investment banking activity exemption); restrict or limit principal trading or sales and trading personnel from input into coverage decisions; limit supervision of debt research analysts to persons not engaged in sales and trading or principal trading activities, including input into the compensation of debt research analysts; limit determination of the research department budget to senior management, excluding senior management engaged in principal trading activities; require that compensation of a debt research analyst be approved by a compensation committee that may not have representation from principal trading personnel; and establish information barriers to insulate debt research analysts from the review or oversight by persons engaged in principal trading or sales and trading activities or other persons who might be biased in their judgment or supervision.[90]

As with the limited investment banking activity exemption, members still would be required to establish information barriers or other institutional safeguards reasonably designed to ensure debt research analysts are insulated from *pressure* by persons engaged in principal trading or sales and trading activities or other persons who might be biased in their judgment or supervision. Members that qualify for this exemption must maintain records sufficient to establish eligibility for the exemption and also maintain for at least three years any communication that, but for this exemption, would be subject to all of the requirements of proposed FINRA Rule 2242(b).

Exemption for Debt Research Reports Provided to Institutional Investors

Given the debt market and the needs of its participants, the proposed rule change would exempt debt research distributed solely to eligible institutional investors (''institutional debt research'') from most of the provisions regarding supervision, coverage determinations, budget and compensation determinations and all of the disclosure requirements applicable to debt research reports distributed to retail investors (''retail debt research'').[91] Under the proposed rule change, the term ''retail investor'' means any person other than an institutional investor.[92]

The proposed rule distinguishes between larger and smaller institutions in the manner in which their opt-in decision is obtained. The larger may receive institutional debt research based on negative consent, while the smaller must affirmatively consent in writing to receive that research.

Specifically, the proposed rule would allow firms to distribute institutional debt research by negative consent to a person who meets the definition of a qualified institutional buyer (''QIB'') [93] and where, pursuant to FINRA Rule 2111(b): (1) The member or associated person has a reasonable basis to believe that the QIB is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a debt security or debt securities; and (2) the QIB has affirmatively indicated that it is exercising independent judgment in evaluating the member's recommendations pursuant to FINRA Rule 2111 and such affirmation is broad enough to encompass transactions in debt securities. The proposed rule change would require written disclosure to the QIB that the member may provide debt research reports that are intended for institutional investors and are not subject to all of the independence and disclosure standards applicable to debt research reports prepared for retail investors. If the QIB does not contact the member and request to receive only retail debt research reports, the member may reasonably conclude that the QIB has consented to receiving institutional debt research reports.[94] FINRA interprets this standard to allow an order placer, *e.g.,* a registered investment adviser, for a QIB that satisfies the FINRA Rule 2111 institutional suitability requirements with respect to debt transactions to agree to receive institutional debt research on behalf of the QIB by negative consent.

Institutional accounts that meet the definition of FINRA Rule 4512(c) but do not satisfy the higher tier requirements described above may still affirmatively elect in writing to receive institutional debt research. Specifically, a person that meets the definition of ''institutional account'' in FINRA Rule 4512(c) may receive institutional debt research provided that such person, prior to receipt of a debt research report, has affirmatively notified the member in writing that it wishes to receive institutional debt research and forego treatment as a retail investor for the purposes of the proposed rule. Retail investors may not choose to receive institutional debt research.[95]

To avoid a disruption in the receipt of institutional debt research, the proposed rule change would allow firms to send institutional debt research to any FINRA Rule 4512(c) account, except a natural person, without affirmative or negative consent for a period of up to one year after SEC approval while they obtain the necessary consents. Natural persons that qualify as an institutional account under FINRA Rule 4512(c) must provide

[89] *See* proposed FINRA Rule 2242(i).

[90] *See* proposed FINRA Rule 2242(b)(2)(A)(ii) and (iii), (b)(2)(B), (b)(2)(C) (with respect to sales and trading and principal trading), (b)(2)(D)(ii) and (iii), (b)(2)(E) (with respect to principal trading), (b)(2)(G) and (b)(2)(H)(ii) and (iii).

[91] *See* proposed FINRA Rule 2242(j)(1).

[92] *See* proposed FINRA Rule 2242(a)(13).

[93] *See* proposed FINRA Rule 2242(a)(12) under which a QIB has the same meaning as under Rule 144A of the Securities Act.

[94] *See* proposed FINRA Rule 2242(j)(1)(A)(i) and (ii).

[95] *See* proposed FINRA Rule 2242(j)(1)(B).

affirmative consent to receive institutional debt research during this transition period and thereafter.[96]

The proposed exemption relieves members that distribute institutional debt research to institutional investors from the requirements to have written policies and procedures for this research with respect to: (1) Restricting or prohibiting prepublication review of institutional debt research by principal trading and sales and trading personnel or others outside the research department, other than investment banking personnel; (2) input by investment banking, principal trading and sales and trading into coverage decisions; (3) limiting supervision of debt research analysts to persons not engaged in investment banking, principal trading or sales and trading activities; (4) limiting determination of the debt research department's budget to senior management not engaged in investment banking or principal trading activities and without regard to specific revenues derived from investment banking; (5) determination of debt research analyst compensation; (6) restricting or limiting debt research analyst account trading; and (7) information barriers or other institutional safeguards reasonably designed to ensure debt research analysts are insulated from review or oversight by investment banking, sales and trading or principal trading personnel, among others (but members still must have written policies and procedures to guard again those persons pressuring analysts). The exemption further would apply to all disclosure requirements, including content and disclosure requirements for third-party research.

Notwithstanding the proposed exemption, some provisions of the proposed rule still would apply to institutional debt research, including the prohibition on prepublication review of debt research reports by investment banking personnel and the restrictions on such review by subject companies. While prepublication review by principal trading and sales and trading personnel would not be prohibited pursuant to the exemption, other provisions of the rule continue to require management of those conflicts, including the requirement to establish information barriers reasonably designed to insulate debt research analysts from pressure by those persons. Furthermore, the requirements in Supplementary Material .05 related to submission of sections of a draft debt research report for factual review would apply to any permitted prepublication review by persons not directly responsible for the preparation, content or distribution of debt research reports. In addition, members must prohibit debt research analysts from participating in the solicitation of investment banking services transactions, road shows and other marketing on behalf of issuers and further prohibit investment banking personnel from directly or indirectly directing a debt research analyst to engage in sales and marketing efforts related to an investment banking deal or to communicate with a current or prospective customer with respect to such transactions. The provisions regarding retaliation against debt research analysts and promises of favorable debt research also still apply with respect to research distributed to eligible institutional investors.[97]

While the proposed rule change does not require institutional debt research to carry the specific disclosures applicable to retail debt research, it does require that such research carry general disclosures prominently on the first page warning that: (1) The report is intended only for institutional investors and does not carry all of the independence and disclosure standards of retail debt research reports; (2) if applicable, that the views in the report may differ from the views offered in retail debt research reports; and (3) if applicable, that the report may not be independent of the firm's proprietary interests and that the firm trades the securities covered in the report for its own account and on a discretionary basis on behalf of certain customers, and such trading interests may be contrary to the recommendation in the report.[98] Thus, the second and third disclosures described above would be required only if the member produces both retail and institutional debt research reports that sometimes differ in their views or if the member maintains a proprietary trading desk or trades on a discretionary basis on behalf of some customers and those interests sometimes are contrary to recommendations in institutional debt research reports.

The proposed rule change would require members to establish, maintain and enforce written policies and procedures reasonably designed to ensure that institutional debt research is made available only to eligible institutional investors.[99] A member may not rely on the proposed exemption with respect to a debt research report that the member has reason to believe will be redistributed to a retail investor. The proposed rule change also states that the proposed exemption does not relieve a member of its obligations to comply with the antifraud provisions of the federal securities laws and FINRA rules.[100]

General Exemptive Authority

The proposed rule change would provide FINRA, pursuant to the FINRA Rule 9600 Series, with authority to conditionally or unconditionally grant, in exceptional and unusual circumstances, an exemption from any requirement of the proposed rule for good cause shown, after taking into account all relevant factors and provided that such exemption is consistent with the purposes of the rule, the protection of investors, and the public interest.[101]

Response to Comments

General Support

All of the commenters to the proposal expressed general support for the proposal.[102]

Definitions and Terms

One commenter requested that the proposal define the term ''sales and trading personnel'' as ''persons who are primarily responsible for performing sales and trading activities, or exercising direct supervisory authority over such persons.'' [103] The commenter's proposed definition is intended to clarify that the proposed restrictions on sales and trading personnel activities should not extend to: (1) Senior management who do not directly supervise those activities but have a reporting line from such personnel; or (2) persons who occasionally function in a sales and trading capacity. FINRA intends for the sales and trading personnel conflict management provisions to apply to individuals who perform sales and trading functions, irrespective of their job title or the frequency of engaging in the activities. As such, FINRA does not intend for the rule to capture as sales and trading personnel senior management, such as the chief executive officer, who do not engage in or supervise day-to-day sales and trading activities. However, FINRA believes the applicable provisions should apply to individuals who may occasionally perform or directly

[96] *See* proposed FINRA Rule 2242.11 (Distribution of Institutional Debt Research During Transition Period).

[97] *See* proposed FINRA Rule 2242(j)(2).

[98] *See* proposed FINRA Rule 2242(j)(3).

[99] *See* proposed FINRA Rule 2242(j)(4).

[100] *See* proposed FINRA Rule 2242(j)(5).

[101] *See* proposed FINRA Rule 2242(k).

[102] SIFMA, WilmerHale Debt, PIABA Debt, NASAA Debt and CFA Institute.

[103] WilmerHale Debt.

supervise sales and trading activities; otherwise, investors could be put at risk with respect to the research or transactions involved when those individuals are functioning in those capacities because the conflict management procedures and proscriptions and required disclosures would not apply. Therefore, FINRA has proposed to amend the rule to define sales and trading personnel to include ''persons in any department or division, whether or not identified as such, who perform any sales or trading service on behalf of a member.'' FINRA notes that this proposed definition is more consistent with the definition of ''investment banking department'' in the proposed rule change.

One commenter asked FINRA to include an exclusion from the definition of ''debt research report'' for private placement memoranda and similar offering-related documents prepared in connection with investment banking services transactions.[104] The commenter noted that such offering-related documents typically are prepared by investment banking personnel or non-research personnel on behalf of investment banking personnel. The commenter asserted that absent an express exception, the proposals could turn investment banking personnel into research analysts and make the rule unworkable. The commenter noted that NASD Rule 2711(a) excludes communications that constitute statutory prospectuses that are filed as part of a registration statement and contended that the basis for that exception should apply equally to private placement memoranda and similar offering-related documents.

As noted with respect to the definition of ''research report'' in the equity research filing, a ''debt research report'' is generally understood not to include such offering-related documents prepared in connection with investment banking services transactions. In the course of administering the filing review programs under FINRA Rules 2210 (Communications with the Public), 5110 (Corporate Financing Rule), 5122 (Member Private Offerings) and 5123 (Private Placements of Securities), FINRA has not received any inquiries or addressed any issues that indicate there is confusion regarding the scope of the research analyst rules as applied to offering-related documents prepared in connection with investment banking activities. Nonetheless, to provide firms with greater clarity as to the status of such offering-related documents under the proposals, FINRA proposes to amend the proposed rule to exclude private placement memoranda and similar offering-related documents prepared in connection with investment banking services transactions other than those that purport to be research from the definition of ''debt research report.''

One commenter asked FINRA to refrain from using the concept of ''reliable'' research in the proposal as it may inappropriately connote accuracy in the context of a research analyst's opinions.[105] FINRA believes that the term ''reliable'' is commonly understood and notes that the term is used in certain research-related provisions in the Sarbanes-Oxley Act of 2002 (''Sarbanes-Oxley'') without definition. FINRA does not believe the term connotes accuracy of opinions.

One commenter asked FINRA to eliminate as redundant the term ''independently'' from the provisions permitting non-research personnel to have input into research coverage, so long as research management ''independently makes all final decisions regarding the research coverage plan.''[106] The commenter asserted that inclusion of ''independently'' is confusing since the proposal would permit input from non-research personnel into coverage decisions. FINRA has included ''independently'' to make clear that research management alone is vested with making final coverage decisions. Thus, for example, a firm could not have a committee that includes a majority of research management personnel but also other individuals make final coverage decisions by a vote. As such, FINRA declines to eliminate the term as suggested.

One commenter requested that the proposal define the terms ''principal trading activities,'' ''principal trading personnel,'' and ''persons engaged in principal trading activities'' to exclude traders who are primarily involved in customer accommodation or customer facilitation trading, such as market makers that trade on a principal basis.[107] The commenter stated that the exclusion is necessary to allow those traders to provide feedback from clients for the purposes of evaluating debt research analysts for compensation determination. More directly to that point, the same commenter and an additional commenter asserted that the proposal should not prohibit those engaged in principal trading activities from providing customer feedback as part of the evaluation and compensation process for a debt research analyst.[108] They contended that the fixed income markets operate primarily on a principal basis and prohibiting such input would have a broad impact on research management's ability to appropriately evaluate and compensate debt research analysts.

The proposal would allow sales and trading personnel, but not personnel engaged in principal trading activities, to provide input to debt research management into the evaluation of debt research analysts. As discussed in detail in Item 5 of the Proposing Release in response to the same comment raised to earlier iterations of the debt proposal, given the importance of principal trading operations to the revenues of many firms, FINRA believes there is increased risk that a principal trader could improperly pressure or influence debt research if he or she has a say into analyst compensation or can selectively relay customer feedback. FINRA believes the risk to retail investors—the compensation evaluation restrictions would not apply to institutional debt research—outweighs the benefit of an additional data point for research management to assess the quality of research produced by those that they oversee. FINRA also notes that the proposal would allow sales and trading personnel to provide customer feedback. Accordingly, FINRA declines to define the terms as the commenter suggested.

Another commenter asked for clarification of the term ''principal trading'' because it believes the term ''sales and trading'' already encompasses all agency, principal and proprietary trading activities.[109] The debt proposal imposes greater restrictions on interaction between debt research analysts and principal trading personnel than between debt research analysts and sales and trading personnel because the magnitude of the conflict is greater with respect to the former. This structure evolved based on extensive consultation and feedback from the industry. Based on those communications, FINRA understands and intends for the term ''sales and trading'' to exclude principal and proprietary trading activities. FINRA will consider providing guidance where it is unclear whether a particular job function or activity falls within ''sales and trading'' or ''principal trading'' activities.

One commenter suggested that FINRA revise the definition of ''subject company'' to specify that the term means the ''*issuer* (rather than the

[104] WilmerHale Debt.

[105] SIFMA.

[106] WilmerHale Debt.

[107] WilmerHale Debt.

[108] SIFMA and WilmerHale Debt.

[109] SIFMA.

''company'') whose debt securities are the subject of a debt research report or a public appearance.'' [110] The commenter noted that, among other things, the proposal would cover debt issued by persons other than corporate entities, such as foreign sovereigns or special purpose vehicles. FINRA agrees that the change is appropriate and therefore proposes to amend the definition accordingly.

Policies and Procedures

The rule proposal as originally proposed would have adopted a policies and procedures approach to identification and management of research-related conflicts of interest and require those policies and procedures to, at a minimum, prohibit or restrict particular conduct. Commenters expressed several concerns with the approach.

Two commenters asserted that the mix of a principles-based approach with prescriptive requirements was confusing in places and posed operational challenges. In particular, the commenters recommended eliminating the minimum standards for the policies and procedures.[111] One of those commenters had previously expressed support for the proposed policies-based approach with minimum requirements,[112] but asserted that the proposed rule text requiring procedures to ''at a minimum, be reasonably designed to prohibit'' specified conduct is either superfluous or confusing. Another commenter favored retaining the proscriptive approach in the current equity rules and also requiring that firms maintain policies and procedures designed to ensure compliance.[113] Another commenter supported the types of communications between debt research analysts and other persons that may be permitted by a firm's policies and procedures.[114] One commenter questioned the necessity of the ''preamble'' requiring policies and procedures that ''restrict or limit activities by research analysts that can reasonably be expected to compromise their objectivity'' that precedes specific prohibited activities related to investment banking transactions.[115] Finally, some commenters suggested FINRA eliminate language in the supplementary material that provides that the failure of an associated person to comply with the firm's policies and procedures constitutes a violation of the proposed rule itself.[116] These commenters argued that because members may establish policies and procedures that go beyond the requirements set forth in the rule, the provision may have the unintended consequence of discouraging firms from creating standards in their policies and procedures that extend beyond the rule. One of those commenters suggested that the remaining language in the supplementary material adequately holds individuals responsible for engaging in restricted or prohibited conduct covered by the proposals.[117]

As discussed in more detail in the proposed rule change, FINRA believes the framework will maintain the same level of investor protection in the current equity rules (which also would largely apply to retail debt research) while providing both some flexibility for firms to align their compliance systems with their business model and philosophy and imposing additional obligations to proactively identify and manage emerging conflicts. Even under a policies and procedures approach, the proposal would effectively maintain, with some modifications, the key proscriptions in the current rules—*e.g.,* prohibitions on prepublication review, supervision of research analysts by investment banking and participation in pitches and road shows. FINRA disagrees that the ''preamble'' to some of those prohibitions is unnecessary. As with the more general overarching principles-based requirement to identify and manage conflicts of interest, the introductory principle that requires written policies and procedures to restrict or limit activities by research analysts that can reasonably be expected to compromise their objectivity recognizes that FINRA cannot identify every conflict related to research at every firm and therefore requires proactive monitoring and management of those conflicts. FINRA does not believe this ''preamble'' language is redundant with the broader overarching principle because it applies more specifically to the activities of research analysts and, unlike the broader principle, would preclude the use of disclosure as a means of conflict management for those activities.

In light of the overarching principle that requires firms to establish, maintain and enforce written policies and procedures reasonably designed to identify and effectively manage research-related conflicts, the ''at a minimum'' language was meant to convey that additional conflicts management policies and procedures may be needed to address emerging conflicts that may arise as the result of business changes, such as new research products, affiliations or distribution methods at a particular firm. As discussed in the Proposing Release, FINRA intends for firms to proactively identify and manage those conflicts with appropriately designed policies and procedures. FINRA's inclusion of the ''at a minimum'' language was not intended to suggest that firms' written policies and procedures must go beyond the specified prohibitions and restrictions in the proposal where no new conflicts have been identified. However, FINRA believes the overarching requirement for policies and procedures reasonably designed to identify and effectively manage research-related conflicts suffices to achieve the intended regulatory objective, and therefore to eliminate any confusion, FINRA proposes to amend the proposals to delete the ''at a minimum'' language.

FINRA appreciates the commenters' concerns with respect to language in the supplementary material that would make a violation of a firm's policies a violation of the underlying rule. The supplementary material was intended to hold individuals responsible for engaging in the conduct that the policies and procedures effectively restrict or prohibit. FINRA agrees that purpose is achieved with the language in the supplementary material that states that, consistent with FINRA Rule 0140, ''it shall be a violation of [the Rule] for an associated person to engage in the restricted or prohibited conduct to be addressed through the establishment, maintenance and enforcement of policies and procedures required by [the Rule] or related Supplementary Material.'' Therefore, FINRA proposes to amend the proposals to delete the language stating that a violation of a firm's policies and procedures shall constitute a violation of the rule itself.

Information Barriers

The proposed rule would require written policies and procedures to ''establish information barriers or other institutional safeguards reasonably designed to ensure that research analysts are insulated from review, pressure or oversight by persons engaged in investment banking services activities or other persons, including sales and trading department personnel, who might be biased in their judgment

[110] WilmerHale Debt.

[111] SIFMA and WilmerHale Debt.

[112] Letter from Amal Aly, Managing Director and Associate General Counsel, SIFMA, to Marcia E. Asquith, Corporate Secretary, FINRA, dated November 14, 2008 regarding *Regulatory Notice* 08–55 (Research Analysts and Research Reports).

[113] NASAA Debt.

[114] CFA Institute.

[115] WilmerHale Debt.

[116] SIFMA and WilmerHale Debt.

[117] WilmerHale Debt.

or supervision.'' Some commenters suggested that ''review'' was unnecessary in this provision because the review of debt research analysts was addressed sufficiently in other parts of the proposed rule.[118] One commenter further suggested that the terms ''review'' and ''oversight'' are redundant.[119] FINRA does not agree that the terms ''review'' and ''oversight'' are coextensive, as the former may connote informal evaluation, while the latter may signify more formal supervision or authority. And while other provisions of the proposed rule change may address related conduct—*e.g.,* the provision that prohibits investment banking personnel, principal trading personnel and sales and trading personnel from supervision or control of debt research analysts—this provision extends to ''other persons'' who may be biased in their judgment or supervision. Finally, FINRA included the ''review, pressure or oversight'' language to mirror the requirements for equity rules in Sarbanes-Oxley and therefore promote consistency. Accordingly, FINRA declines to revise the proposed rule change.

One commenter asked FINRA to clarify that the information barriers or other institutional safeguards required by the proposed rule are not intended to prohibit or limit activities that would otherwise be permitted under other provisions of the rule.[120] That was clearly FINRA's intent, and FINRA believes that the rules of statutory construction would compel that result.

The commenter also asserted that the terms ''bias'' and ''pressure'' are broad and ambiguous on their face and requested that FINRA clarify that for purposes of the information barriers requirement that they are intended to address persons who may try to improperly influence research.[121] As an example, the commenter asked whether a bias would be present if an analyst was pressured to change the format of a research report to comply with the research department's standard procedures or the firm's technology specifications. FINRA believes the terms ''pressure'' and ''bias'' are commonly understood, particularly in the context of rules intended to promote analyst independence and objectivity. To that end, FINRA notes that the terms appear in certain research-related provisions of Sarbanes-Oxley without definition. Thus, with respect to the commenter's example, FINRA does not believe a bias would be present simply because someone insists that a research analyst comply with formatting or technology specifications that do not otherwise implicate the rules.

One commenter asked FINRA to modify the information barriers or other institutional safeguards requirement to conform the provision to FINRA's ''reasonably designed'' standard for related policies and procedures.[122] FINRA believes the change would be consistent with the standard for policies and procedures elsewhere in the proposal, and therefore proposes to amend the provision as requested.

One commenter opposed as overbroad the proposed expansion of the current ''catch-all'' disclosure requirement to include ''any other material conflict of interest of the research analyst or member that a research analyst *or an associated person of the member with the ability to influence* the content of a research report knows or has reason to know'' at the time of publication or distribution of research report.[123] (emphasis added) The commenter expressed concern about the emphasized language.

FINRA proposed the change to capture material conflicts of interest known by persons other than the research analyst (*e.g.,* a supervisor or the head of research) who are in a position to improperly influence a debt research report. FINRA defined ''ability to influence the content of a debt research report'' in supplementary material as ''an associated person who, in the ordinary course of that person's duties, has the authority to review the research report and change that research report prior to publication or distribution.'' The commenter stated that the proposed change could capture individuals (especially legal and compliance personnel) who might be required to disclose confidential information that is not covered by the exception in the proposals that would not require disclosure where it would ''reveal material non-public information regarding specific potential future investment banking transactions of the subject company.'' This is because, according to the commenter, legal and compliance may be aware of material conflicts of interest relating to the subject company that involve material non-public information regarding specific future investment banking transactions of a *competitor* of the subject company. The commenter also expressed concern the provision would slow down dissemination of research to canvass all research supervisors and management for conflicts. The commenter suggested that the change was unnecessary given other objectivity safeguards in the proposals that would guard against improper influence.

FINRA continues to believe that the catch-all provision must include persons with the ability to influence the content of a debt research report to avoid creating a gap where a supervisor or other person with the authority to change the content of a research report knows of a material conflict. However, FINRA intended for the provision to capture only those individuals who are required to review the content of a particular research report or have exercised their authority to review or change the research report prior to publication or distribution. In addition, FINRA did not intend to capture legal or compliance personnel who may review a research report for compliance purposes but are not authorized to dictate a particular recommendation or rating. FINRA proposes to amend the supplementary material in the proposals consistent with this clarification. In addition, FINRA proposes to modify the exception in proposed Rules 2242(c)(5) and (d)(2) (applying to public appearances) not to require disclosure that would otherwise reveal material non-public information regarding specific potential future investment banking transactions, whether or not the transaction involves the subject company.

One commenter requested confirmation that members may rely on hyperlinked disclosures for research reports that are delivered electronically, even if these reports are subsequently printed out by customers.[124] As long as a research report delivered electronically contains a hyperlink directly to the required disclosures, the standard will be satisfied.

Research Products With Differing Recommendations

The proposed rule change would require firms to establish, maintain and enforce written policies and procedures reasonably designed to ensure that a research report is not distributed selectively to internal trading personnel or a particular customer or class of customers in advance of other customers that the firm has previously determined are entitled to receive the research report. The proposals also include supplementary material that explains that firms may provide different research products to different classes of customers—*e.g.,* long term

[118] SIFMA and WilmerHale Debt.

[119] WilmerHale Debt.

[120] WilmerHale Debt.

[121] WilmerHale Debt.

[122] WilmerHale Debt.

[123] WilmerHale Debt.

[124] WilmerHale Debt.

fundamental research to all customers and short-term trading research to certain institutional customers—provided the products are not differentiated based on the timing of receipt of potentially market moving information and the firm discloses, if applicable, that one product may contain a different recommendation or rating from another product.

One commenter supported the provisions as proposed with general disclosure,[125] while another contended that FINRA should require members to disclose when its research products and services do, in fact, contain a recommendation contrary to the research product or service received by other customers.[126] The commenter favoring general disclosure asserted that disclosure of specific instances of contrary recommendations would impose significant burdens unjustified by the investor protection benefits. The commenter stated that a specific disclosure requirement would require close tracking and analysis of every research product or service to determine if a contrary recommendation exists. The commenter further stated that the difficulty of complying with such a requirement would be exacerbated in large firms by the number of research reports published and research analysts employed and the differing audiences for research products and services.[127] The commenter asserted that some firms may publish tens of thousands of research reports each year and employ hundreds of analysts across various disciplines and that a given research analyst or supervisor could not reasonably be expected to know of all other research products and services that may contain differing views.

Another commenter expressed concern that the proposal raises issues about the parity of information received by retail and institutional investors, and whether research provided to institutional investors could contain views that differ from those in research to retail investors.[128]

Importantly, the supplementary material states that products may lead to different recommendations or ratings, provided that each is consistent with the member's ratings system for each respective product. In other words, all differing recommendations or ratings must be reconcilable such that they are not truly at odds with one another. As such, the proposed rule change would not allow research provided to an institutional investor to contain views inconsistent with those offered in retail debt research.[129] An example in the equity rule filing is illustrative. A firm might define a ''buy'' rating in its long-term research product to mean that a stock will outperform the S&P 500 over the next 12 months, while a ''sell'' rating in its short-term trading product might mean the stock will underperform its sector index over the next month. The firm could maintain a ''buy'' in the long-term research and a ''sell'' in its trading research at the same time if the firm believed the stock would temporarily drop near term based on failing to meet expectations in an earnings report but still outperform the S&P over the next 12 months.

Since the proposed rule change would not allow inconsistent recommendations that could mislead one or more investors, FINRA believes general disclosure of alternative products with different objectives and recommendations is appropriate relative to its investor protection benefits.

Structural and Procedural Safeguards

One commenter asked that FINRA clarify that members that have developed policies and procedures consistent with FINRA Rule 5280 (Trading Ahead of Research Reports) would also be in compliance with the debt proposal's expectation of structural separation between investment banking and debt research, and between sales and trading and principal trading and debt research.[130] FINRA indicated in the proposed rule change that while the proposed rule would not require physical separation, FINRA would expect such physical separation except in extraordinary circumstances where the costs are unreasonable due to a firm's size and resource limitations. Among other things, Rule 5280 requires members to establish, maintain and enforce policies and procedures reasonably designed to restrict or limit the information flow between research department personnel, or other persons with knowledge of the content or timing of a research report, and trading department personnel, so as to prevent trading department personnel from utilizing non-public advance knowledge of the issuance or content of a research report for the benefit of the member or any other person. The rule does not specify physical separation between all of the persons involved. While similar in design and purpose to some aspects of the proposed requirements in the debt proposal, Rule 5280 is not congruent with the proposal to the point where compliance with the policies and procedures provision of that rule would be deemed compliance with the debt proposal separation requirements. Both Rule 5280 and the debt proposal require policies and procedures reasonably designed to limit information flow. FINRA believes that physical separation is an effective component to a reasonably designed compliance system that requires information barriers.

The same commenter asked that FINRA modify the prohibition on debt analyst attendance at road shows to permit passive participation since there is less opportunity to meet and assess issuer management than in the equity context.[131] FINRA discussed this same comment in detail in Item 5 of the Proposing Release. In short, FINRA believes that even passive participation by debt research analysts in road shows and other marketing may present conflicts of interest and, therefore, declines to revise the proposal as suggested.

Communications Between Research Analysts and Trading Desk Personnel

The commenter also asked FINRA to delete the term ''attempting'' in the proposed Supplementary Material .03(a)(1), which would require members to have policies and procedures reasonably designed to prohibit sales and trading and principal trading personnel from ''attempting to influence a debt research analyst's opinion or views for the purpose of benefitting the trading position of the firm, a customer, or a class of customers.'' [132] The commenter stated that it is unclear how a firm should enforce a prohibition on attempts to influence. FINRA notes that Supplementary Material .03(b)(2) sets forth permissible communications between debt research analysts and sales and trading and principal trading personnel, including, for example, allowing a debt research analyst to provide ''customized analysis, recommendations or trade ideas'' to customers or traders upon request, provided that the communications are ''not inconsistent with the analyst's current or pending debt research, and that any subsequently published debt research is not for the purpose of

[125] WilmerHale Debt.

[126] PIABA Debt.

[127] WilmerHale Debt.

[128] CFA Institute.

[129] The proposed rule change would not require that all investors receive all research products, nor would it preclude a firm from offering, for example, a research product to select customers that includes greater depth of analysis. However, it would not be consistent with the proposed rule change to provide inconsistent views to different classes of customers or to advantage one class of customers based on the timing of receipt of a recommendation, rating or potentially market moving information.

[130] WilmerHale Debt.

[131] WilmerHale Debt.

[132] WilmerHale Debt.

benefitting the trading position of the firm, a customer or a class of customers.'' In the context of such a request, it is not hard to envision the possibility that a trader, for example, might attempt to influence the analyst's view by emphasizing that a particular recommendation would be beneficial to the firm. FINRA believes there are a variety of policies and procedures that could address such attempts, including periodic monitoring of such communications. As such, FINRA declines to delete ''attempting'' from the provision.

The commenter further expressed concern that the term ''pending'' is vague in the above-cited provision.[133] The commenter suggested that FINRA delete the term or confirm that ''pending'' means ''imminent publication of a debt research report.'' FINRA believes it is important that any customized analysis, recommendations or trade ideas be consistent not only with published research, but also any research being drafted in anticipation of publication or distribution that may contain changed or additional view or opinions. FINRA considers such research in draft to be pending and therefore declines to delete the term or adopt an ''imminent'' standard.

Supplementary Material .03(b)(3) provides that in determining what is consistent with a debt research analyst's published debt research for purposes of sharing certain views with sales and trading and principal trading personnel, members may consider the context, including that the investment objectives or time horizons being discussed may differ from those underlying the debt analyst's published views. One commenter asked FINRA to clarify that the standard may be applied wherever consistency with a debt research analyst's views may be assessed under the proposed debt rule, such as with respect to debt research analyst account trading or providing customized analysis, recommendations, or trade ideas to sales and trading, principal trading, and customers.[134] FINRA agrees that context may be considered whenever consistency of research or views is at issue.

Disclosure Requirements

One commenter expressed concern about the requirements that a member disclose in retail debt research reports its distribution of all debt security ratings (and the percentage of subject companies in each buy/hold/sell category for which the member has provided investment banking services within the previous 12 months) and historical ratings information on the debt securities that are the subject of the debt research report for a period of three years or the time during which the member has assigned a rating, whichever is shorter.[135] The commenter asked FINRA to eliminate these provisions because they are impractical and provide minimal benefit to investors in the context of debt research, even though they may be very useful in the equity context.[136] The commenter stated that the large number of bond issues followed by analysts make the provisions especially burdensome and do not allow for helpful comparisons for investors across debt securities or issuers. With respect to the ratings distribution requirements, the commenter asserted that in some cases, a debt analyst may assign a rating to the issuer that applies to all of that issuer's bonds, thereby skewing the distribution because those issuers will be overrepresented in the distribution. The commenter also stated that the tracking requirements for these provisions would be particularly burdensome, given the numerous bonds issued by the same subject company and the fact that bonds are constantly being replaced with newer ones. Finally, the commenter stated that the three-year look back period is too long and suggested instead a one-year period if FINRA retains the historical rating table requirement.

Similar to the current equity rules, FINRA believes that to the extent that a firm produces retail debt research that assigns a rating to an issuer—*i.e.,* a credit analysis—these disclosure provisions would provide value to retail investors to quickly gauge any apparent bias toward more or less favorable ratings or investment banking clients and to assess the accuracy of past ratings. Moreover, FINRA understands that the burden to comply with the requirements with respect to this limited subset of debt research would be manageable for firms. Therefore, FINRA is proposing to amend Rules 2242(c)(2) and (3) to apply the ratings distribution requirement and historical rating table requirement only to each debt research report limited to the analysis of an issuer of a debt security that includes a rating of the subject company. Since the proposal would be limited to these issuer credit analyses and would not apply to individual bonds, FINRA believes many of the commenter's burden concerns would be alleviated and that it would be reasonable and appropriate to maintain the proposed three-year look back period with respect to the historical rating provision.

While FINRA also believes that the disclosures would be valuable to retail investors with respect to debt research on individual debt securities, FINRA recognizes the additional complexity and cost associated with compliance, particularly where a retail debt research report may include multiple ratings of individual debt securities, some of which may be positive and others negative or neutral. FINRA believes it would be beneficial to obtain additional information about the array of debt research products that are now being distributed to retail investors, as well as the operational challenges and costs to apply these disclosure provisions to debt research on individual debt securities. Accordingly, FINRA is proposing to eliminate for now the requirements with respect to debt research reports on individual debt securities. FINRA will reconsider the appropriateness of the disclosure requirements as applied to research on individual debt securities after obtaining and assessing the additional information.

The same commenter also requested that FINRA allow members to provide a hyperlink or web address to web-based disclosures in all debt research reports, rather than requiring the disclosures within a printed report.[137] The commenter noted that while the SEC has interpreted Sarbanes-Oxley to require disclosure in each equity report, the law does not apply to debt research. FINRA believes that disclosures in retail debt research reports should be proximate to the content of those reports and easily available to recipients of the research without requiring any substantive additional steps. Therefore, to the extent a debt research report is not delivered electronically with hyperlinked disclosures, FINRA believes the disclosures must be in the research report itself. FINRA also believes this will promote consistency between equity and retail debt research. Finally, FINRA notes that institutional debt research would not require the specific disclosures.

Institutional Debt Research Exemption

The proposed rule change would exempt debt research provided solely to certain eligible institutional investors from many of the proposed rule's provisions, provided that a member obtains consent from the institutional investor to receive that research and the research reports contain specified

[133] WilmerHale Debt.

[134] WilmerHale Debt.

[135] WilmerHale Debt.

[136] WilmerHale Debt.

[137] WilmerHale Debt.

disclosure to alert recipients that the reports do not carry the same protections as retail debt research. The proposal distinguishes between larger and smaller institutions in the manner in which the consent must be obtained. Firms may use negative consent where the customer meets the definition of QIB and satisfies the institutional suitability standards of FINRA Rule 2111 with respect to debt transactions and strategies. Institutional accounts that meet the definition of FINRA Rule 4512(c), but do not satisfy the higher tier standard required for negative consent, may affirmatively elect in writing to receive institutional debt research.

One commenter opposed providing any exemption for debt research distributed solely to eligible institutional investors, contending that it would deprive the market's largest participants of the important protections of the proposed rules for retail debt research.[138] Another commenter reiterated concerns expressed in response to an earlier iteration of the debt research proposal that the proposed standard for negative consent would be difficult to implement and would disadvantage institutional investors who are capable of, and in fact, make independent investment decisions about debt transactions and strategies. The commenter suggested as an alternative that the institutional investor standard should be based on only on the institutional suitability standard in Rule 2111.[139]

Another commenter supported the proposed tiered approach for how institutional investors may receive research reports.[140] The commenter stated that a QIB presumably has the sophistication and human and financial resources to evaluate debt research without the disclosures and other protections that accompany reports provided to retail investors. The commenter also supported permitting an institutional investor that does not fall within the higher tier category to receive the debt research without the retail investor protections if it notifies the firm in writing of its election.

As discussed in detail in the Proposing Release, FINRA believes an institutional exemption is appropriate to allow more sophisticated institutional market participants that can assess risks associated with debt trading and are aware of conflicts that may exist between a member's recommendations and trading interests, to continue to receive the timely flow of analysis and trade ideas that they value. FINRA notes that institutional debt research still would remain subject to several provisions of the rules, including the required separation between debt research and investment banking and the requirements for conflict management policies and procedures to insulate debt analysts from pressure by traders and others. In addition, FINRA notes that no institutional investor will be exposed to this less-protected institutional research without either negative or affirmative consent, as applicable.

With respect to the standard for negative consent, FINRA addressed that issue in great detail in Item 5 of the Proposing Release. In short, FINRA does not believe that less sophisticated institutional investors should be required to take any additional steps to receive the full protections of the proposed rules. To the extent the QIB standard for negative consent is too difficult to implement, the proposal provides an alternative to obtain a one-time affirmative consent for any Rule 4512(c) institutional account and further provides a one-year grace period to obtain that consent, so as not to disrupt the current flow of debt research to institutional customers. As discussed in the rule filing, FINRA included the alternative methods of consent and the grace period to satisfy the differing industry views on which of two consent options would be most cost effective.

Another commenter asked that FINRA confirm that, in distributing debt research reports under the institutional debt research framework to certain non-U.S. institutional investors who are customers of a member's non-U.S. broker-dealer affiliate, the member may rely on similar classifications in the non-U.S. institutional investors' home jurisdictions.[141] The commenter contended that this is necessary because some global firm distribute their debt research reports to non-U.S. institutional investors who may not have been vetted as QIBs for a variety of reasons. The debt proposal never contemplated recognizing equivalent institutional standards in other jurisdictions, and FINRA does not believe that approach is appropriate or workable. FINRA questions whether there are standards in other jurisdictions that are truly the equivalent of the QIB standard, and it is impractical for FINRA to survey and assess the institutional standards around the world to determine equivalency, not to mention whether the home jurisdiction adequately examines for and enforces compliance with the standard. To the extent non-U.S. institutional investors have not been vetted as QIBs, firms have the option of either vetting them if they wish to send them institutional debt research by negative consent or obtaining affirmative written consent to the extent the institution satisfies the Rule 4212(c) standard.

The same commenter asked FINRA to clarify the application of the institutional debt research framework to desk analysts or other personnel who are part of the trading desk and are not ''research department'' personnel. In particular, the commenter suggested that proposed Rules 2242(b)(2)(H) (with respect to pressuring) and (b)(2)(L) should not apply when sales and trading personnel or principal trading personnel publish debt research reports in reliance on the institutional research exemption because the requirements of those provisions cannot be reconciled with the inherent nature of conflicts present.[142] Those provisions would require firms to have policies and procedures to: (i) Establish information barrier or other institutional safeguards reasonably designed to insulate debt research analysts from pressure by, among others, principal trading or sales and trading personnel; and (ii) restrict or limit activities by debt research analyst that can reasonably be expected to compromise their objectivity. FINRA disagrees with the commenter. FINRA believes that minimum objectivity standards should apply to institutional debt research regardless of whether the research is published by research department personnel, sales and trading personnel or principal trading personnel. FINRA believes that a firm can and should put in place policies and procedures reasonably designed to ensure that other traders or sales and trading personnel do not overtly pressure a trader who produces debt research to express a particular view and to prevent that trader from participating in solicitations of investment banking or road show participation.

Exemptions for Limited Investment Banking Activity and Limited Principal Trading Activity

The proposed rule change would exempt members with limited principal trading activity or limited investment banking activity from the review, supervision, budget, and compensation provisions in the proposed rule related to principal trading and investment banking personnel, respectively. The limited principal trading exemption

[138] PIABA Debt.

[139] SIFMA.

[140] CFA Institute.

[141] WilmerHale Debt.

[142] WilmerHale Debt.

would apply to firms that engage in principal trading activity where, in absolute value on an annual basis, the member's trading gains or losses on principal trades in debt securities are $15 million or less over the previous three years, on average per year, and the member employs fewer than 10 debt traders. The limited investment banking exemption would apply, as it does in the equity rules, to firms that have managed or co-managed 10 or fewer investment banking services transactions on average per year, over the previous three years and generated $5 million or less in gross investment banking revenues from those transactions.

One commenter questioned whether the exemptions could compromise the independence and accuracy of the analysis and opinions provided.[143] The commenter further expressed concern that the exemption might allow traders to act on debt research prior to publication and distribution of that research. The commenter noted FINRA's commitment to monitor firms that avail themselves of the exemptions to evaluate whether the thresholds for the exemptions are appropriate and asked FINRA to publish findings that could help properly weigh the burdens on small firms while ensuring the independence of investment research. The commenter also encouraged FINRA to provide additional guidance as to what specific measures should be taken to ensure that debt research analysts are insulated from pressure by persons engaged in principal trading or sales and trading activities or other persons who might be biased in their judgment or supervision.

As discussed in detail the Proposing Release, FINRA included the exemptions to balance the burdens of compliance with the level or risk to investors. FINRA determined the thresholds for each exemption based on data analysis and a survey of firms that engage in principal trading activity or investment banking activity, respectively. FINRA has not found abuses with respect to the limited investment banking exemption in the equity context and notes that some important separation requirements would still apply to the eligible firms, such as the prohibition on compensating a debt research analyst based on a specific investment banking transaction or contributions to a member's investment banking services activities.

Similarly, the proposed limited principal trading exemption would apply where, based on the survey and data analysis, FINRA reasonably believes the amount of potential principal trading profits poses appreciably lower risk of pressure on debt research analysts by sales and trading or principal trading personnel and where there would be a significant marginal cost to add a trader dedicated to producing research relative to the increase in investor protection. The proposal would still prohibit debt research analysts at exempt firms from being compensated based on specific trading transactions.

With respect to both exemptions, as the commenter noted, firms would still be required to establish information barriers or other institutional safeguards reasonably designed to ensure debt research analysts are insulated from pressure by persons engaged in investment banking or principal trading activities, among others. FINRA believes a number of policies could be implemented to achieve compliance with this requirement. For example, in the context of principal trading, these measures might include monitoring of communications between debt research analysts and individuals on the trading desk and reviewing published research in relation to transactions executed by the firm in the subject company's debt securities. FINRA also notes that neither exemption would allow trading ahead of research by firm traders, as FINRA Rule 5280 would continue to apply to both debt and equity research and prohibits such conduct. Finally, as noted, FINRA intends to monitor the research produced by firms that avail themselves of the exemptions to assess whether the thresholds to qualify for the exemptions are appropriate or should be modified.

Filing Requirement Exclusion

One commenter asked FINRA to consider amending FINRA Rule 2210 to exclude debt research reports from that rule's filing requirements, since there is an exception from the filing requirements for equity research reports that concern only equity securities that trade on an exchange.[144] FINRA is willing to separately consider the merits of the request, but does not believe the issue is appropriate for resolution in the context of the debt proposal since it primarily relates to the provisions of a rule that is not the subject of the proposed rule change.

Implementation Date

One commenter requested that the implementation date be at least 12 months after SEC approval of the proposed rule change and that FINRA sequence the compliance dates of the equity research filing and the proposed rule change in that order.[145] Another commenter requested that FINRA provide a ''grace period'' of one year or the maximum time permissible, if that is less than one year, between the adoption of the proposed rule and the implementation date.[146] FINRA is sensitive to the time firms will require to update their policies and procedures and systems to comply with the proposed rule change and will take those factors into consideration when establishing implementation dates.

FINRA believes that the foregoing fully responds to the issues raised by the commenters.

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be no later than 180 days following publication of the Regulatory Notice announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[147] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change would promote increased quality, objectivity and transparency of debt research distributed to investors by requiring firms to identify and mitigate conflicts in the preparation and distribution of such research. FINRA further believes the rule will provide investors with more reliable information on which to base investment decisions in debt securities, while maintaining timely flow of information important to institutional market participants and providing those institutional investors with appropriate safeguards.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA provided a comprehensive statement regarding the burden on competition in

[143] CFA Institute.

[144] WilmerHale Debt.

[145] SIFMA.

[146] WilmerHale Debt.

[147] 15 U.S.C. 78*o*–3(b)(6).

the Proposing Release. FINRA's response to comments and proposed revisions as set forth in this Amendment No. 1 does not change FINRA's statement in the Proposing Release.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were solicited by the Commission in response to the publication of SR–FINRA–2014–048.[148] The Commission received five comment letters, which are summarized above.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 180 days after the date of publication of the initial notice in the **Federal Register** (*i.e.,* November 24, 2014) or within such longer period up to an additional 60 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 issue an order approving or disapproving such proposed rule change, as amended.

V. 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: [149]

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–048. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2014–048 and should be submitted on or before April 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[150]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06094 Filed 3–17–15; 8:45 am]

BILLING CODE 8011–01–P

[148] *See* Proposing Release, *supra* note 3.

[149] *See supra* note 6.

[150] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2014–0053]

Social Security Ruling, SSR 15–1p; Titles II and XVI: Evaluating Cases Involving Interstitial Cystitis (IC)

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are providing notice of SSR 15–1p. This SSR provides guidance on how we develop evidence to establish that a person has a medically determinable impairment of interstitial cystitis (IC), and how we evaluate IC in disability claims and continuing disability reviews under titles II and XVI of the Social Security Act.

DATES: *Effective Date:* March 18, 2015.

FOR FURTHER INFORMATION CONTACT: Cheryl Williams, Office of Medical Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so in accordance with 20 CFR 402.35(b)(1).

Through SSRs, we convey to the public SSA precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and special veterans benefits programs. We may base SSRs on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will remain in effect until we publish a notice in the **Federal Register** that rescinds it, or we publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Programs Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006—Supplemental Security Income.)

Dated: March 3, 2015.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

Policy Interpretation Ruling

Titles II and XVI: Evaluating Cases Involving Interstitial Cystitis (IC)

This Social Security Ruling (SSR) rescinds and replaces SSR 02–2p: ''Titles II and XVI: Evaluation of Interstitial Cystitis.'' [1]

Purpose: This SSR clarifies our policy on how we develop evidence to establish that a person has a medically determinable impairment (MDI) of IC and how we evaluate this impairment in disability claims and continuing disability reviews under titles II and XVI of the Social Security Act (Act).[2]

[1] We will use this Social Security Ruling (SSR) beginning on its effective date. We will apply this SSR to new applications filed on or after the effective date of the SSR and to claims that are pending on and after the effective date. This means that we will use these rules on and after their effective date in any case in which we make a determination or decision. We expect that Federal courts will review our final decisions using the rules that were in effect at the time we issued the decisions. If a court reverses our final rules and remands a case for further administrative proceedings after the effective date of these final rules, we will apply these final rules to the entire period at issue in the decision we make after the court's remand.

[2] For simplicity, we refer in this SSR only to initial adult claims for disability benefits under titles II and XVI of the Act and to the steps of the

Continued

Citations: Sections 216(i), 223(d), 223(f), 1614(a)(3) and 1614(a)(4) of the Social Security Act, as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1505, 04.1508–404.1513, 404.1519a, 404.1520, 404.1520a, 404.1520b, 404.1521, 404.1523, 404.1526, 404.1527–404.1529, 404.1545, 404.1560–404.1569a, 404.1593, 404.1594, appendices 1 and 2; and Regulations No. 16, subpart I, sections 416.902, 416.905, 416.906, 416.908–416.913, 416.919a, 416.920, 416.920a, 416.920b, 416.921, 416.923, 416.924, 416.924a, 416.926, 416.926a, 416.925, 416.927–416.929, 416.945, 416.960–416–969a, 416.987, 416.993, 416.994, and 416.994a.

Introduction

IC is a complex genitourinary disorder involving recurring pain or discomfort in the bladder and pelvic region. The American Urological Association (AUA), National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), and other medical experts may use the terms ''interstitial cystitis/bladder pain syndrome (IC/BPS)'' and ''interstitial cystitis/painful bladder syndrome (IC/PBS)'' to describe this disorder because they consider the term ''interstitial cystitis'' to be synonymous with the terms ''bladder pain syndrome'' and ''painful bladder syndrome.'' When we refer to IC in this SSR, we include IC/BPS and IC/PBS.

The AUA has developed guidelines providing a clinical framework for diagnosing and treating IC/BPS.[3] These guidelines use a definition of IC accepted by the Society for Urodynamics and Female Urology: ''An unpleasant sensation (pain, pressure, discomfort) perceived to be related to the urinary bladder, associated with lower urinary tract symptoms of more than six weeks duration, in the absence of infection or other identifiable causes.'' [4] NIDDK's National Kidney and Urologic Diseases Information Clearinghouse explains that the term IC/PBS (and IC/BPS) includes all cases of urinary pain not attributed to other causes, such as infection or urinary stones.[5] NIDDK further explains that the term ''interstitial cystitis'' is used alone (without PBS or BPS) to describe cases of urinary pain that meet all of the IC criteria NIDDK established in 1987 for research purposes.[6] We took into consideration the AUA and NIDDK descriptions of IC when we formulated the criteria in this SSR. For example, we adapted the AUA and NIDDK descriptions to help develop criteria for establishing an MDI of IC.[7]

Except for statutory blindness, we find a person to be ''disabled'' if he or she is unable to do any substantial gainful activity by reason of a medically determinable physical or mental impairment(s) or combination of impairments that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.[8] We require an MDI to result from anatomical, physiological, or psychological abnormalities, as shown by medically acceptable clinical and laboratory diagnostic techniques.[9] The Act and our regulations further require that medical evidence establishing an MDI consist of signs, symptoms, and laboratory findings. Thus, we cannot determine that a person who has IC is disabled on the basis of his or her statement of symptoms alone.[10] In this SSR, we explain that IC, when accompanied by appropriate symptoms and medical signs or laboratory findings, is an MDI that can be the basis for a finding of ''disability.'' We also explain how we evaluate IC in disability claims.

Policy Interpretation

IC constitutes an MDI when producing appropriate symptoms and medical signs or laboratory findings, and may result in a disabling impairment. There are some signs and findings that could indicate IC, but there are no specific signs or findings that are universally accepted. However, for our program purposes, we are choosing to rely upon certain signs and findings to establish the existence of an MDI of IC. Once we establish that a person has an MDI of IC by taking into consideration these signs or findings, we use the sequential evaluation process to determine whether the person is disabled. This policy interpretation clarifies how our adjudicators should apply our regulations in establishing an MDI of IC and determining disability under titles II and XVI of the Act.

I. What is IC?

A. IC is a complex genitourinary disorder resulting in recurring pain or discomfort in the bladder and pelvic region. The AUA and other medical experts characterize IC, in part, as an unpleasant sensation (pain, pressure, discomfort) perceived to be related to the urinary bladder, associated with lower urinary tract symptoms of more than six weeks duration, in the absence of infection or other identifiable causes. IC is most common in women and sometimes occurs before age 18.[11] It is not unusual for people to have prodromal (early predictive) symptoms years or decades before they get IC. Prodromal symptoms may include periodic episodes of urinary frequency, bladder pain, or pelvic pain.

B. In accordance with the AUA guidelines, a physician should make a diagnosis of IC only after reviewing the person's medical history and conducting a physical examination. The physician should also conduct laboratory tests to rule out certain medical conditions that may result in the same or similar symptoms. For example, the AUA guidelines recommend a basic laboratory

sequential evaluation process we use to determine disability in those claims. 20 CFR 404.1520 and 416.920. The policy interpretations in this SSR apply to all cases in which we must make determinations about disability, including claims of children (that is, people who have not attained age 18) who apply for benefits based on disability under title XVI of the Act, disability redeterminations for children who became eligible for Supplemental Security Income under title XVI as a child and who were eligible for such benefits for the month before the month in which they attained age 18, and to continuing disability reviews of adults and children under titles II and XVI of the Act. 20 CFR 404.1594, 416.924, 416.987, 416.994, and 416.994a.

[3] Hanno, P.M., et al., Diagnosis and treatment of interstitial cystitis/bladder pain syndrome, American Urological Association, (2014) (available at: *http://www.auanet.org/common/pdf/education/clinical-guidance/IC-Bladder-Pain-Syndrome-Revised.pdf*).

[4] Hanno, P. and Dmochowski, R., Status of international consensus on interstitial cystitis/bladder pain syndrome/painful bladder syndrome: 2008 snapshot, Neurology and Urodynamics, Apr;28(4), 274–286 (2009).

[5] See NIDDK National Kidney and Urologic Diseases Information Clearinghouse, ''Interstitial Cystitis/Painful Bladder Syndrome'' (2013) available at: *http://kidney.niddk.nih.gov/KUDiseases/pubs/interstitialcystitis/index.aspx.*

[6] Gillenwater, J.Y., et al., Summary of the National Institute of Arthritis, Diabetes, Digestive and Kidney Diseases Workshop on Interstitial Cystitis, National Institutes of Health, Bethesda, Maryland, August 28–29, 1987, The Journal of Urology, Jul;140(1), 203–206 (1988).

[7] We adapted the AUA and NIDDK descriptions of IC, which are mainly symptom-based, because the Act and our regulations require a claimant to establish by objective medical evidence (that is, medical signs and laboratory findings) that he or she has a medically determinable impairment. See 223(d)(5)(A) and 1614(a)(3)(D) of the Act, 20 CFR 404.1508 and 416.908, and SSR 96–4p: Titles II and XVI: Symptoms, Medically Determinable Physical and Mental Impairments, and Exertional and Nonexertional Limitations, 61 FR 34388 (1996) (also available at: *http://www.ssa.gov/OP_Home/rulings/di/01/SSR96-04-di-01.html).*

[8] See 20 CFR 404.1505 and 416.905.

[9] See sections 223(d)(3) and 1614(a)(3)(D) of the Act, and 20 CFR 404.1508 and 416.908.

[10] See sections 223(d)(5)(A) and 1614(a)(3)(D) of the Act; 20 CFR 404.1508 and 416.908; and SSR 96–4p.

[11] See NIDDK National Kidney and Urologic Diseases Information Clearinghouse (available at: *http://kidney.niddk.nih.gov/KUDiseases/pubs/interstitialcystitis/index.aspx*).

examination that includes urinalysis and urine culture. NIDDK notes that diagnostic tests physicians may also use to rule out other conditions include cystoscopy, biopsy of the bladder wall and urethra, distention of the bladder under anesthesia, and, in men, culture of prostate secretions.[12]

C. IC may co-occur with fibromyalgia, chronic fatigue syndrome, irritable bowel syndrome, inflammatory bowel disease, vulvodynia, chronic headaches, Sjögren's syndrome, endometriosis, or systemic lupus erythematosus.

D. Treatments for IC are mostly directed at symptom control. They include, but are not limited to: Changes in diet; physical therapy and pelvic floor strengthening exercises; stress management; bladder distention; bladder instillation; oral drugs, such as prescription drugs indicated for IC (for example, Elmiron and dimethyl sulfoxide), antidepressants, antihistamines, antacids, anticoagulants, and narcotic analgesics; transcutaneous electrical nerve stimulation; and surgery, such as substitution cystoplasty or urinary diversion with or without cystectomy. Treatment is not effective for everyone because response varies among patients.

II. How does a person establish an MDI of IC?

A. General

1. A person can establish that he or she has an MDI of IC by providing appropriate evidence from an acceptable medical source.[13] A licensed physician (a medical or osteopathic doctor) is the only acceptable medical source who can provide evidence establishing an MDI of IC. This acceptable medical source often is the person's treating source(s) who makes the diagnosis of IC. A treating source(s) may be the person's own physician or other acceptable medical source who provides, or has provided, medical evaluation or treatment and who has, or has had, an ongoing treatment relationship with the person.[14]

2. We generally will rely on the judgment of a licensed physician who has made a diagnosis of IC. The evidence must document that this physician reviewed the person's medical history and conducted a physical examination, and that his or her diagnosis is not inconsistent with the other substantial evidence in the person's case record.[15] However, we cannot rely on the physician's diagnosis alone to establish an MDI of IC. The physician may make a diagnosis of IC based only on the person's reported symptoms, after examining the person and ruling out other diseases that could cause the symptoms. Thus, as previously mentioned, there must also be medical signs or laboratory findings to establish an MDI of IC.

3. If we cannot establish that a person has an MDI of IC, but there is evidence of another MDI, we will not evaluate the impairment under this SSR. Instead, we will evaluate it under the rules that apply for that impairment.

B. *Symptoms.* IC symptoms may vary in incidence, duration, and severity from person to person, and even in the same person. For example, a woman's symptoms may worsen around the time of menstruation. Symptoms of IC include, but are not limited to:

1. *Pain.* People who have IC report chronic bladder and pelvic pain, pressure, and discomfort. This pain may range from mild discomfort to extreme distress. The intensity of the pain may increase as the bladder fills and decrease as it empties. In addition to bladder and pelvic pain, people with IC may experience vaginal, testicular, penile, low back, or thigh pain.

2. *Urinary urgency and frequency.* People who have IC may report an urgent need to urinate (urgency) or a frequent need to urinate (frequency), or both. Some people with severe cases of IC may need to void as often as 60 times per day, including nighttime urinary frequency (nocturia) with associated sleep disruption.[16]

3. *Other symptoms.* In addition to chronic pain and urinary urgency or frequency or both, the person may report additional IC symptoms, such as:

- Suprapubic tenderness on physical examination;
- Sexual dysfunction (including dyspareunia);
- Sleep dysfunction; and
- Chronic fatigue or tiredness.

C. *Medical signs.* Medical signs can support a diagnosis of IC and help establish the MDI. These signs include the following, which can be detected during a medical procedure that stretches the bladder with fluid (cystoscopy under anesthesia with bladder distention):[17]

1. Fibrosis (bladder-wall stiffening);
2. Diffuse glomerulations (pinpoint bleeding caused by recurrent irritation) on the bladder wall; and
3. Hunner's ulcers (patches of broken skin) on the bladder wall.[18]

D. *Laboratory findings.* Laboratory test findings can also support a diagnosis of IC. We will make every reasonable effort to obtain the results of appropriate laboratory testing. However, we will not purchase complex, costly, or invasive tests. Some laboratory tests and findings are more widely used and accepted than others. The following laboratory findings can help establish an MDI of IC:

1. Repeated sterile urine cultures while IC symptoms continue;
2. Positive potassium sensitivity test (Parson's test);[19] and
3. Antiproliferative factor (APF) accumulation in the urine.[20]

E. *Other signs and findings.* Because of the ongoing research into the etiology and manifestations of IC, the medical criteria discussed above are only examples of signs and laboratory findings that help establish an MDI of IC; they are not all-inclusive. As medical research advances regarding IC, we may rely on other signs and laboratory findings to help establish an MDI of IC. For example, gene studies are exploring whether there are various

[12] Descriptions of these tests are available at *http://kidney.niddk.nih.gov/kudiseases/pubs/interstitialcystitis/#diagnosis.* Evidence that a physician used any of these tests or other laboratory tests to make a diagnosis of IC (that is, to rule out other diseases that could explain the person's symptoms) helps establish the existence of an MDI of IC.

[13] See 20 CFR 404.1513(a) and 416.913(a).

[14] We may consider an acceptable medical source who has treated or evaluated the person only a few times or only after long intervals (for example, twice a year) to be a treating source. See 20 CFR 404.1502 and 416.902.

[15] We use the term ''not inconsistent'' to indicate that a diagnosis of IC need not be supported directly by all the other evidence (that is, it does not have to be consistent with all the other evidence) as long as there is no other substantial evidence in the case record that contradicts or conflicts with the diagnosis. Whether a diagnosis of IC is ''not inconsistent'' with the other substantial evidence is a judgment that adjudicators must make in each case. In situations in which the diagnosis of IC is inconsistent with the other substantial evidence in the person's case record, the adjudicator may determine that the diagnosis is not entitled to ''controlling weight'' in establishing whether the person has an MDI. However, the adjudicator should not reject the diagnosis, but instead must weigh it using all of the factors provided in 20 CFR 404.1527 and 416.927. See SSR 96–2p, Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions, 61 FR 34492 2006 (also available at: *http://www.socialsecurity.gov/OP_Home/rulings/di/01/SSR96-02-di-01.html*).

[16] See NIDDK National Kidney and Urologic Diseases Information Clearinghouse (available at: *http://kidney.niddk.nih.gov/KUDiseases/pubs/interstitialcystitis/index.aspx.*) As used by the NIDDK, the word ''severe'' is not meant in the same sense that we use the word to describe a severe impairment at the second step of our sequential evaluation process.

[17] We will not purchase this procedure to establish an MDI of IC because it is an invasive procedure.

[18] Hunner's ulcers are rare and may be present in only 5–10 percent of individuals with IC.

[19] Although validated by some studies, the potassium sensitivity test is not yet recommended for routine clinical use and can be painful for the patient. We will not purchase this procedure to establish an MDI of IC because it is an invasive procedure.

[20] Physicians do not routinely measure APF.

subtypes of IC. Thus, we may document the existence of IC as an MDI with medical signs and laboratory findings other than those listed above, provided such evidence is consistent with medically accepted clinical practice and the other evidence in the case record.

F. *Mental conditions.* People who have IC may report ongoing mental conditions directly associated with their IC. For example, a person may report having anxiety or depression associated with IC symptoms of chronic bladder and pelvic pain, and urinary urgency, frequency, or both. When these mental conditions are documented by mental status examination(s) or psychological testing, they may constitute medical signs or (in the case of psychological testing) laboratory findings that help establish an MDI of IC.[21]

III. How do we document IC?

A. *General.* In cases of alleged IC, we generally need to have longitudinal evidence because symptoms, signs, and laboratory findings of IC may fluctuate in frequency and severity and may continue over a period of months or years.

1. Longitudinal clinical records reflecting ongoing medical evaluation and treatment from the person's medical sources, especially treating sources, are extremely helpful in documenting the presence of any signs or laboratory findings, as well as the person's limitations over time. The longitudinal record should contain medical observations, information about treatment, the person's response to treatment, and a detailed description of how the impairment affects the person's ability to function.

2. In addition to obtaining evidence from a physician, we may request evidence from other acceptable medical sources, such as psychologists, both to determine whether the person has another MDI(s) and to evaluate the severity and functional effects of IC in combination with other impairments the person may have. Under our regulations and SSR 06–03p, we also may consider evidence from other medical sources we do not consider acceptable medical sources to help us evaluate the severity and functional effects of the impairment(s).[22] Nurse practitioners, physician assistants, and physical therapists are examples of these other medical sources.

3. Information from nonmedical sources can also help us evaluate the severity of a person's IC.[23] This information may help us assess the person's ability to function day-to-day and over time. It may also help us when we make findings about credibility of the person's allegations about symptoms and their effects. Examples of nonmedical sources include:

- Spouses, parents, siblings, other relatives, neighbors, friends, and clergy;
- Past employers, rehabilitation counselors, and teachers; and
- Statements from SSA and State agency personnel who interviewed the person.

4. Before we make a determination whether or not the person is disabled, we will make every reasonable effort to develop his or her complete medical history and help the person get medical reports from his or her medical sources. Generally, we will request evidence from the person's medical sources for the 12-month period preceding the month of application unless there is reason to believe that development of an earlier period is necessary, or unless the alleged onset of disability is less than 12 months before the date of application.[24]

5. When the alleged onset of disability secondary to IC occurred less than 12 months before adjudication, we must evaluate the medical evidence and project the degree of impairment severity that is likely to exist at the end of 12 months.[25] Information about the person's treatment and response to treatment, including any medical source opinions about the person's prognosis at the end of 12 months, helps us decide whether to expect an MDI of IC to be of disabling severity for at least 12 consecutive months.

B. What do we do if there is insufficient evidence to determine whether the person has an MDI of IC or is disabled?

1. When there is insufficient evidence for us to determine whether the person has an MDI of IC or is disabled, we may take one or more actions to try to resolve the insufficiency:[26]

- We may recontact the person's treating or other source(s) to see if the information we need is available;
- We may request additional existing records from treating or other sources;
- We may ask the person or others for more information; or
- We may purchase a consultative examination (CE) at our expense.[27]

2. When we are unable to resolve an insufficiency in the evidence, and we need to determine whether the person has an MDI of IC or is disabled, we may make a determination or decision based on the evidence we have.[28]

C. *How do we resolve conflicts in the evidence?* Conflicting evidence in the medical record is not unusual in cases of IC due to the complicated diagnostic process involved. We will consider conflicting medical evidence in accordance with our rules.[29]

IV. How do we evaluate a person's statements about his or her symptoms and functional limitations?

Generally, we follow a two-step symptom evaluation process:

A. *First step of the symptom evaluation process.* There must be medical signs or laboratory findings that show the person has an MDI(s) which we could reasonably expect to produce the pain or other symptoms alleged.[30] If we find that a person has an MDI that we could reasonably expect to produce the alleged symptoms, the first step of our two-step process for evaluating symptoms is satisfied.

B. *Second step of the symptom evaluation process.* After finding that the MDI could reasonably be expected to produce the alleged symptoms, we evaluate the intensity and persistence of the person's symptoms and determine the extent to which they limit the person's functional capacity for work. In evaluating the intensity, persistence, and functionally limiting effects of symptoms, we consider all of the evidence in the case record, including the person's daily activities;

[21] See 20 CFR 404.1528 and 416.928.

[22] See 20 CFR 404.1513(d)(1), 416.913(d)(1); SSR 06–03p: Titles II and XVI: Considering Opinions and Other Evidence from Sources Who Are Not ''Acceptable Medical Sources'' in Disability Claims; Considering Decisions on Disability by Other Governmental and Nongovernmental Agencies, 71 FR 45593 (2006) (also available at: *http://www.ssa.gov/OP_Home/rulings/di/01/SSR2006-03-di-01.html*).

[23] See 20 CFR 404.1513(d)(2–4) and 416.913(d)(2–4), and also SSR 06–03p.

[24] See 20 CFR 404.1512(d) and 416.912(d).

[25] To meet the statutory requirement for ''disability,'' a person must have been unable to engage in any substantial gainful activity because of any medically determinable physical or mental impairment that is expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. Thus, the existence of an impairment(s) for 12 continuous months is not controlling; rather, it is the existence of a disabling impairment that has lasted or can be expected to last for at least 12 months that meets the duration requirement of the Act. See 20 CFR 404.1509 and 416.909.

[26] See 20 CFR 404.1520b(c) and 416.920b(c).

[27] See 20 CFR 404.1520b(c)(3), and 416.920b(c)(3). The type of CE we purchase will depend on the nature of the person's symptoms and the extent of the evidence already in the case record. For example, we may purchase a CE to help evaluate depression, anxiety, or other mental conditions associated with the person's IC. We may purchase a CE without recontacting a person's treating or other source if the source cannot provide the necessary information or the information is not available from the source. See 20 CFR 404.1519a(b) and 416.919a(b).

[28] See 20 CFR 404.1520b(d) and 416.920b(d).

[29] See 20 CFR 404.1520b and 416.920b.

[30] See 20 CFR 404.1520, 416.920, and 416.924.

medications or other treatments the person uses, or has used, to alleviate symptoms; the nature and frequency of the person's attempts to obtain medical treatment for symptoms; and statements by other people about the person's symptoms. We will make a finding about the extent to which symptoms, such as pain, affect his or her capacity to perform basic work activities.[31] When we need additional information to assess the person's statements about symptoms and their effects, we will make every reasonable effort to obtain available information that could shed light on the person's statements.

V. How do we find a person disabled based on an MDI of IC?

Once we establish that a person has an MDI of IC, we will consider this MDI in the sequential evaluation process to determine whether the person is disabled.[32] As we explain in section VI below, we consider the severity of the impairment, whether the impairment meets or medically equals the requirements of a listed impairment, and whether the impairment prevents the person from doing his or her past relevant work or other work that exists in significant numbers in the national economy.

VI. How do we use the sequential evaluation process to evaluate IC?

We adjudicate claims involving IC using the sequential evaluation process, just as we do for any impairment. Once we find that an MDI(s) exists (see section II), we must establish the severity of the impairment(s) based on the totality of signs, symptoms, and laboratory findings, and the effects of the impairment(s), including any related symptoms, on the person's ability to function. Additionally, several other disorders may share characteristics similar to those of IC. When there is evidence of the potential presence of another disorder that may adequately explain the person's symptoms, it may be necessary to pursue additional medical or other development. As mentioned, if we cannot find that the person has an MDI of IC but there is evidence of another MDI, we will not evaluate the impairment under this SSR. Instead, we will evaluate it under the rules that apply for that impairment.

A. *Step 1.* We consider the person's work activity. If a person with IC is engaged in substantial gainful activity, we will find that he or she is not disabled.

B. *Step 2.* If we find that a person with IC has an MDI that meets the duration requirement,[33] and the person alleges pain and other symptoms consistent with IC, we must consider these symptoms in deciding whether the person's impairment is ''severe'' at step 2 of the sequential evaluation process, and at any later steps reached in the sequential evaluation process. If we find that the person's pain, urinary urgency or urinary frequency, or other symptoms have more than a minimal effect on a person's ability to perform basic work activities, we must find that the person has a ''severe'' impairment.[34]

C. *Step 3.* When we find that a person with IC has a severe MDI, we must proceed to step three and consider the medical severity of the impairment(s). At this step, we consider whether a person's impairment(s) meets or equals in severity one of the impairments in the Listing of Impairments.[35] IC is not a listed impairment; therefore, we cannot find that a person with IC alone has an impairment that meets a listing. However, we will compare the specific findings in each case to any pertinent listing to determine whether medical equivalence may exist.[36] We also may find medical equivalence if the person has multiple impairments, including IC, none of which meets or medically equals the requirements of a listing, but the combination of impairments is medically equivalent in severity to a listed impairment. In cases in which a person with IC has psychological manifestations related to IC, we must consider whether the person's impairment meets or equals the severity of any impairment in the mental disorders listings (see section IIF).[37]

D. *Steps 4 and 5.* For those impairments that do not meet or medically equal the severity of a listing, we must make an assessment of the person's residual functional capacity (RFC). The RFC assessment must be based on all the relevant evidence in the record.[38] In assessing RFC related to an MDI of IC, we must consider all of the person's impairment-related symptoms in deciding how such symptoms may affect functional capacity.[39] For example, many people with IC have chronic pelvic pain, which can affect the ability to focus and sustain attention on the task at hand. Nocturia may disrupt sleeping patterns and lead to drowsiness and lack of mental clarity during the day. Urinary frequency can necessitate trips to the bathroom as often as every 10 to 15 minutes, day and night. Consequently, some individuals with IC essentially may confine themselves to their homes. After we consider such impairment-related symptoms and we make our RFC assessment, our evaluation must proceed to the fourth step of the sequential evaluation process, unless an expedited process applies.[40] If necessary, we then proceed to the fifth step of the sequential evaluation process.[41] If we do not use an expedited process, we must determine whether the person's impairment(s) precludes the performance of past relevant work (unless we determine that there was no past relevant work). If we determine that the person's impairment(s) precludes performance of past relevant work or there was no past relevant work, we must make a finding about the person's ability to perform other work. We must apply the usual vocational considerations in determining the person's ability to perform other work.[42]

[31] See 20 CFR 404.1529 and 416.929. See also SSR 96–7p: Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements, 61 FR 34483 (1996) (also available at: *http://www.socialsecurity.gov/OP_Home/rulings/di/01/SSR96-07-di-01.html*).

[32] See 20 CFR 404.1520, 416.920, and 416.924.

[33] See 20 CFR 404.1509 and 416.909.

[34] See SSR 96–3p: Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment Is Severe, 61 FR 34468 (1996) (also available at: *http://www.ssa.gov/OP_Home/rulings/di/01/SSR96-03-di-01.html*).

[35] See 20 CFR, part 404, subpart P, appendix 1.

[36] In evaluating title XVI claims for disability benefits for people under age 18, we will consider whether the impairment(s) functionally equals the listings. See 20 CFR 416.926a. For example, the functional limitations of IC, by itself or in combination with another impairment(s), may establish an extreme limitation in one broad area of functioning (for example, attending and completing tasks) or marked limitation in two broad areas (for example, attending and completing tasks, and interacting or relating with others).

[37] See sections 12.00 and 112.00 of 20 CFR, part 404, subpart P, appendix 1.

[38] See 20 CFR 404.1545(a) and 416.945(a), and also SSR 96–8p: Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims, 61 FR 34474 (1996) (also available at *http://www.ssa.gov/OP_Home/rulings/di/01/SSR96-08-di-01.html*). Our RFC assessments must consider the person's maximum ability to do sustained work activities in an ordinary work setting on a regular and continuous basis. Generally, a ''regular and continuous basis'' means eight hours a day, for five days a week, or an equivalent work schedule of 40 hours per week. In cases involving IC, chronic fatigue may affect the person's physical and mental ability to sustain work activity, and this may be especially true in cases involving urinary frequency.

[39] See 20 CFR 404.1529(d) and 416.929(d), and SSR 96–7p.

[40] See 20 CFR 404.1520(h) and 416.920(h).

[41] The fourth and fifth steps of the sequential evaluation process are not applicable to claims for benefits under title XVI for people under age 18. See 20 CFR 416.924.

[42] See 20 CFR 404.1560–404.1569a and 416.960–416.969a, and SSR 11–2p: Titles II and XVI: Documenting and Evaluating Disability in Young Adults, 76 FR 56263 (2011) (also available at *http://www.ssa.gov/OP_Home/rulings/di/01/SSR2011-02-di-01.html*).

1. Pain and other symptoms associated with IC may result in exertional limitations that prevent a person from doing a full range of unskilled work in one or more of the exertional categories in appendix 2 of subpart P of part 404 (appendix 2).[43] People with IC may also have nonexertional physical or mental limitations because of their pain or other symptoms.[44] Some may have environmental restrictions, which are also nonexertional.

2. Exertional and nonexertional limitations resulting from IC may affect the person's ability to perform routine movement and necessary physical activity in the work environment, such as sitting, standing, walking, lifting, carrying, pushing, and pulling. These limitations may also affect the person's ability to do postural functions, such as climbing, balancing, stooping, and crouching, or they may affect the person's ability to tolerate extreme heat, humidity, or hazards.

3. Adjudicators must be alert to the possibility that there may be exertional or nonexertional (for example, postural or environmental) limitations that erode a person's occupational base sufficiently to preclude the use of a rule in appendix 2 to direct a decision. In such cases, adjudicators must use the rules in appendix 2 as a framework for decision-making and may need to consult a vocational resource.[45]

E. *Continuing disability reviews.* In those cases in which we find that a person has a disability based on IC, we will conduct an appropriate continuing disability review as required by law.[46] For this review, we take into account relevant individual case facts, such as the combined severity of other chronic or static impairments, and the person's vocational factors.

Effective Date: This SSR is effective on March 18, 2015.

Cross-References: SSR 82–63: Titles II and XVI: Medical-Vocational Profiles Showing an Inability To Make an Adjustment to Other Work; SSR 83–12: Titles II and XVI: Capability To Do Other Work—The Medical-Vocational Rules as a Framework for Evaluating Exertional Limitations Within a Range of Work or Between Ranges of Work; SSR 83–14: Titles II and XVI: Capability To Do Other Work—The Medical-Vocational Rules as a Framework for Evaluating a Combination of Exertional and Nonexertional Impairments; SSR 85–15: Titles II and XVI: Capability To Do Other Work—The Medical-Vocational Rules as a Framework for Evaluating Solely Nonexertional Impairments; SSR 96–2p, Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions; SSR 96–3p, Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment Is Severe; SSR 96–4p, Titles II and XVI: Symptoms, Medically Determinable Physical and Mental Impairments, and Exertional and Nonexertional Limitations; SSR 96–5p, Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner; SSR 96–7p, Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements; SSR 96–8p, Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims; SSR 96–9p, Titles II and XVI: Determining Capability to Do Other Work—Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work; SSR 06–03p, Titles II and XVI: Considering Opinions and Other Evidence from Sources Who Are Not ''Acceptable Medical Sources'' in Disability Claims; Considering Decisions on Disability by Other Governmental and Nongovernmental Agencies; SSR 12–2p, Titles II and XVI: Evaluation of Fibromyalgia; SSR 14–1p, Titles II and XVI: Evaluating Cases Involving Chronic Fatigue Syndrome (CFS); and Program Operations Manual System (POMS) DI 22505.001, DI 22505.003, DI 24505.003, DI 24510.057, DI 24515.012, DI 24515.061–DI 24515.063, DI 24515.066, DI 24515.067, DI 24515.075, DI 24555.001, DI 25010.001, and DI 25025.001.

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[43] See SSR 83–12: Title II and SVI: Capability To Do Other Work—The Medical-Vocational Rules as a Framework for Evaluating Exertional Limitations Within a Range of Work or Between Ranges of Work (available at *http://www.socialsecurity.gov/OP_Home/rulings/di/02/SSR83-12-di-02.html*).

[44] See SSR 85–15: Titles II and XVI: Capability To Do Other Work—Medical-Vocational Rules as a Framework for Evaluating Solely Nonexertional Impairments (available at: *http://www. social security. gov/OP_Home/rulings/di/02/SSR85-15-di-02.html*).

[45] See SSR 83–12; SSR 83–14: Titles II and XVI: Capability To Do Other Work—The Medical-Vocational Rules as a Framework for Evaluating a Combination of Exertional and Nonexertional Impairments (available at *http://www.social security.gov/OP_Home/rulings/di/02/SSR83-14-di-02.html);* SSR 85–15; and SSR 96–9p, Titles II and XVI: Determining Capability to Do Other Work—Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work, 61 FR 34478 (July 2, 1996) (also available at *http://www.socialsecurity.gov/OP_Home/rulings/di/01/SSR96-09-di-01.html*).

[46] See 20 CFR 404.1594, 416.994, and 416.994a.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0022]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 11 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 16, 2015. Comments must be received on or before April 17, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2013–0022], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of

the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 11 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 11 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Terry R. Hunt (FL)
Sebastian G. Jachymiak (IL)
Geron Lopez-Padilla (CT)
James P. O'Berry (GA)
Mark A. Omps (WV)
Larry B. Peterson (AR)
Franklin P. Reigle III (MD)
Phillip Schaub (CO)
George Stapleton (GA)
James K. Waites (AR)
Scott Wallbank (MA)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 11 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (78 FR 12815; 78 FR 22602). Each of these 11 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2013–0022), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2013–0022'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2013–0022'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: March 11, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–06177 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0037]

Parts and Accessories Necessary for Safe Operation; Mobileye, Inc., Application for an Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Mobileye, Inc.'s (Mobileye) exemption application to enable motor carriers to utilize its camera-based collision avoidance systems (CAS) mounted within the swept area of the windshield wipers. The Federal Motor Carrier Safety Regulations (FMCSRs) currently require antennas, transponders, and similar devices to be located outside the area swept by the windshield wipers. The Mobileye CAS is able to warn drivers of potential hazards by detecting other vehicles, pedestrians and cyclists on the road, and lane markings and traffic signs. The Agency believes the use of the CAS promotes improved safety performance and that the placement of the system in the swept area of the windshield wipers will not obstruct drivers' view of the roadway and potential hazards. The Agency has concluded that the limited 2-year exemption will achieve a level of safety equivalent to or greater than the level of safety provided by the rule restricting the placement of devices in the windshield area.

DATES: This exemption is effective March 18, 2015 and ending March 20, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5370, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Mobileye's Application for Exemption

Mobileye applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of a CAS system on several thousand commercial motor vehicles. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

In its application, Mobileye stated:

> Mobileye is making this request because we are coordinating device development and installation of a camera based collision avoidance system in up to several hundred thousand commercial motor vehicles. The camera based sensor equipment to be installed is going to be located at either the bottom or top of the windshield, but will be in the swept area of the windshield wipers because the safety equipment must have a clear forward facing view of the road.
>
> This system is the same technology that Mobileye provides to carmakers such as Ford, GM, Honda and many others. These companies have deployed over two million vehicles with this technology. Collision avoidance systems, in particular those that have the main features of Mobileye, have been noted by NHTSA, NTSB and FMCSA as key safety equipment in both cars and trucks. Recently, the NTSB cited this type of collision avoidance system as part of its top ten ''most wanted'' advocacy priorities. FMCSA itself has recommended Forward Collision Warning and Lane Departure Warning, just two of Mobileye features. Mobileye seeks exemption for the aftermarket (field retrofitable) version of this technology.
>
> With the exemption, Mobileye will be able to install the camera based collision avoidance system in a location which will offer the best opportunity to optimize the data and evaluate the benefits of such a system as well as maximize safety benefits.

FMCSA published a notice of the application in the **Federal Register** on July 2, 2014, and asked for public comment (79 FR 37841).

Comments

In response to its notice requesting public comment, the Agency received one comment from the American Trucking Associations (ATA). The ATA stated that it ''strongly supports'' granting the exemption to allow use of the Mobileye CAS in commercial motor vehicles. The ATA noted that ''Safety technology companies have been working with many ATA members to help reduce carrier crash involvement rates using their technologies. As a result, many of our member companies have seen significant decreases in the number of at-fault collisions and near misses.''

FMCSA Decision

The FMCSA has evaluated the Mobileye exemption application. The Agency believes that granting the temporary exemption to allow placement of the Mobileye CAS system sensor in the upper or lower portion of the windshield, within the swept area of the windshield wipers, will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the CAS sensor would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally,

trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the top or bottom four inches of the area swept by the windshield wiper and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of the Mobileye CAS by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency actions permitting the similar placement of video event recorders on CMVs, within the swept area of the windshield wipers. FMCSA has granted temporary exemptions to Greyhound Lines, Inc. and to DriveCam, Inc. regarding the use of the video event recorders to increase safety through (1) identification and remediation of risky driving behaviors such as distracted driving and drowsiness, (2) enhanced monitoring of passenger behavior on CMVs in passenger service, and (3) enhanced collision review and analysis. Both of these exemptions have been renewed for two additional 2-year periods, as FMCSA is not aware of any evidence showing that the installation of the devices in the upper area of the windshield has resulted in any degradation in safety. The Agency has not received any feedback from interested parties suggesting that use of safety devices/technology in the windshield area have had an adverse impact on safety.

This action is also consistent with previous Agency actions permitting the similar placement of lane departure warning system sensors on CMVs, within the swept area of the windshield wipers. FMCSA initially granted temporary exemptions to Con-way Freight, TK Holdings, Inc., and Iteris, Inc. regarding the use of lane departure warning systems to increase safety by alerting drivers who unintentionally drift out of their lane of travel. The Agency renewed the exemptions for an additional 2-year period, and while the original exemptions granted relief to motor carriers using only the Takata and Iteris lane departure warning systems, the Agency determined—given that it has not been made aware of any reduction in the level of safety associated with the use of those systems—that it was appropriate to extend the scope of the exemption to encompass motor carriers using any lane departure warning system, provided that such sensors (1) are the same size or smaller than the Takata and Iteris (now Bendix) sensors, and (2) mounted in the windshield in accordance with the provisions of the original exemption.

FMCSA continues to believe that the potential safety gains from the use of video event recorders and lane departure waning systems to improve driver behavior and performance will improve the overall level of safety to the motoring public. The Agency believes the same is true regarding the use of the Mobileye CAS.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a two-year period, beginning March 18, 2015 and ending March 20, 2017. During the temporary exemption period, motor carriers using the Mobileye CAS must ensure that the sensor is mounted not more than 100 mm (4 inches) below the upper edge, or above the lower edge, of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers using the Mobileye CAS are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

Issued on: March 12, 2015.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–06180 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0304]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 28 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before April 17, 2015. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0304 using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. 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 below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or

Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 28 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Dakota A. Albrecht

Mr. Albrecht, 27, has a retinal scar in his right eye due to a traumatic incident in 2010. The visual acuity in his right eye is 20/150, and in his left eye, 20/15. Following an examination in 2014, his optometrist stated, ''It is our opinion that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Albrecht reported that he has driven tractor-trailer combinations for 7 years, accumulating 700,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joseph L. Beverly

Mr. Beverly, 58, has had complete loss of vision in his right eye since 2011 due to a central retinal artery occlusion. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''It is my medical opinion as an ophthalmologist that Mr. Beverly has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Beverly reported that he has driven tractor-trailer combinations for 16 years, accumulating 960,000 miles. He holds an operator's license from Florida. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 21 miles per hour.

Jaroslav Cigler

Mr. Cigler, 64, has had a branch retinal vein occlusion in his right eye since 2011. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Dr. Komyatte certifies that in her medical opinion, Mr. Cigler has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Cigler reported that he has driven tractor-trailer combinations for 20 years, accumulating 2.6 million miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows one crash, for which he was not cited and did not contribute, and two convictions for moving violations in a CMV; in one instance he disregarded a traffic signal, and in another he was cited for improper lane usage.

David E. Crane

Mr. Crane, 59, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/80, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''I also certify that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Crane reported that he has driven straight trucks for 28 years, accumulating 700,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he was operating a CMV in a no truck zone.

Alan J. Daisey

Mr. Daisey, 63, has complete loss of vision in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''Mr. Daisey's vision is good enough to have a commercial license.'' Mr. Daisey reported that he has driven straight trucks for 18 years, accumulating 18,000 miles. He holds a Class CB CDL from Delaware. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Terry L. Daneau

Mr. Daneau, 54, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/300. Following an examination in 2014, his optometrist stated, ''I believe that Terry Daneau possesses sufficient vision to maintain a CDL as long as glasses are worn.'' Mr. Daneau reported that he has driven straight trucks for 16 years, accumulating 800,000 miles. He holds a Class B MC CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald A. Doyle

Mr. Doyle, 53, has had a corneal scar in his right eye since 1985. The visual acuity in his right eye is 20/60, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''Upon examining patient I certify that in my medical opinion, has sufficient vision to perform the driving tasks required to operate a commercial vehicle with a license (non-CDL) as explained in #1 Proof of Commercial License.'' Mr. Doyle reported that he has driven straight trucks for 14 years, accumulating 121,422 miles. He holds a Class D license from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Darin T. Eubank

Mr. Eubank, 25, has had refractive amblyopia in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Darin has sufficient vision to drive a commercial vehicle.'' Mr. Eubank reported that he has driven straight trucks for 9 years, accumulating

51,300 miles, and tractor-trailer combinations for 5 years, accumulating 17,500 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dan J. Feik

Mr. Feik, 53, has a prosthetic left eye due to a traumatic incident in 1989. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2015, his ophthalmologist stated, ''It is my opinion that Mr. Feik has excellent peripheral vision and visual acuity in the right eye to perform the tasks required of him to operate a commercial vehicle without reservations.'' Mr. Feik reported that he has driven straight trucks for 8 years, accumulating 380,000 miles. He holds a Class BM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Phillip E. Fitzpatrick

Mr. Fitzpatrick, 38, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his optometrist stated, ''Based on the longstanding nature of Phillip's amblyopia in the left eye and the fact he has had a CDL for a number of years I believe that Phillip can safely and effectively operate a vehicle that requires a CDL.'' Mr. Fitzpatrick reported that he has driven straight trucks for 18 years, accumulating 90,000 miles. He holds a Class B CDL from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William H. Fleming

Mr. Fleming, 68, has had a branch vein occlusion in his right eye since 2012. The visual acuity in his right eye is 20/60, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''In my medical opinion,

William Fleming has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Fleming reported that he has driven buses for 3 years, accumulating 78,000 miles. He holds a Class B CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lucien W. Foote III

Mr. Foote, 61, has had exotropia with amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/25, and in his left eye, 20/80. Following an examination in 2014, his optometrist stated, ''In my medical opinion, he has sufficient vision to perform the necessary driving tasks for a commercial vehicle.''

Mr. Foote reported that he has driven straight trucks for 29 years, accumulating 435,000 miles. He holds a Class A MC CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jimmy F. Garrett

Mr. Garrett, 61, has complete loss of vision in his right eye due to a traumatic incident in 1974. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''Due to his driving record and excellent vision in his left eye I feel Jimmy can operate a commercial vehicle safely.'' Mr. Garrett reported that he has driven straight trucks for 6 years, accumulating 36,000 miles, and tractor-trailer combinations for 26 years, accumulating 2.34 million miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Odus P. Gautney III

Mr. Gautney, 61, has had glaucoma in his left eye since 1983. The visual acuity in his right eye is 2030, and in his left eye, 20/400. Following an examination in 2014, his ophthalmologist stated, ''The above named patient has had the diagnosis of glaucoma for over 30 years . . . The patient can perform all tasks required to maintain CDL certification.'' Mr. Gautney reported that he has driven tractor-trailer combinations for 18 years, accumulating 1.8 million miles. He holds a Class AM CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dale R. Goodell

Mr. Goodell, 73, has glaucoma in his left eye due to a traumatic incident in 1991. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his optometrist stated, ''Attn: Vision Program U.S. Dept of Transportation . . . Considering the fact this vision defect in the left eye is longstanding I would state Dale has over time adapted to the loss of vision and should continue to be able to operate a motor vehicle safely.'' Mr. Goodell reported that he has driven straight trucks for 56 years, accumulating 5.6 million miles, and tractor-trailer combinations for 42 years, accumulating 1.05 million miles. He holds a Class A CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Elmer Y. Mendoza

Mr. Mendoza, 35, has had histoplasmosis in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 201X, his optometrist stated, ''I believe Mr. Mendoza does have sufficient vision required for CDL.'' Mr. Mendoza reported that he has driven tractor-trailer combinations for nine years, accumulating 954,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Andrew M. Miller

Mr. Miller, 60, has retinal detachment in his right eye due to a traumatic incident in 1972. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''He is able to perform the required visual tasks associated with commercial driving skills.'' Mr. Miller reported that he has driven straight trucks for 10 years, accumulating 110,000 miles. He holds an operator's license from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Richard N. Moyer, Jr.

Mr. Moyer, 47, has had a retinal detachment in his left eye since 1990. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2015, his ophthalmologist stated, ''Field is full od and doesn't compromise his ability to function as a commercial driver.'' Mr. Moyer reported that he has driven straight trucks for 29 years, accumulating 870,000 miles, and tractor-trailer combinations for 26 years, accumulating 260,000 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Heath A. Pillig

Mr. Pillig, 43, has had anisometropia with amblyopia in his left eye since childhood. The visual acuity in his right

eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his ophthalmologist stated, ''Given his history and current visual acuity I feel he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Pillig reported that he has driven straight trucks for 7.5 years, accumulating 881,250 miles, and tractor-trailer combinations for 13 years, accumulating 1.53 million miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Alonzo K. Rawls

Mr. Rawls, 46, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2015, his ophthalmologist stated, ''Patient has a corneal scar from an accident OS in 1990. Vision has been poor since then. Patient obtained a commercial license in 2008 and 2010, but needs re-evaluation to see if he qualifies for an exemption for a CDL license. The patient, based upon his examination today, does not meet the requirements for a CDL. However, the patient has had a CDL in the past with no accidnets on record. If appropriate, the patient would desire a road test to prove his ability to safely drive and quality [*sic*] for an exemption.'' Mr. Rawls reported that he has driven straight trucks for 3 years, accumulating 18,375 miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows one crash, for which he was not cited and to which he did not contribute, and no convictions for moving violations in a CMV.

John R. Ropp

Mr. Ropp, 72, has had histoplasmosis in his left eye since 1973. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2014, his optometrist stated, ''In my opinion I believe with his record of 30 plus years without an accident or moving violation I don't feel his vision will be a concern in regards to driving a commercial vehicle.'' Mr. Ropp reported that he has driven straight trucks for 34 years, accumulating 68,000 miles, and tractor-trailer combinations for 34 years, accumulating 68,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Timothy J. Slone

Mr. Slone, 51, has a prosthetic right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Mr. Slone has sufficient vision to operate a commercial vehicle under the following restrictions (a) spectacle RX (b) passenger mirror.'' Mr. Slone reported that he has driven straight trucks for 35 years, accumulating 1.75 million miles. He holds an operator's license from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David L. Sorensen

Mr. Sorensen, 57, has complete loss of vision in his right eye due to a traumatic incident at birth. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I would also state in my medical opinion Mr. Sorensen is able to safely operate a commercial vehicle. There is a longstanding history of loss of vision in the right eye associated with trauma resulting in loss of vision in the right eye.'' Mr. Sorensen reported that he has driven straight trucks for 20 years, accumulating 40,000 miles, and tractor-trailer combinations for 11 years, accumulating 33,000 miles. He holds a Class A CDL from Nebraska. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Nelson J. Stokke

Mr. Stokke, 54, has complete loss of vision in his left eye due to a traumatic incident in 2005. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2014, his ophthalmologist stated, ''In summary, this 53 year old commercial truck driver has adequate vision to continue driving a commercial vehicle in my opinion.'' Mr. Stokke reported that he has driven tractor-trailer combinations for 29 years, accumulating 1.37 million miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Darwin L. Stuart

Mr. Stuart, 55, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/350. Following an examination in 2014, his optometrist stated, ''In my opinion Mr. Stuart has sufficient vision to perform [*sic*] driving tasks required to operate a commercial vehicle.'' Mr. Stuart reported that he has driven straight trucks for 23 years, accumulating 115,000 miles, and tractor-trailer combinations for 8 years, accumulating 60,000 miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ivan Tlumach

Mr. Tlumach, 45, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''At this time, from a medical standpoint, he has sufficient vision needed to continue to perform the driving tasks required to operate a commercial motor vehicle.'' Mr. Tlumach reported that he has driven straight trucks for 12 years, accumulating 144,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Clarence K. Watkins

Mr. Watkins, 74, has/has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2014, his ophthalmologist stated, ''Pt's [*sic*] vision is currently as good as it has ever been with 20/25 visual acuity in his right eye and 20/400 vision in his left eye. Pt's [*sic*] ability to drive commercial truck at this time would be no different than his ability has been over the past 5 decades.'' Mr. Watkins reported that he has driven straight trucks for 55 years, accumulating 550,000 miles, and tractor-trailer combinations for 56 years, accumulating 112,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kevin D. Zaloudek

Mr. Zaloudek, 43, has a damaged cornea and retina in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/15. Following an examination in 2014, his optometrist stated, ''In my opinion Kevin Zaludek's vision is sufficient for him to safely operate a commercial vehicle.'' Mr. Zaloudek reported that he has driven straight trucks for 15 years, accumulating 225,000 miles. He holds an operator's license from Vermont. His driving record for the last 3 years shows

no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2014–0304 in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2014–0304 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: March 12, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–06179 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0451]

Hours of Service of Drivers: Oregon Trucking Associations' Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final determination; granting of exemption.

SUMMARY: FMCSA announces its decision to grant the application of the Oregon Trucking Associations (OTA) for a limited exemption from the Agency's hours-of-service (HOS) regulation requiring commercial motor vehicle (CMV) drivers to take 30-minute rest breaks at specified intervals in their duty day. This exemption is limited to CMV drivers engaged in transporting timber from Oregon forestlands, and further limited to periods of the year in which the Oregon Department of Forestry (ODF) has formally restricted logging operations to certain hours of the day due to an elevated risk of forest fire. FMCSA believes that the rest breaks during these periods of restricted operating hours may reduce the volume of timber that OTA drivers can deliver, affecting the economic viability of the Oregon lumber industry. The Agency grants this limited exemption on condition that these exempt drivers do not drive after the 12th hour of their duty day. The Agency finds that the CMV operations of OTA timber transporters under this limited exemption would likely achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: This limited exemption is effective March 18, 2015 subject to the Terms and Conditions stated herein, and expires March 20, 2017.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)]. The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency may grant an exemption subject to specified terms and conditions. The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

On December 27, 2011, FMCSA published a final rule establishing mandatory rest breaks for CMV drivers (76 FR 81133). Effective July 1, 2013, drivers may not operate a CMV if 8 hours or more have elapsed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes [49 CFR 395.3(a)(3)(ii)]. FMCSA did not otherwise specify when drivers must take the 30-minute break.

On August 2, 2013, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision on petitions for review of the Agency's final HOS rule of December 27, 2011.[1] That rule imposed a requirement for a 30-minute rest break for interstate drivers of CMVs. The Court upheld the 2011 HOS rule in all respects, except that it vacated the break provision applicable to ''short-haul'' drivers. To qualify as a short-haul driver, CMV drivers must (1) limit their duty day to a maximum of 12 hours, (2) remain within a 100 air-mile radius of their point of origin throughout their duty day, and (3) return to their work reporting locations at the end of the duty day in (49 CFR 395.1(e)(1)). The Court also vacated the break provision applicable to short-haul drivers who do not need a commercial driver's license (CDL) [49 CFR 395.1(e)(2)], but since

[1] *American Trucking Associations, Inc.* v. *Federal Motor Carrier Safety Administration,* 724 F3d 243 (D.C. Cir. Aug. 2, 2013). FMCSA published its response to the Court's opinion at 78 FR 64179 (October 28, 2013).

drivers of logging trucks need CDLs, that provision will not be discussed here.

In response to the U.S. Court of Appeals decision, on October 28, 2013 (78 FR 64179), FMCSA amended its December 27, 2011, final HOS rule to provide an exception from the 30-minute rest break requirement for short-haul drivers who are not required to prepare records of duty status (RODS). The Agency also removed regulatory text made obsolete by the passing of the July 1, 2013, compliance date for the final rule.

Request for Exemption

The OTA, a trade association, has applied for a limited exemption from the mandatory rest break requirement of 49 CFR 395.3(a)(3)(ii) on behalf of all motor carriers and drivers who operate CMVs to transport logs in interstate commerce from Oregon forestlands. Some Oregon timber is transported by truck to ports for export to other countries, which is interstate commerce. Some is transported to other States by truck, sometimes interlining with rail or water carriers. OTA states that most of its members who engage in lumber operations have interstate operating authority. OTA states that the lumber mills must receive a certain volume of logs to remain economically viable. It bears noting here, that drivers transporting logs from Oregon forests to Oregon lumber mills that are operating in intrastate commerce, and therefore not subject to FMCSA jurisdiction or to this exemption. Some of this transportation to the mills, however, does cross State lines and is therefore interstate transportation covered by the Federal regulations. OTA did not provide a percentage breakdown of those shipments that are in interstate commerce.

The OTA has indicated that a substantial number of its drivers qualify as short-haul drivers, and thus will not require this exemption. The general HOS rule limits certain short-haul drivers to a duty day of 12 hours from the time they come on duty following 10 consecutive hours off duty. Nonetheless, OTA has proposed that all drivers employing this exemption be limited by its terms to a duty day of no more than 12 hours.

When the risk of fire is high, the Oregon Department of Forestry (ODF) limits logging in the forestland to certain hours of the day, such as prior to 1:00 p.m. OTA states that fire-safety restrictions are often imposed from July to late October and that logging operators need all remaining time each day to cut and remove the volume of timber needed to sustain the lumber mills. OTA seeks relief from the 30-minute break requirement only when the ODF is formally restricting logging operations to certain hours of the day due to an elevated risk of forest fire. OTA states that during these periods of limited operations, CMV drivers employing this exemption would achieve the same level of safety with this exemption in place as they would achieve if required to observe the rest-break requirement.

CMV enforcement officials in Oregon generally have access to the ODF current roster showing what level of forest protection is in place at any time. When Oregon timber transporters travel out of State, they must carry a copy of the ODF order reflecting the alert level at that time, as the exemption terms and conditions will require.

Public Comments

On December 10, 2013, FMCSA published notice of this application and asked for public comment (78 FR 74222). Only one comment was received. An international forest products company that conducts Oregon timber operations supported the application for exemption.

FMCSA Decision

FMCSA reviewed OTA's application for exemption and the public comments. The Agency believes that limiting the timber operations of these CMV drivers to a fixed 12-hour window will promote safety at least as effectively as the 30-minute break. These drivers would be operating like certain short-haul drivers, who are already permitted to follow a 12-hour duty period, during which they are exempt from the break requirement. These timber-transporting drivers would likely achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption [49 CFR 381.310(c)(5)].

Terms of the Exemption

This is an exemption only from the 30-minute break requirement [49 CFR 395.3(a)(3)(ii)]. Today's exemption is restricted to drivers operating CMVs when engaged in interstate logging transportation originating in forestlands of the State of Oregon during periods in which the Oregon Department of Forestry (ODOF) imposes Industrial Fire Precaution Level 3 (IPFL3) on those lands, restricting the transportation of logs in those forests to certain hours of the day due to an elevated risk of forest fire.[2] Drivers operating under this exemption must be released from duty no more than 12 consecutive hours after the time they come on duty following 10 consecutive hours off duty. Drivers operating under this exemption must maintain a record of duty status (''log book'') for the days on which they travel outside a 100 air-mile radius of their normal work reporting location. If an individual chose to forego this short-haul exemption either by travelling outside the 100 air-miles or by working a 14 hour day instead of the 12 hours required by the exemption, he or she would be required to maintain a logbook for that day and also comply with the 30-minute rest break provision. The exemption is limited to the period from March 18, 2015 to March 20, 2017.

Notification to FMCSA

Motor carriers must notify FMCSA by email addressed to *MCPSD@DOT.GOV* within 5 business days of any accident (as defined in 49 CFR 390.5) that occurs while its driver is operating under the terms of this exemption. The notification must include:

a. Date of the accident,

b. City or town, and State, in which the accident occurred, or closest to the accident scene,

c. Driver's name and license number,

d. Vehicle number and state license number,

e. Number of individuals suffering physical injury,

f. Number of fatalities,

g. The police-reported cause of the accident,

h. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and

i. The driver's total driving time and total on-duty time period at the time of the accident.

Preemption

In accordance with 49 U.S.C. 31315(d), during periods that this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Termination

The FMCSA does not believe the safety record of any driver operating under this exemption will deteriorate. However, should deterioration in safety occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA in its discretion may revoke the exemption immediately for failure to comply with its terms and conditions.

[2] Neither IFPL 1 nor IFPL 2 restricts the transportation of timber.

Issued On: March 12, 2015.

T.F. Scott Darling III,

Acting Administrator.

[FR Doc. 2015–06184 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Nineteenth Meeting: RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems

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

ACTION: Meeting Notice of RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems.

SUMMARY: The FAA is issuing this notice to advise the public of the nineteenth meeting of the RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems.

DATES: The meeting will be held April 7–9, 2015 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 330–0662/(202) 833–9339, fax (202) 833–9434, or Web site at *http://www.rtca.org.* In addition, Jennifer Iversen may be contacted directly at email: *jiversen@rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 225. The agenda will include the following:

April 7th

- Introductions and administrative items (including DFO & RTCA Statement)
- Review agenda
- Review and approve summary from the last Plenary
- Review weekly Working Group disposition of FRAC comments
- Review changes made to DO–311A as a result of NTSB recommendations
- Review DO–311A plan
- Adjourn to working group
- Review Plenary action items

April 8th

- Review agenda, other actions
- Adjourn to working group
- Review Plenary action items

April 9th

- Review agenda, other actions
- Finalize plan/future meetings, if needed (WG meetings, Plenary schedule, PMC meeting)
- Adjourn to working group
- Working Group Report
- Review Plenary action items
- Approve DO–311A for submission to the PMC
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 12, 2015.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–06260 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending February 28, 2014

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 302.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2015–0041.

Date Filed: February 25, 2015.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 18, 2015.

Description: Application of Asia Atlantic Airlines Co. Ltd. requesting an exemption and a foreign air carrier permit authorizing it to engage in charter foreign air transportation of persons, property and mail from any point or points in Thailand to any point or points in the United States, and beyond to the full extent permitted by the Air Transport Agreement of September 19, 2005 between the Government of the United States of America and the Government of the Kingdom of Thailand (the ''U.S.—Thailand Agreement'').

Docket Number: DOT–OST–2015–0043.

Date Filed: February 26, 2015.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 19, 2015.

Description: Application of 21 Air, LLC requesting a certificate of public convenience and necessity authorizing it to conduct foreign charter air transportation of property and mail with large aircraft.

Docket Number: DOT–OST–2015–0044.

Date Filed: February 26, 2015.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 19, 2015.

Description: Application of 21 Air, LLC requesting a certificate of public convenience and necessity authorizing it to conduct interstate charter air transportation of property and mail with large aircraft.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2015–06183 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0268]

Hours of Service of Drivers: Trailways Companies, Application for Renewal of Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for renewal of exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from Adirondack Trailways, Pine Hill Trailways, and New York Trailways (''Trailways'') for a renewal of their exemption from the hours-of-service (HOS) record of duty status (RODs) provision in 49 CFR 395.8(c). Trailways currently holds an exemption for the period of May 31, 2013 to May 31, 2015. FMCSA extended the exemption to

include all regular-route passenger carriers and their drivers rather than limiting it to Trailways' drivers. The renewal of the exemption would allow these drivers to perform their daily duties without having to record entries in the daily log for breaks in driving time of 10 minutes or less. Such activity would not be considered a change of duty status. FMCSA requests public comment on Trailways' application for exemption.

DATES: If granted, this exemption would be effective during the period of May 31, 2015 to May 31, 2017. Comments must be received on or before April 17, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2012–0268 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov*, including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The online Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov*. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Trailways' Application for Exemption

The HOS rule in 49 CFR 395.8(c) requires every commercial motor vehicle (CMV) driver to record his or her duty status for each 24-hour period using methods described in that section. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the HOS requirements for up to a 2-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The procedures for requesting an exemption (including renewals) are prescribed in 49 CFR part 381.

Trailways offers scheduled passenger-carrier service throughout New York State and to the nearby Canadian cities of Montreal and Toronto. Trailways and all other regular route passenger carriers and their drivers were granted exemptions for the period May 31, 2013 to May 31, 2015. Trailways' initial application for relief from the HOS RODs rule was submitted in 2012; a copy of the application is in the docket identified at the beginning of this notice. The 2012 application describes fully the nature of Trailways' operations.

Trailways' application for a renewal of the exemption is for fixed-route carriers and their drivers who are often away from the controls of the vehicle for less than 10 minutes to assist passengers or make passenger pick-ups and drop-offs along the route. Trailways' advised that until March 2011 they and other motor carriers had been operating in accordance with a 1996 interpretation of 49 CFR 395.8(c) issued by the Federal Highway Administration (FHWA). The 1996 interpretation allowed regular-route passenger carrier CMV drivers not to record a location entry on the driver's RODS for non-driving periods of less than 10 minutes. The RODS simply showed the stop as driving time. In March 2011, New York State officials began enforcing the rule literally, requiring that a change in duty status be entered on the log any time the driver leaves the operating controls of the CMV. Trailways was concerned that the violations would have a negative effect on the companies' and the drivers' Compliance Safety Accountability ratings, as well as schedules and passenger service because of the delays needed to make the entries.

Trailways therefore requested that their drivers with regularly scheduled routes be exempted from changing their duty status from ''driving'' to ''on-duty not driving'' when making stops of less than 10 minutes.

Trailways noted that the exemption would reduce the amount of total time a driver can drive in a duty period. Without the exemption, the times drivers spend at stops to load passengers, freight, etc. would be logged as on-duty/not driving, increasing the driving time available, but creating an additional administrative distraction every time the driver leaves the controls, regardless of the reason or the limited amount of time away from the vehicle controls. Trailways further advised that its carriers provide flag stops and that having to update the log at each flag stop increases the length of time the motorcoach may delay traffic while waiting for the pick-up and/or discharge of passengers and luggage, and then waiting for the driver to update the log. According to Trailways, in many instances the large number of brief stops will not fit on the log if the driver makes all of the required entries.

Trailways noted that the maximum possible driving time would be reduced and that traffic congestion could be reduced. FMCSA believes this would ensure that operations under the exemption would be at least as safe as operations that comply with the requirements on change of duty status.

As in 2013, FMCSA would apply the exemption, if granted, to all regular-route for-hire passenger-carrier drivers because they presumably operate in much the same manner as Trailways. Including all such drivers in the exemption will preclude the need for other carries to file identical exemption requests, and will provide for consistent enforcement because the same provisions would be applied to all similar scenarios involving brief stops by drivers of these carriers during their regular-route operations.

A copy of Trailways' exemption application is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on the Trailways' application for an exemption from certain

provisions of the driver's record of duty status rules in 49 CFR part 395. The Agency will consider all comments received by close of business on April 17, 2015. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Extent of the Exemption

The exemption would be restricted to drivers employed by Trailways and other regular-route for-hire passenger-carrier drivers. Instead of complying with the provisions in 49 CFR 395.8(c), these drivers would be exempted from changing their duty status from ''driving'' to ''on-duty not driving'' when making stops of less than 10 minutes. These drivers must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399).

Terms of the Exemption

Period of the Exemption

The limited exemption from the HOS RODs requirements of 49 CFR 395.8(c) is proposed to be effective from 12:01 a.m. on May 31, 2015, through 11:59 p.m. on May 31, 2017.

Preemption

In accordance with 49 U.S.C. 31315(d), during the period this exemption would be in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with the exemption with respect to a firm or person operating under the exemption.

Notification to FMCSA

Trailways and other regular-route for-hire passenger-carriers would be required to notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMVs operating under the terms of this exemption. The notification must include the following information:

a. Date of the accident,

b. City or town, and State, in which the accident occurred, or closest to the accident scene,

c. Driver's name and driver's license number and State of issuance,

d. Vehicle number and State license plate number,

e. Number of individuals suffering physical injury,

f. Number of fatalities,

g. The police-reported cause of the accident,

h. Whether the driver was cited for violation of any traffic laws or motor carrier safety regulations, and

i. The driver's total driving time and total on-duty time period prior to the accident.

Reports filed under this provision shall be emailed to *MCPSD@dot.gov*.

Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation or restriction of the exemption. The FMCSA will immediately revoke or restrict the exemption for failure to comply with its terms and conditions.

Issued on: March 11, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–06176 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0312]

Parts and Accessories Necessary for Safe Operation; Exemption Renewal for Lytx, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA renews Lytx, Inc.'s (Lytx) (previously DriveCam, Inc.) [1] exemption which allows the placement of video event recorders within the swept area of the windshields on commercial motor vehicles (CMVs). Motor carriers may continue to use the video event recorders mounted in the windshield area to increase safety through (1) identification and remediation of risky driving behaviors such as distracted driving and drowsiness; (2) enhanced monitoring of passenger behavior for CMVs in passenger service; and (3) enhanced collision review and analysis. The Agency has concluded that granting this exemption renewal will maintain a level of safety that is equivalent to or greater than the level of safety achieved without the exemption. However, the Agency requests comments and information on the exemption, especially from anyone who believes this standard will not be maintained.

DATES: This decision is effective March 18, 2015. Comments must be received on or before April 17, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) number FMCSA–2008–0312 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. 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 for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC–

[1] On November 4, 2013, the company changed its name from DriveCam, Inc. to Lytx, Inc.).

PSV, (202) 366–4325; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Basis for Renewing Exemption

Lytx applied for an exemption from 49 CFR 393.60(e)(1) to allow the placement of video event recorders within the area swept by CMV windshield wipers. On April 15, 2009, FMCSA published a notice of final disposition granting the exemption (74 FR 17549). On April 18, 2011, FMCSA published a notice of final disposition renewing this exemption until April 16, 2013 (76 FR 21791). On March 22, 2013, FMCSA published a notice of final disposition renewing this exemption until April 16, 2015 (78 FR 17750). The renewal outlined in this Notice extends the exemption through April 16, 2017.

FMCSA is not aware of any evidence showing that the installation of video event recorders on CMVs, in accordance with the conditions of the original exemption, has resulted in any degradation in safety. FMCSA continues to believe that the potential safety gains from the use of video event recorders to improve driver behavior will improve the overall level of safety to the motoring public.

The exemption is renewed subject to the requirements that video event recorders installed in CMVs be mounted not more than 50mm (2 inches) below the upper edge of the area swept by the windshield wipers, and located outside the driver's sight lines to the road and highway signs and signals. The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

The Agency believes that extending the exemption for another two years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the video event recorders obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) trucks and buses generally have an elevated seating position which greatly improves the forward visual field of the driver, and any impairment of available sight lines is minimal; and (3) the location within the top two inches of the area swept by the windshield wiper and out of the driver's normal sightline is reasonable and enforceable at roadside. In addition, the Agency believes that the use of video event recorders by fleets to deter unsafe driving behavior is likely to improve the overall level of safety to the motoring public.

Without the exemption, FMCSA and the motor carrier industry would be unable to continue to test this innovative safety management control system.

Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

Request for Comments

FMCSA requests comments from parties with data concerning the safety record of CMVs equipped with video event recorders by April 17, 2015. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the Lytx exemption.

Issued on: March 12, 2015.

T.F. Scott Darling III,

Acting Administrator.

[FR Doc. 2015–06190 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0314]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 39 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before April 17, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0314 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. 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 below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://*

www.regulations.gov at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 39 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Scott A. Anderson

Mr. Anderson, 54, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Anderson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Anderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Thomas F. Belloli

Mr. Belloli, 59, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Belloli understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Belloli meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Peter A. Breister

Mr. Breister, 51, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Breister understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Breister meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Donald J. Carino

Mr. Carino, 28, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carino understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carino meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Marc B. Curtis

Mr. Curtis, 63, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Curtis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Curtis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Nevada.

Aaron M. Dixon

Mr. Dixon, 24, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dixon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dixon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Kara A. Edmondson

Ms. Edmondson, 25, has had ITDM since 1997. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Edmondson understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Edmondson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds an operator's license from Alabama.

James Gentile

Mr. Gentile, 56, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gentile understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gentile meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Bradley O. Gibson

Mr. Gibson, 29, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gibson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gibson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Texas.

Christopher L. Gossetti

Mr. Gossetti, 43, has had ITDM since 1988. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gossetti understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gossetti meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Rhode Island.

Theodore F. Griffith

Mr. Griffith, 48, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Griffith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Griffith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Lawrence E. Handel

Mr. Handel, 69, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Handel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Handel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

Danny P. Hersh

Mr. Hersh, 70, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hersh understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hersh meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Nebraska.

Timothy S. Houghton

Mr. Houghton, 48, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Houghton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Houghton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

Bryan W. Hughes-Gariepy

Mr. Hughes-Gariepy, 42, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies

that Mr. Hughes-Gariepy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hughes-Gariepy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

James L. Johnson

Mr. Johnson, 54, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Georgia.

Anthony D. Lake

Mr. Lake, 50, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lake understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lake meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Thomas Landis

Mr. Landis, 76, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Landis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Landis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

John T. Lohr

Mr. Lohr, 57, has had ITDM since 1985. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lohr understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lohr meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Grant L. Lupold

Mr. Lupold, 57, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lupold understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lupold meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Nathan R. McGathey

Mr. McGathey, 30, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McGathey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McGathey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Mark A. Mesnard

Mr. Mesnard, 60, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mesnard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mesnard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Gene K. Milburn

Mr. Milburn, 63, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Milburn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Milburn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Idaho.

William J. Miles

Mr. Miles, 54, has had ITDM since 1990. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting

in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miles understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miles meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Andrew M. Oliver

Mr. Oliver, 45, has had ITDM since 1991. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Oliver understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Oliver meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a chauffeur's license from Michigan.

Spencer J. Olson

Mr. Olson, 69, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Olson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Olson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Idaho.

Richard L. Peak

Mr. Peak, 68, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Peak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Peak meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Anthony P. Reith

Mr. Reith, 64, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Reith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Reith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Peter A. Rubinetti

Mr. Rubinetti, 50, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rubinetti understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rubinetti meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Steven Smith

Mr. Smith, 53, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Florida.

Robert L. Snyder

Mr. Snyder, 47, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Snyder understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Snyder meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

John H. Spierings

Mr. Spierings, 69, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Spierings understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Spierings meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist

examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Robert E. Stokes

Mr. Stokes, 66, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stokes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stokes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Corey R. Strum

Mr. Strum, 36, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Strum understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Strum meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Rick M. Vierstraete

Mr. Vierstraete, 50, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vierstraete understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vierstraete meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Christopher W. Williams

Mr. Williams, 34, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Williams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Williams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

James M. Wilson

Mr. Wilson, 55, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wilson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wilson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class E CDL from Michigan.

Robert L. Witt

Mr. Witt, 46, has had ITDM since 1982. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Witt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Witt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Vermont.

Paul G. Wright

Mr. Wright, 22, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wright understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wright meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Colorado.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0314 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0314 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued On: March 12, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–06175 Filed 3–17–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2015–0007–N–4]

Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (USDOT).

ACTION: Notice.

SUMMARY: FRA hereby gives notice that it is submitting the following Information Collection request (ICR) to the Office of Management and Budget (OMB) for Emergency processing under the Paperwork Reduction Act of 1995 and its implementing regulations. FRA requests that OMB immediately authorize the collection of information identified below on March 18, 2015, for a period of 180 days.

FOR FURTHER INFORMATION CONTACT: A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling FRA's Clearance Officers: Robert Brogan (tel. (202) 493–6292) or Kimberly Toone (tel. (202) 493–6132); these numbers are not toll-free), or by contacting Mr. Brogan via facsimile at (202) 493–6216 or Ms. Toone via facsimile at (202) 493–6497, or via email by contacting Mr. Brogan at *Robert.Brogan@dot.gov;* or by contacting Ms. Toone at *Kim.Toone@dot.gov*. Comments regarding these information collection requirements should be sent directly to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC, 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov*.

Title: Railworthiness Directive Under 49 CFR 180.509 for Railroad Tank Cars Equipped With Certain McKenzie Valve & Machining LLC Valves.

Reporting Burden:

Emergency order item No.	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
I. Identification of RR tank cars equipped with McKenzie valves & document providing reporting mark and number of each car so equipped and type of valve to FRA.	100 Tank Car Owners (15,000 affected tank cars).	200 identifications/reports.	2 hours	400 hours.
—Record of Inspection Date and Location and Results of Inspection.	100 Tank Car Owners (15,000 affected tank cars).	200 records	30 minutes	100 hours.

Form Number(s): N/A.

Respondent Universe: 100 Tank Car Owners.

Frequency of Submission: One-time; on occasion.

Total Responses: 400.

Estimated Total Annual Burden: 500 hours.

Status: Emergency Review.

Description: Recent FRA investigations identified several railroad tank cars transporting hazardous materials and leaking small quantities of product from the cars' liquid lines. FRA's investigation revealed that the liquid lines of the leaking tank cars were equipped with a certain type of 3 inch ball valve marketed and sold by McKenzie Valve & Machining LLC (McKenzie) (formerly McKenzie Valve & Machining Company), an affiliate company of Union Tank Car Company (UTLX). FRA further found certain closure plugs installed on the 3 inch

valves cause mechanical damage to the valves, which leads to the destruction of the valves' seal integrity and that the 3 inch valves, as well as similarly-designed 1 inch and 2 inch valves provided by this manufacturer are not approved for use on tank cars. FRA is issuing this Railworthiness Directive (Directive) to all owners of tank cars used to transport hazardous materials within the United States to ensure they identify and appropriately remove and replace these valves with approved valves consistent with Federal regulations.

As provided under 5 CFR 1320.13, *Emergency Processing,* DOT is requesting emergency processing for this new collection of information as specified in the Paperwork Reduction Act of 1995 and its implementing regulations. DOT cannot reasonably comply with normal clearance procedures because the use of normal clearance procedures is reasonably likely to disrupt the collection of information. Further, in light of recent tank car accidents/incidents carrying crude oil, FRA believes safety is an overriding issue. The Directive takes effect immediately upon issuance. FRA cannot wait the normal 90- to 180-day period for routine Office of Management and Budget (OMB) review and approval. Under the Directive, tank car owners must take immediate action to identify, inspect, and repair the valves. Therefore, FRA is requesting OMB approval of this collection of information upon publication of this Notice in the **Federal Register**.

Upon OMB approval of its emergency clearance request, FRA will follow the normal clearance procedures for the information collection associated with this Railworthiness Directive.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2015–06214 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of random drug and alcohol testing rates for 2015.

SUMMARY: This notice announces the 2015 random testing rates for employers subject to the Federal Transit Administration's (FTA) drug and alcohol rules.

DATES: *Effective Date:* January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Iyon Rosario, Drug and Alcohol Program Manager for the Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–366–2010 or email: *Iyon.Rosario@dot.gov*).

SUPPLEMENTARY INFORMATION: On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing employees performing safety-sensitive functions and submit annual reports by March 15 of each year beginning in 1996. The annual report includes the number of employees who had a verified positive for the use of prohibited drugs, and the number of employees who tested positive for the misuse of alcohol during the reported year. Small employers commenced their FTA-required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997. The testing rules were updated on August 1, 2001, and established a random testing rate for prohibited drugs and the misuse of alcohol.

The rules require employers conduct random drug tests at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. However, the rules provide the drug random testing rate may be lowered to 25 percent if the ''positive rate'' for the entire transit industry is less than one percent for two preceding consecutive years. Once lowered, the random rates may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year (''positive rate'' means the number of positive results for random drug tests conducted under 49 CFR 655.45 plus the number of refusals of random tests required by 49 CFR 655.49, divided by the total number of random drug tests, plus the number of refusals of random tests required by 49 CFR part 655).

The alcohol provisions provide the random rate may be lowered to 10 percent if the ''violation rate'' for the entire transit industry is less than 0.5 percent for two consecutive years. It will remain at 25 percent if the ''violation rate'' is equal to or greater than 0.5 percent but less than one percent, and it will be raised to 50 percent if the ''violation rate'' is one percent or greater for any one year (''violation rate'' means the number of covered employees found during random tests administered under 49 CFR 655.45 to have an alcohol concentration of 0.04 or greater, plus the number of employees who refuse a random test required by 49 CFR 655.49, divided by the total reported number of random alcohol tests plus the total number of refusals of random tests required by 49 CFR part 655).

Pursuant to 49 CFR 655.45(b), the Acting Administrator's decision to increase or decrease the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire industry. The information used for this determination is drawn from the drug and alcohol Management Information System (MIS) reports required by 49 CFR part 655. In determining the reliability of the data, the Acting Administrator considers the quality and completeness of the reported data, or may obtain additional information or reports from employers, and make appropriate modifications in calculating the industry's verified positive results and violation rates.

The Acting Administrator has determined that the random drug testing rate will remain at 25 percent for 2015 due to a ''positive rate'' lower than 1.0 percent for random drug test data for the two preceding calendar years. The random drug rates for the two preceding years are 0.74 percent for 2013 and 0.87 percent for 2014.

The Acting Administrator also has determined that the random alcohol testing rate for 2015 will remain at 10 percent because the random alcohol violation rate was again lower than 0.5 percent for the two preceding consecutive years due. The random alcohol rates for the two preceding years are 0.12 percent for 2013 and 0.14 percent for 2014.

Detailed reports on the FTA drug and alcohol testing data collected from transit employers may be obtained from the FTA, Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–2010

or at *http://transit-safety.fta.dot.gov/publications/Default.aspx*

Issued in Washington, DC, pursuant to authority under 49 CFR 1.91.

Therese McMillan,

Acting Administrator.

[FR Doc. 2015–06225 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Airport Property

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Request to Release Airport Property at the Ottumwa Regional Airport (OTM), Ottumwa, Iowa.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land, Lot #7, 14550 Terminal Ave., at the Ottumwa Regional Airport, Ottumwa, Iowa, under the provisions of 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before April 17, 2015.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Tom Francis, Airport Manager, C/O Ottumwa Regional Airport 14802 Terminal St. Ottumwa, IA 50501, 641–683–0619.

FOR FURTHER INFORMATION CONTACT: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106, (816) 329–2644, *lynn.martin@faa.gov.*

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release approximately 2.80 acres of airport property,14550 Terminal Ave., Lot #7, at the Ottumwa Regional Airport (OTM) under the provisions of 49 U.S.C. 47107(h)(2). On March 4, 2015, the Airport Manager at the Ottumwa Regional Airport requested from the FAA that approximately 2.80 acres of property, Lot #7, be released for sale to Friends of NAS Ottumwa for use as a museum for the Ottumwa Naval Air Station history. On March 12, 2015, the FAA determined that the request to release property at the Ottumwa Regional Airport (OTM) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

Ottumwa Regional Airport (OTM) is proposing the release of one parcel, Lot #7, containing 2.80 acres, more or less. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at the Ottumwa Regional Airport (OTM) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for general aviation facilities at the Ottumwa Regional Airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Ottumwa Regional Airport.

Issued in Kansas City, MO on March 12, 2015.

Jim Johnson,

Division Manager, Airports Division.

[FR Doc. 2015–06259 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0303]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 21 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before April 17, 2015. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0303 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. 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 below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement

page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 21 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Neal S. Anderson

Mr. Anderson, 53, has had Best disease in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''There are no visual changes that warrant new restrictions to his current commercial driver's license.'' Mr. Anderson reported that he has driven straight trucks for 37 years, accumulating 296,000 miles, and tractor-trailer combinations for 2 years, accumulating 15,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert D. Arkwright

Mr. Arkwright, 43, has had a toxoplasmosis scar in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''It is my opinion that Mr. Arkwright has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Arkwright reported that he has driven straight trucks for 3 years, accumulating 225,000 miles, and tractor-trailer combinations for 17 years, accumulating 2.02 million miles. He holds an operator's license from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Charles D. Ashworth Jr.

Mr. Ashworth, 52, has had a corneal scar in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I certify that in my medical opinion, Mr. Ashworth has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Ashworth reported that he has driven straight trucks for 10 years, accumulating 350,000 miles, and tractor-trailer combinations for 20 years, accumulating 2.7 million miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he failed to obey a traffic control device.

Randy A. Cimei

Mr. Cimei, 57, has a hemorrhage and retinal detachment in his right eye due to a traumatic incident in 2009. The visual acuity in his right eye is hand motion, and in his left eye, 20/15. Following an examination in 2015, his ophthalmologist stated, ''In my medical opinion he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Cimei reported that he has driven straight trucks for 26 years, accumulating 260,000 miles, and tractor-trailer combinations for 26 years, accumulating 5,200 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald J. Gruszecki

Mr. Gruszecki, 59, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''Based on the vision testing Ronald should be able to perform the tasks required for his commercial license.'' Mr. Gruszecki reported that he has driven straight trucks for 28 years, accumulating 1.26 million miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gerald L. Harper

Mr. Harper, 66, has a displaced pupil in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion Mr. Harper has sufficient vision to adequately perform the tasks necessary to operate a commercial vehicle at this time.'' Mr. Harper reported that he has driven straight trucks for 2 years, accumulating 16,000 miles, and tractor-trailer combinations for 31 years, accumulating 3.1 million miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Alan L. Helfer, Sr.

Mr. Helfer, 50, has had a cataract with amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/1000. Following an examination in 2014, his optometrist stated, ''I certify that in my medical opinion, patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Helfer reported that he has driven tractor-trailer combinations for 24 years, accumulating 1.44 million miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steven R. Jones

Mr. Jones, 59, has had macular drusen in his left eye since 2005. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, ''RE: Commercial Driver's License . . . In my medical opinion, I believe Steven can safely operate a motor vehicle. I am encouraged that he has already driven safely for over 10 years with his current state of visual ability.'' Mr. Jones reported that he has driven straight trucks for 22 years, accumulating 514,800 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no

crashes and no convictions for moving violations in a CMV.

William F. Laforce

Mr. Laforce, 49, has had esotropia and amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2014, his optometrist stated, ''Has sufficient vision to perform daily tasks to operate a commercial vehicle.'' Mr. Laforce reported that he has driven tractor-trailer combinations for three years, accumulating 63,000 miles. He holds a Class A CDL from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert N. Lewis

Mr. Lewis, 36, has had a retinal detachment in his right eye since 2008. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist certified that, in his medical opinion, Mr. Lewis has sufficient vision to perform the driving tasks required to operate a commercial vehicle. Mr. Lewis reported that he has driven straight trucks for 2.7 years, accumulating 3,200 miles. He holds an operator's license from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ryan T. McKinney

Mr. McKinney, 25, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''Ryan has 20/20 vision binocular and has full field of vision in both eyes. This condition has been present since birth. I see no reason why Ryan McKinney should not be allowed to drive a commercial vehicle on the interstate.'' Mr. McKinney reported that he has driven straight trucks for one year, accumulating 1,000 miles, and tractor-trailer combinations for 18 months, accumulating 130,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Freeman A. Miller

Mr. Miller, 67, has had refractive amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion, I see no reason visually that he could not operate a commercial vehicle.'' Mr. Miller reported that he has driven straight trucks for 17 years, accumulating 799,000 miles, and tractor-trailer combinations for 22 years, accumulating 1.98 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Larry G. Murray

Mr. Murray, 67, has complete loss of vision in his left eye due to a traumatic incident in 2002. The visual acuity in his right eye is 20/25, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''In my opinion patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Murray reported that he has driven tractor-trailer combinations for 40 years, accumulating 432,000 miles. He holds a Class A CDL from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas W. Oberschlake

Mr. Oberschlake, 50, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist certified that, in his medical opinion, Mr. Oberschlake has sufficient vision to perform the driving tasks required to operate a commercial vehicle. Mr. Oberschlake reported that he has driven straight trucks for 30 years, accumulating 45,000 miles. He holds an operator's license from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dennis R. Ohl

Mr. Ohl, 49, has had refractive amblyopia in his right eye since birth. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In general, based on his current visual status, I believe Dennis to be capable of safely operating a commercial vehicle.'' Mr. Ohl reported that he has driven straight trucks for 7.5 years, accumulating 172,500 miles. He holds an operator's license from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

J.W. Peebles

Mr. Peebles, 65, has had complete loss of vision due to a choroidal melanoma in his right eye since 2014. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''This vision in his left eye is 20/20 with and without correction . . . Based on my exam and the Goldman visual field, Mr. Peebles fulfills the driving tasks required to operate a commercial vehicle.'' Mr. Peebles reported that he has driven tractor-trailer combinations for 30 years, accumulating 468,500 miles. He holds a Class AM CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Craig C. Perrotta

Mr. Perrotta, 56, has had maculopathy associated with chronic central serous retinopathy in his left eye since 2007. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''It is in my medical opinion that Mr. Perrotta's visual system is capable of performing the designated driving tasks required to operate a commercial vehicle, and has been doing so without incident for over 10 years.'' Mr. Perrotta reported that he has driven straight trucks for 5.5 years, accumulating 184,800 miles. He holds a Class B CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Raymond W. Pitts

Mr. Pitts, 67, has had a retinal detachment in his right eye since 2010. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion, Mr. Pitts has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Pitts reported that he has driven tractor-trailer combinations for 40 years, accumulating four million miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jeffrey A. Porter

Mr. Porter, 56, has had hyperopia with amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''R [*sic*] eye simple hyperopia L [*sic*] eye hyperopia w [*sic*] amblyopia secondary to surgical correction for an eye turn as a child, patient is not monocular . . . Patient is able to operate a commercial vehicle.'' Mr. Porter reported that he has driven straight trucks for 8 years, accumulating

160,000 miles. He holds a Class D CDL from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Marty J. Prouty

Mr. Prouty, 55, has had a retinal detachment and a cataract in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his ophthalmologist stated, ''In my medical opinion, he has sufficient vision to operate a commercial motor vehicle.'' Mr. Prouty reported that he has driven straight trucks for 20 years, accumulating 300,000 miles, tractor-trailer combinations for 38 years, accumulating 760,000 miles, and buses for one year, accumulating 1,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows one crash, for which he was cited for following too closely.

Daniel A. Rau

Mr. Rau, 54, has a retinal tear and calcification of cornea secondary to failed penetrating keratoplasty in his left eye due to a traumatic incident in 1986. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''I certify that in my medical opinion Mr. Rau has sufficient vision with correction to perform driving tasks required to operate commercial vehicles.'' Mr. Rau reported that he has driven straight trucks for 33 years, accumulating 907,500 miles, and tractor-trailer combinations for 30 years, accumulating 2.63 million miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2014–0303 in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2014–0303 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Dated: March 11, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–06178 Filed 3–17–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Hazardous Materials Safety Program

AGENCY: Federal Aviation Administration

ACTION: Notice of Public Meeting.

SUMMARY: In preparation for the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel's (DGP's) meeting to be held April 27–May 1, 2015, in Montreal, Canada, the FAA's Office of Hazardous Materials Safety and the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Office of Hazardous Materials Safety announce a public meeting.

DATES: The public meeting will be held on Thursday, April 23, 2015 from 9 a.m. until 12 p.m.

ADDRESSES: The public meeting will be held at FAA Headquarters (FOB 10A), Bessie Coleman Conference Center, 2nd Floor, 800 Independence Avenue SW., Washington, DC 20591.

Participants are requested to register by using the following email address: *9-AWA-ASH-ADG-HazMat@faa.gov*.

Please include your name, organization, email address, and indicate whether you will be attending in person or participating via conference call. Conference call connection information will be provided to those who register and indicate that they will participate via conference call.

FOR FURTHER INFORMATION CONTACT: Questions regarding the meeting can be directed to Ms. Janet McLaughlin, Deputy Director, Office of Hazardous Materials Safety, ADG–2, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–9432. Email: *9-AWA-ASH-ADG-HazMat@faa.gov*. Questions in advance of the meeting for PHMSA can be directed to Mr. Shane Kelley, Assistant International Standards Coordinator, Pipeline and Hazardous Materials Safety Administration, PHH–10, 1200 New Jersey Ave. SE., Washington, DC 20590, telephone (202) 366–8553, Email: *shane.kelley@dot.gov*.

We are committed to providing equal access to this meeting for all participants. If you need alternative formats or other reasonable accommodations, please call (202) 267–9432 or email *9-AWA-ASH-ADG-HazMat@faa.gov* with your request by close of business on April 15, 2015.

Information and viewpoints provided by stakeholders are requested as the United States delegation prepares for the International Civil Aviation Organization's Dangerous Goods Panel's (ICAO DGP's) Working Group 2015 Meeting.

Papers relevant to this ICAO DGP meeting can be viewed at the following Web page: *http://www.icao.int/safety/DangerousGoods/Pages/DGP.aspx*.

A panel of representatives from the FAA and PHMSA will be present. The meetings are intended to be informal, non-adversarial, and to facilitate the public comment process. No individual will be subject to questioning by any other participant. Government representatives on the panel may ask questions to clarify statements. Unless

otherwise stated, any statement made during the meetings by a panel member should not be construed as an official position of the U.S. government.

The meeting will be open to all persons, subject to the capacity of the meeting room and phone lines available for those participating via conference call. Every effort will be made to accommodate all persons wishing to attend. The FAA and PHMSA will try to accommodate all speakers, subject to time constraints.

Issued in Washington, DC, on March 10, 2015.

Christopher Glasow,

Director, Office of Hazardous Materials Safety.

[FR Doc. 2015–06158 Filed 3–17–15; 4:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Agency Information Collection Activities; Proposals, Submissions, and Approvals

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on proposed information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Community Development Financial Institutions Fund (CDFI Fund), Department of the Treasury, is soliciting comments concerning an evaluation of the CDFI Fund's Bank Enterprise Award (BEA) Program.

DATES: Written comments should be received on or before May 18, 2015 to be assured of consideration.

ADDRESSES: Direct all comments to Greg Bischak, Program Manager, Financial Strategies and Research, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020, by email to *cdfihelp@cdfi.treas.gov* or by facsimile to (202) 508–0089. Please note this is not a toll free number.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Greg Bischak, Program Manager, Financial Strategies and Research, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020, by email to *cdfihelp@cdfi.treas.gov* or by facsimile to (202) 508–0089.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of the Community Development Financial Institution Fund (CDFI Fund) Bank Enterprise Award (BEA) Program.

OMB Number: 1559–NEW.

Type of Review: Regular Review.

Abstract: The BEA Program Evaluation is designed to support the CDFI Fund's overall mission to increase economic opportunity and provide community development investments in underserved populations and distressed communities within the United States. Specifically, the evaluation will assist the CDFI Fund in its assessment of a program administered to complement community development activities of insured depository institutions. The BEA Program provides financial assistance to FDIC-insured depository institutions for expanding investments in CDFIs, and increasing lending, investment, and service activities within economically distressed communities with at least 30 percent of residents having incomes less than the national poverty level, and at least 1.5 times the national unemployment rate.

The program evaluation is designed to assess:

- The *effectiveness* of the BEA Program as a mechanism for providing performance-based awards;
- The *influence* of the BEA Program and BEA Program awards on bank behavior and investment patterns;
- The *impact* of the BEA Program awards on award recipients and distressed communities; and
- The *impact* of BEA Program-eligible investments in CDFIs and in distressed communities.

The primary audience for the BEA Program evaluation will include key leadership from the population of approximately 156 FDIC-insured financial institutions that applied for BEA Program awards during calendar years 2012, 2013, or 2014. In addition, the evaluation audience will include a sample of CDFI Partners (CDFIs that were recipients of loans or investments from BEA Program applicants or awardees).

An online survey will be administered to address the study objectives and related research questions. The survey instrument will be organized into the following major categories and related topics:

- Organizational Profile
  - Service Area
  - Community Reinvestment Act (CRA) Asset Size (Used to Determine Bank Size)
  - Number of Awards and Dollar Amount
  - Activity Category
  - Institution type (*e.g.,* CDFI, Community Bank)
- Effectiveness of the BEA Program as a mechanism for providing performance based awards.
  - Extent to which banks' decisions to apply for a BEA Program award was driven by economic or financial rewards (*e.g.,* increase profitability, improve capital ratios, risk mitigation, etc.).
  - Extent to which the Qualified Activities that formed the basis for the bank's application were driven by regulatory factors (*e.g.,* CRA, CAMELS ratings, etc.).
  - Degree to which the Qualified Activities that formed the basis for banks' applications needed support (*e.g.,* financial assistance) from a BEA Program award.
- Influence of the BEA Program on Bank Behavior and Investment Patterns.
  - Extent to which FDIC-insured financial institutions have provided loans, investments, or assistance to CDFI's in BEA qualified distressed communities during the assessment period.
  - Types of support provided.
  - Types of CDFIs most frequently receiving support from FDIC-insured financial institutions (*e.g.,* banks, loan funds, venture capital funds, or credit unions).
  - Primary reason(s) why FDIC-insured financial institutions have provided loans, investments, or assistance to various types of CDFIs in BEA qualified distressed communities.
  - Extent to which banks had provided financial products and/or services in the distressed community before the applicable assessment period.
  - Level of effort, cost, and risk associated with carrying out the Qualified Activities that formed the basis for the bank's application (and variation by type of activity).
  - Estimated ratio of the dollar amount of the Qualified Activities that formed the basis for a bank's application to the amount of the BEA Program award calculated for the Qualified Activities.
  - Estimate on the extent to which the bank's actual Qualified Activities exceed the amount included in their BEA applications.
- Impact of the BEA Program awards on Recipient Banks and Distressed Communities.
  - Perceived impact of BEA Program awards on recipient banks.

○ Perceived impact of BEA Program awards on residents and businesses in Distressed Communities.

• Impact of BEA Program-eligible investments in CDFIs and in distressed communities.

○ Perceived extent to which the Qualified Activities that formed the basis for banks' applications have benefited CDFIs and residents and businesses in distressed communities.

The survey instrument will include 15–20 closed-ended questions (*e.g.,* Likert scale, rating scale, rank order, or multiple response items), 3–5 ''other (specify)'' items, and a maximum of three open-ended questions.

Questions regarding the survey instrument should be directed to Greg Bischak, Program Manager, Financial Strategies and Research, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020, by email to *cdfihelp@cdfi.treas.gov* or by facsimile to (202) 508–0089.

Type of Information Collection Request: New Collection.

Affected Public: Private Sector: Businesses or other for-profits, Not-for-profit institutions.

Estimated Number of Respondents: 109 (based on an expected response rate of 70 percent).

Estimated Annual Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 55 hours.

Requests For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and may be published on the CDFI Fund Web site at *http://www.cdfifund.gov.* This notice solicits comments from the public and affected parties concerning the forthcoming online survey of FDIC-insured financial institutions that applied for BEA Program awards during calendar years 2012, 2013, or 2014 with respect to: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collections; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Dated: March 10, 2015.

Annie Donovan,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2015–06233 Filed 3–17–15; 8:45 am]

BILLING CODE 4810–70–P

FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2012–0360; FRL–9923–26–OAR]

RIN 2060–AR47

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Off-Site Waste and Recovery Operations (OSWRO) source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, the Environmental Protection Agency (EPA) is finalizing amendments to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown and malfunction (SSM); add requirements for reporting of performance testing through the Electronic Reporting Tool (ERT); revise the routine maintenance provisions; clarify provisions pertaining to open-ended valves and lines (OELs); add monitoring requirements for pressure relief devices (PRDs); clarify provisions for some performance test methods and procedures; and make several minor clarifications and corrections. The revisions to the final rule increase the level of emissions control and environmental protection provided by the OSWRO NESHAP.

DATES: This final action is effective on March 18, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2012–0360. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet, and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov,* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Ms. Paula Hirtz, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards (OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2618; fax number: (919) 541–0246; and email address: *hirtz.paula@epa.gov.* For specific information regarding the risk modeling methodology, contact Ms. Darcie Smith, Health and Environmental Impacts Division (C504–06), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2076; fax number: (919) 541–0840; and email address: *smith.darcie@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Marcia Mia, EPA Office of Enforcement and Compliance Assurance; U.S. EPA, WJC West Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–7042; and email address: *mia.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble Acronyms and Abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ADAF—age-dependent adjustment factors
BDT—best demonstrated technology
CAA—Clean Air Act
CBI—confidential business information
CDX—Central Data Exchange
CEDRI—Compliance and Emissions Data Reporting Interface
CFR—Code of Federal Regulations
CRA—Congressional Review Act
CWA—Clean Water Act
EPA—Environmental Protection Agency
EPCRA—Emergency Planning and Community Right-To-Know Act
ERT—Electronic Reporting Tool
FR—Federal Register
HAP—hazardous air pollutants
HON—Hazardous Organic NESHAP
HQ—hazard quotient
ICR—information collection request
IPT—integrated project team
kPa—kilopascals
LDAR—leak detection and repair
MACT—maximum achievable control technology
MIR—maximum individual risk
MON—Miscellaneous Organic NESHAP
NAICS—North American Industry Classification System
NATA—National Air Toxics Assessment
NEIC—National Enforcement Investigations Center
NESHAP—National Emissions Standards for Hazardous Air Pollutants
NRDC—Natural Resources Defense Council
NTTAA—National Technology Transfer and Advancement Act
OAQPS—Office of Air Quality Planning and Standards
OECA—Office of Enforcement and Compliance Assurance
OEL—open-ended valve or line
OMB—Office of Management and Budget
OSHA—Occupational Safety and Health Administration
OSWRO—off-site waste and recovery operations
PB–HAP—hazardous air pollutants known to be persistent and bio-accumulative in the environment
POM—polycyclic organic matter
ppm—parts per million
ppmv—parts per million by volume
ppmw—parts per million by weight
PRA—Paperwork Reduction Act
PRD—pressure relief device
psi—pounds per square inch
RCRA—Resource Conservation and Recovery Act
RFA—Regulatory Flexibility Act
RQ—reportable quantity
RTR—residual risk and technology review
SBA—Small Business Administration
SCAQMD—South Coast Air Quality Management District
SOCMI—synthetic organic chemical manufacturing industry
SSM—startup, shutdown and malfunction
TOSHI—target organ-specific hazard index
tpy—tons per year
TSDF—hazardous waste treatment, storage and disposal facilities
TTN—Technology Transfer Network
UMRA—Unfunded Mandates Reform Act
VCS—voluntary consensus standards
VOC—volatile organic compound
VOHAP—volatile organic hazardous air pollutant
XML—extensible markup language

Background Information. On July 2, 2014 (79 FR 37850), the EPA proposed revisions to the OSWRO NESHAP based on our RTR, and we also proposed to amend provisions related to emissions during periods of SSM, to add requirements for electronic reporting of performance testing and monitoring requirements for PRDs, to revise routine maintenance provisions, to clarify provisions for OELs and for some performance test methods and procedures and to make several minor clarifications and corrections. In this action, we are finalizing decisions and revisions for the rule. We summarize key comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of the public comments on the proposal not presented in the preamble

and the EPA's responses to those comments are available in Docket ID No. EPA–HQ–OAR–2012–0360. The background information also includes discussion and technical analyses of other issues addressed in this final rule. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of This Document. The information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORY AFFECTED BY THIS FINAL ACTION

NESHAP and source category	Examples of regulated entities
Off-Site Waste and Recovery Operations.	Businesses or government agencies that operate any of the following: Hazardous waste treatment, storage and disposal facilities (TSDF); Resource Conservation and Recovery Act (RCRA) exempt hazardous wastewater treatment facilities; nonhazardous wastewater treatment facilities other than publicly-owned treatment works; used solvent recovery plants; RCRA exempt hazardous waste recycling operations; used oil re-refineries.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will be available on the Internet through the Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas or air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *http://www.epa.gov/ttn/atw/offwaste/oswropg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same Web site.

Additional information is available on the RTR Web site at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project Web sites for the RTR source categories and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by May 18, 2015. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to reconsider the rule, ''[i]f the

person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC West Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or any combination of HAP at a rate of 25 tpy or more. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems or techniques, including but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials or other modifications; enclose systems or processes to eliminate emissions; collect, capture or treat HAP when released from a process, stack, storage or fugitive emissions point; are design, equipment, work practice or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements and may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor, under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 79 FR 37850.

B. What is the OSWRO source category and how does the NESHAP promulgated on July 1, 1996, regulate HAP emissions from the source category?

The EPA promulgated the OSWRO NESHAP on July 1, 1996 (61 FR 34139). The standards are codified at 40 CFR part 63, subpart DD. The OSWRO industry consists of facilities that conduct operations to manage, convey or handle wastes or recoverable materials that are received from other facilities. The source category covered by the OSWRO NESHAP currently includes approximately 56 facilities. However, based on available permit information, seven facilities are known to be exempt from most of the rule requirements due to the low HAP content of the off-site waste they receive or because they comply instead with 40 CFR part 61, subpart FF, as allowed by the OSWRO NESHAP, and they are not expected to be affected by the final rule amendments.

In general, the rule applies to waste management units and recovery operations that are located at major sources of HAP emissions, are used to manage, convey or handle used oil, used solvent or waste received from other facilities, and contain at least one of 97 organic HAP specified in the rule.[2] The HAP emission sources at facilities subject to the OSWRO NESHAP are tanks, containers, surface impoundments, oil-water separators, organic-water separators, process vents and transfer systems used to manage offsite material and equipment leaks. The MACT standards regulate these emissions sources through emission limits, equipment standards and work practices.

C. What changes have been made to the standards since promulgation of the NESHAP for the OSWRO source category?

Rule changes have been made to the OSWRO NESHAP since the promulgation of the NESHAP on July 1, 1996, in several separate actions. On July 20, 1999 (64 FR 38950), the EPA issued a direct final rule that amended specific provisions in the rule to resolve issues and questions raised after promulgation of the final rule. In this action, the EPA also amended other rule language to correct technical omissions, to make requirements consistent with other related air rules, and to correct typographical, printing and grammatical errors. On January 8, 2001 (66 FR 1263), the EPA published technical corrections

[1] The U.S. Court of Appeals for the District of Columbia Circuit has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

[2] The OSWRO MACT rule defines ''waste,'' ''used oil'' and ''used solvent'' in 40 CFR 63.681 Definitions.

and minor technical amendments for the OSWRO NESHAP. In addition, the EPA published proposed and final rules on January 16, 2002 (67 FR 2286), and June 23, 2003 (68 FR 37334), respectively, to clarify which parts of several existing NESHAP, including the OSWRO NESHAP, can be delegated to state, local and tribal agencies. The EPA also published proposed and final rules on July 29, 2005 (70 FR 43992), and April 20, 2006 (71 FR 20446), respectively, to revise certain aspects of SSM requirements in several existing NESHAP, including the OSWRO NESHAP.

D. What changes did we propose for the OSWRO source category in our July 2, 2014, proposal?

On July 2, 2014 (79 FR 37850), the EPA published proposed amendments to the OSWRO NESHAP based on the RTR analyses and also proposed other revisions. The proposed revisions include the following:

- Revisions to the tank requirements to require increased control of emissions for tanks in a specific size range that also contain material above a specified vapor pressure;
- Revisions to the equipment leak requirements to remove the option to comply with either 40 CFR part 63, subpart H or 40 CFR part 61, subpart V, and require compliance with only 40 CFR part 63, subpart H;
- Revisions to requirements related to emissions during periods of SSM;
- The addition of requirements for reporting of performance testing through the ERT;
- Revisions to the routine maintenance provisions to limit the applicability of the provisions to tanks;
- Clarifications to the ''sealed'' requirement of the provisions for OELs;
- Addition of monitoring requirements for PRDs;
- Clarification of provisions for some performance test methods and procedures; and
- Several minor clarifications and corrections.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the OSWRO source category, and amends the OSWRO NESHAP, as proposed, based on those determinations. This action also finalizes the proposed changes to the NESHAP described in section II.D. of this preamble. We are also finalizing minor changes to the NESHAP in consideration of comments received during the public comment period for the proposed rulemaking, as described in section IV.D.2 of this preamble. In the following subsections, we introduce and summarize the final amendments to the OSWRO NESHAP.

A. What are the final rule amendments based on the risk review for the OSWRO source category?

Pursuant to CAA section 112(f), we are revising the tank and equipment leak requirements of the OSWRO NESHAP. Specifically, as we proposed, we are finalizing our determination that risks from the OSWRO source category are acceptable, considering all of the health information and factors evaluated and also considering risk estimation uncertainty; we are finalizing revisions to the tank requirements to require increased control of emissions for tanks in a specific size range that also contain material above a specified vapor pressure; and we are finalizing revisions to the equipment leak requirements to remove the option to comply with either 40 CFR part 63, subpart H or 40 CFR part 61, subpart V, and require compliance with only 40 CFR part 63, subpart H. We evaluated the costs, emissions reductions, energy implications and cost effectiveness of these revised standards and determined that these measures are cost effective and technically feasible and will provide an ample margin of safety to protect public health and prevent adverse environmental effects from exposure to emissions from the OSWRO source category.

B. What are the final rule amendments based on the technology review for the OSWRO source category?

We determined that there are developments in practices, processes and control technologies that warrant revisions to the NESHAP for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), we are revising the MACT standards to include those developments. Specifically, as we proposed, we are finalizing revisions to the tank requirements to require increased control of emissions for tanks in a specific size range that also contain material above a specified vapor pressure, and we are finalizing revisions, as proposed, to the equipment leak requirements to remove the option to comply with either 40 CFR part 63, subpart H or 40 CFR part 61, subpart V, and require compliance with only 40 CFR part 63, subpart H. As noted in section III.A of the preamble, we are concurrently promulgating these tank and equipment leak revisions under section 112(f)(2) of the CAA to provide an ample margin of safety to protect public health.

C. What are the final rule amendments addressing emissions during periods of startup, shutdown and malfunction?

We are finalizing, as proposed, changes to the OSWRO NESHAP to eliminate the SSM exemption. Consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008), the EPA has established standards in this rule that apply at all times. Table 2 to Subpart DD of Part 63 (General Provisions applicability table) is being revised to change several references related to requirements that apply during periods of SSM. We also eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary or redundant language in the absence of the SSM exemption. We determined that facilities in this source category can meet the applicable emission standards in the OSWRO NESHAP at all times, including periods of startup and shutdown; therefore, the EPA determined that no additional standards are needed to address emissions during these periods.

D. What other changes have been made to the NESHAP?

This rule also finalizes, as proposed, revisions to several other OSWRO NESHAP requirements. We describe the revisions in the following paragraphs.

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners and operators of OSWRO facilities submit electronic copies of certain required performance test reports through an electronic performance test report tool called the ERT. This requirement to submit performance test data electronically to the EPA does not require any additional performance testing and applies only to those performance tests conducted using test methods that are supported by the ERT.

We are finalizing the proposed revisions to the routine maintenance provisions to limit their applicability to tanks routing emissions to a control device rather than any equipment or process routing emissions to a control device. This revision restores the OSWRO NESHAP provisions to the original intent for them to be consistent with the routine maintenance provisions of the Hazardous Organic NESHAP (HON).

To reduce compliance uncertainty associated with ''sealed'' OELs, we are

finalizing the proposed revisions to clarify that OELs are ''sealed'' by a cap, blind flange, plug or second valve when instrument monitoring of the OEL conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 parts per million (ppm) or greater. For OELs that are exempt from the requirements to be equipped with a cap, blind flange, plug or second valve, we are requiring them to be equipped with a flow indicator, seal or locking device.

To conform with the reasoning of the Court's ruling in *Sierra Club* v. *EPA,* we are finalizing the proposed requirements regarding releases directly to the atmosphere from safety devices, pressure tanks, bypasses and PRDs. These requirements prohibit bypasses of control devices and prohibit emissions released directly to the atmosphere from PRDs and closure devices on pressure tanks. In addition, we are finalizing the proposed recordkeeping and reporting requirements associated with releases to the atmosphere from bypasses and PRDs. We are also finalizing the proposed requirements that PRDs be monitored with a device or monitoring system that is capable of: (1) Identifying the pressure release; (2) recording the time and duration of each pressure release; and (3) notifying operators immediately that a pressure release is occurring.

We are finalizing, as proposed, several minor changes to the test methods and procedures required by the NESHAP to correct errors and to provide consistency, clarification and flexibility.

In addition, we are finalizing, as proposed, several miscellaneous minor changes to improve the clarity of the rule requirements.

We are also finalizing minor changes to the NESHAP in consideration of comments received during the public comment period for the proposed rulemaking, as described in section IV. D.2 of this preamble.

E. What are the effective and compliance dates of the revisions to the OSWRO NESHAP?

The effective date and compliance dates for the revisions to the OSWRO NESHAP being promulgated in this action have not changed since proposal.

The revisions to the OSWRO NESHAP being promulgated in this action are effective on March 18, 2015.

The compliance date for the revised SSM requirements, electronic reporting requirements, the revised routine maintenance provisions, the operating and pressure release management requirements for PRDs, and the revised requirements regarding bypasses and closure devices on pressure tanks for existing OSWRO facilities is the effective date of the standards March 18, 2015. The compliance date for existing OSWRO facilities to comply with the PRD monitoring requirements is 3 years from the effective date of the standards, March 20, 2018. The compliance date for existing OSWRO facilities to comply with the revised tank requirements is 2 years from the effective date of the standards, March 20, 2017. For equipment leaks, the compliance date for existing sources is 1 year from the effective date of the standards, March 18, 2016.

New sources must comply with all of the standards immediately upon the effective date of the standard, March 18, 2015, or upon startup, whichever is later.

IV. What is the rationale for our final decisions and amendments for the OSWRO source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the OSWRO Source Category

1. What did we propose pursuant to CAA section 112(f) for the OSWRO source category?

Pursuant to CAA section 112(f), we conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the July 2, 2014, proposed rule for the OSWRO NESHAP (79 FR 37850). The results of the risk assessment are presented briefly below in Table 2, and in more detail in the residual risk document, *Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category in Support of the February 2015 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking. Based on actual emissions for the OSWRO source category, the maximum individual risk (MIR) was estimated to be up to 9-in-1 million, the maximum chronic non-cancer target organ-specific hazard index (TOSHI) value was estimated to be up to 0.6, and the maximum off-site acute hazard quotient (HQ) value was estimated to be up to 1. The total estimated national cancer incidence from this source category, based on actual emission levels, was 0.02 excess cancer cases per year, or one case in every 50 years. Based on MACT-allowable emissions for the OSWRO source category, the MIR was estimated to be up to 20-in-1 million, and the maximum chronic non-cancer TOSHI value was estimated to be up to 1. We also found there were emissions of one persistent and bio-accumulative HAP (PB–HAP) with an available RTR multipathway screening value, and the reported emissions of this HAP, 2-acetylaminofluorene (which is a polycyclic organic matter (POM) compound), were below the multipathway screening value for this compound. Emissions of three environmental HAP, POM, hydrogen chloride and hydrogen fluoride, were reported by OSWRO facilities. For each of these three HAP, the modeled concentrations were below the respective ecological benchmark values. The maximum facility-wide MIR was 200-in-1 million and the maximum facility-wide TOSHI was 4. These risks were found to be due to emissions from non-OSWRO processes at the facility site and were based on actual emissions. We weighed all health risk factors in our risk acceptability determination, and we proposed that the residual risks from the OSWRO source category are acceptable.

TABLE 2—OFF-SITE WASTE AND RECOVERY OPERATIONS INHALATION RISK ASSESSMENT RESULTS

Maximum individual cancer risk (in 1 million) [a]		Estimated population at increased risk levels of cancer	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [b]		Maximum screening acute non-cancer HQ [d]
Actual emissions level	MACT-allowable emissions level [c]			Actual emissions level	MACT-allowable emissions level	
9	20	≥ 1-in-1 million: 210,000 ≥ 10-in-1 million: 0	0.02	0.6	1	HQ_{REL} = 1 (glycol ethers).

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[b] Maximum TOSHI. The target organ with the highest TOSHI for the OSWRO source category for both actual and MACT-allowable emissions is the respiratory system.
[c] The development of allowable emission estimates can be found in the memo *MACT-Allowable Emissions for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.
[d] The maximum off-site acute value of 1 for actual emissions is driven by emissions of glycol ethers. Acute assessments are not performed with MACT-allowable emissions.

We then considered whether the OSWRO NESHAP provides an ample margin of safety to protect public health and whether more stringent standards are necessary to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. The control options identified to reduce risk were the same as those identified under the technology review for the OSWRO source category. Based on that analysis, we proposed to require more stringent controls for tanks of certain sizes and containing materials above a certain vapor pressure. We also proposed to require facilities to comply with the more stringent leak detection and repair (LDAR) program of 40 CFR part 63, subpart H rather than to allow facilities to comply with either 40 CFR part 63, subpart H or 40 CFR part 61, subpart V. Furthermore, we proposed that additional HAP emissions controls for OSWRO process vents are not necessary to provide an ample margin of safety. Based on the results of our screening analysis for risks to the environment, we also proposed that more stringent standards are not necessary to prevent an adverse environmental effect.

2. How did the risk review change for the OSWRO source category since the proposed rule?

Information received by the EPA during the proposal comment period indicates that four additional facilities, not included in the risk review for the OSWRO source category, are subject to the OSWRO NESHAP. These facilities include Eastman Chemical Company in Kingsport, Tennessee; Eastman Chemical Company in Longview, Texas; E.I. DuPont de Nemours and Company in Orange, Texas; and E. I. DuPont de Nemours and Company in Axis, Alabama.

To determine whether to conduct additional risk modeling for these facilities, we reviewed the title V permits and the results of previously performed risk modeling for these facilities. The review of the facility title V permits, as well as conversations with facility representatives, indicated that these facilities are primarily chemical manufacturing plants with processes subject to other NESHAPs that also process some amount of waste received from other facilities within their companies. A review of previously modeled facility-wide risks for these four facilities as part of the risk reviews for the other NESHAP indicate that the maximum facility-wide cancer risks due to emissions of HAP range from 6-in-1 million to 40-in-1 million. These risks are relatively low when compared to the upper end of the range of acceptability of 100-in-1 million. The maximum facility-wide non-cancer risks due to HAP emissions range from 0.08 to 1. In addition, the results show that the facility-wide cancer and non-cancer risks are attributed to HAP emissions from non-OSWRO processes. As the OSWRO processes are minor operations at these facilities, the risk due to OSWRO operations is expected to be a small fraction of the facility-wide risk.

Adding these facilities to the dataset and performing additional modeling would not be expected to result in increased maximum risks from the source category, for the reasons discussed above. Thus, we determined that additional modeling to include these facilities is not necessary, and, based on available information, the risks from these four facilities do not change our decisions regarding risk acceptability or ample margin of safety for the OSWRO source category. We have not otherwise changed any aspects of our risk review since the proposal.

3. What key comments did we receive on the risk review, and what are our responses?

The comments received on the proposed risk review were generally supportive of our determination of risk acceptability and ample margin of safety analysis and requirement for additional control. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

4. What is the rationale for our final decisions for the risk review?

For the reasons explained in the proposed rule, we determined that the risks from the OSWRO source category are acceptable, and the revised requirements for tanks and equipment leaks described above will provide an ample margin of safety to protect public. In addition, for the reasons explained in the proposal, we determined that more stringent standards are not necessary to prevent an adverse environmental effect. Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety or adverse environmental effects have changed. Therefore, pursuant to CAA section 112(f)(2), we are revising the OSWRO NESHAP to require the 40 CFR part 63, subpart H LDAR program and more stringent emissions controls for certain tanks to provide an ample margin of safety to protect public.

B. Technology Review for the OSWRO Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the OSWRO source category?

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes and control technologies for the emission sources in the OSWRO source category. At proposal, we identified developments in practices, processes or control technologies for process vents, tanks and equipment leaks.

For process vents, one potential control technology was identified at proposal, use of a regenerative thermal oxidizer, which could increase the emissions capture and control efficiency from 95 percent to 98 percent for those process vents that are currently controlled with a carbon adsorption system or other device achieving 95-percent control. We estimated an additional emission reduction of 10 tpy of HAP would be associated with this increase in emissions control efficiency, and the estimated costs would be $350,000 per ton of HAP emission reduction.

For tanks, we identified two potential developments in practices and control techniques at proposal. Option 1 would lower the vapor pressure threshold above which ''Level 2'' control would be required for some tanks. ''Level 2'' control essentially requires one of five options: (1) A fixed roof tank equipped with an internal floating roof; (2) a fixed roof tank equipped with an external floating roof; (3) a tank with a vapor-tight cover and vented through a closed-vent system to a control device that has an efficiency of 95 percent or more; (4) a pressure tank; or (5) a tank inside a permanent total enclosure that is vented through a closed-vent system to an enclosed combustion control device. Option 1 would require Level 2 emissions control for tanks with capacities greater than or equal to 75 cubic meters (m^3), but less than 151 m^3, if the vapor pressure of the stored material is 13 kilopascals (kPa) or greater, instead of 27.6 kPa or greater as required by the current MACT standard. Option 2 would revise the vapor pressure threshold as in Option 1 and increase the required control efficiency from the current 95-percent to a 98-percent emissions reduction for all tanks required to use Level 2 controls. For tank Option 1, we estimated an additional emission reduction of up to 73 tpy and estimated the costs would be $300 per ton of HAP emission reduction. For tank Option 2, we estimated the HAP emissions reduction incremental to Option 1 would be approximately 22 tpy and the incremental cost effectiveness between Option 1 and Option 2 would be $56,000 per ton of HAP emission reduction.

For equipment leaks, we identified the more stringent leak definitions of 40 CFR part 63, subpart H over those of 40 CFR part 61, subpart V as a development in practices, processes or control technologies at proposal. To implement the subpart H LDAR program, two options were identified: Option 1—switching from the subpart V LDAR program to the subpart H LDAR program, without the connector monitoring requirements; Option 2—switching from the subpart V LDAR program to the subpart H LDAR program, with the connector monitoring requirements. For Option 1, we estimated an additional emission reduction of up to 69 tpy and estimated the costs would be $1,000 per ton of HAP emission reduction. For Option 2, we estimated the HAP emissions reduction incremental to Option 1 would be approximately 70 tpy and the incremental cost effectiveness between Option 1 and Option 2 would be $7,000 per ton of HAP emission reduction.

Based on the costs and the emission reductions that would be achieved with the identified developments, we proposed to revise the MACT standard pursuant to CAA section 112(d)(6) to require Level 2 controls for tanks with capacities greater than or equal to 75 m^3, but less than 151 m^3, if the vapor pressure of the stored material is 13 kPa or greater and to require facilities to comply with the subpart H LDAR program, including the subpart H requirements for connectors in gas/vapor service and in light liquid service. We proposed that it was not necessary to revise the MACT standards pursuant to CAA section 112(d)(6) to require 98-percent control, based on the use of a regenerative thermal oxidizer, for process vents. More information concerning our technology review can be found in the memorandum titled, *Technology Review and Cost Impacts for the Proposed Amendments to the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket, and in the preamble to the proposed rule, 79 FR at 37870 to 37873.

2. How did the technology review change for the OSWRO source category?

a. Tanks

The analysis of the proposed control requirements for tanks at existing OSWRO facilities has been revised to reflect new data submitted by industry during the comment period. As part of its comments, the Cement Kiln Recycling Coalition provided information to demonstrate that alternative values or assumptions should be used in the analysis of tank emission reductions and costs of control. These comments were associated with the proposed requirement that Level 2 controls be used for tanks with capacities greater than or equal to 75 m^3, but less than 151 m^3, if the vapor pressure of the stored material is 13 kPa or greater (*i.e.,* Option 1). We reviewed this information, determined that several suggested changes were appropriate because they more accurately reflect the conditions of tanks in the OSWRO source category, and revised our analysis of tank emissions reductions and control costs to incorporate the data submitted by the commenter, where such incorporation was deemed appropriate. The major revisions to the analysis included the use of different parameters in estimating HAP emissions per tank and the inclusion of additional emissions control equipment and ancillary equipment. In addition, through further review of our previous analysis, we determined that the number of tanks nationwide that would require control under Option 1 was overestimated, and we revised the estimated number of tanks that would be affected by Option 1 in this analysis.

As shown in Table 3, our revised estimate of the capital costs for the tanks Option 1 requirement is approximately $139,000, and the total annualized costs are estimated to be approximately $192,000. The estimated HAP emissions reduction is approximately 26 tpy, and the cost effectiveness is approximately $7,000/ton.

TABLE 3—REVISED ESTIMATED NATIONWIDE EMISSIONS REDUCTION AND COSTS OF CONTROL OPTION 1 FOR TANKS AT OSWRO FACILITIES

Regulatory alternative	HAP emissions reduction (tpy)	Capital cost ($)	Annual costs ($/yr)	Cost effectiveness ($/ton HAP)
Option 1	26.4	139,000	192,000	7,000

At proposal, we also evaluated the impacts of requiring an increased HAP emissions control efficiency of 98 percent based on the use of a regenerative thermal oxidizer (*i.e.,* Option 2) and found that the costs of Option 2 were not reasonable given the level of HAP emissions reductions that it would achieve. No comments were received regarding Option 2, and we have not revised the analysis for Option 2.

For further details on the revised tanks analysis, see the technical memorandum titled, *Revised Technology Review for the Off-Site Waste and Recovery Operations Tanks,* available in the docket for this action.

b. Equipment Leaks

As part of its comments on the proposed rule, one commenter noted that the EPA did not account for monitoring of agitator seals on tanks in its analysis of the costs of implementing the more stringent leak definitions for equipment in 40 CFR part 63 subpart H. We have revised our analysis of the costs and emissions reductions associated with switching from the 40 CFR part 61, subpart V LDAR program to the 40 CFR part 63, subpart H LDAR program to include the expected emissions reductions and costs associated with monitoring agitator seals for leaks. Also, based on information received after proposal that there are four additional facilities in the source category that would be subject to the LDAR requirements of the rule, we have revised the analysis to include those facilities. We included this information in the evaluation of both regulatory options: Option 1—switching from a subpart V LDAR program to a subpart H LDAR program, without the subpart H connector monitoring requirements and Option 2—switching from a subpart V LDAR program, with the subpart H connector monitoring requirements.

The revised estimated costs and emissions reductions associated with these two options are shown in Table 4. For Option 1 (subpart H without connector monitoring), we estimate the capital costs to be approximately $414,000, and the total annualized costs are estimated to be approximately $155,000. The estimated HAP emissions reduction is approximately 109 tpy, and the cost effectiveness is approximately $1,000/ton. For Option 2 (subpart H with connector monitoring), we estimate the capital costs to be approximately $2,089,000, and the total annualized costs are estimated to be approximately $664,000. The estimated HAP emissions reduction is approximately 185 tpy, and the cost effectiveness is approximately $4,000/ton. The incremental cost effectiveness between Option 1 and Option 2 is approximately $7,000.

TABLE 4—REVISED ESTIMATED NATIONWIDE EMISSIONS REDUCTION AND COSTS OF EQUIPMENT LEAK CONTROL OPTIONS AT OSWRO FACILITIES

Regulatory alternative	HAP emissions reduction (tpy)	Capital cost ($)	Annual costs ($/yr)	Cost effectiveness ($/ton HAP)	Incremental cost effectiveness ($/ton HAP removed)
Option 1: Subpart H, no connector monitoring	108.7	414,000	155,000	1,000	.....
Option 2: Subpart H with connector monitoring	184.5	2,089,000	664,000	4,000	7,000

In addition to these revisions to the equipment leak analysis, we also considered comments regarding the costs of connector monitoring. In its comments on the proposed rule, one commenter claimed that the costs the EPA included in its analysis for ongoing connector monitoring and administrative activities were too low. Although we do not agree with the commenter and we continue to believe the costs we used in the analysis for these activities are reasonable, we conducted an additional analysis to assess the potential effect of using the values provided by the commenter on the cost effectiveness of Option 2. This additional analysis showed there would be a slight increase in the Option 2 total annualized cost to $672,000. The cost effectiveness would remain approximately $4,000, and the incremental cost effectiveness between Option 1 and Option 2 would still be approximately $7,000.

For further details on the revised equipment leaks analysis, see the technical memorandum titled, *Revised Technology Review for the Off-Site Waste and Recovery Operations Equipment Leaks,* available in the docket for this action.

c. Process Vents and Other OSWRO Equipment and Processes

For process vents and other equipment and processes at OSWRO facilities, the technology review has not changed since proposal.

3. What key comments did we receive on the technology review, and what are our responses?

The following is a summary of the key comments received regarding the OSWRO source category technology review and our responses to these comments. Additional comments on the technology review and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

Comment: One commenter states that the EPA did not account for monitoring of agitator seals on tanks in its analysis of the costs of implementing the more stringent leak definitions for equipment in 40 CFR part 63, subpart H, and

asserts that many tanks at OSWRO facilities are equipped with agitators.

Response: We acknowledge that we did not, prior to proposal, analyze the impacts of including monthly monitoring of agitators with Method 21 for the proposed rule. We performed this analysis in response to comments and have determined that the capital costs per facility for agitator monitoring are approximately $1,000, and the total annualized costs are estimated to be approximately $2,000. The estimated HAP emissions reduction is approximately 0.7 tpy, and the cost effectiveness is approximately $2,000/ton. Agitator monitoring would be included in both LDAR Options 1 and 2. To determine the effect of including agitator monitoring in the LDAR program options, we compared the costs and emissions reductions on a per facility basis rather than for the whole source category to avoid issues with differences in the number of facilities included in the source category. The effect of including agitator monitoring in Option 1 is an increase in the per facility capital costs from approximately $7,000 to approximately $8,000, an increase in the total annualized costs from approximately $1,500 to approximately $3,000, an increase in the estimated HAP emissions reduction from approximately 1.5 to approximately 2.2 tpy, and the cost effectiveness value remaining at approximately $1,000/ton. The effect of including agitator monitoring in Option 2 is an increase in the per facility capital costs from approximately $41,000 to approximately $43,000, an increase in the total annualized costs from approximately $12,000 to approximately $14,000, and an increase in the estimated HAP emissions reduction from approximately 3.1 to approximately 3.8 tpy. The cost effectiveness remains at approximately $4,000/ton, and the incremental cost effectiveness compared with Option 1 remains the same at $7,000/ton. Further details on the revised equipment leaks analysis are documented in the technical memorandum titled, *Revised Technology Review for the Off-Site Waste and Recovery Operations Equipment Leaks,* available in the docket for this action.

Based on our analysis of the costs of a 40 CFR part 63, subpart H LDAR program with monthly agitator monitoring using Method 21, we are finalizing, as proposed, the requirement that OSWRO facilities comply with subpart H, including the subpart H requirements for connectors in gas/vapor service and in light liquid service.

Comment: Several commenters dispute the EPA's emission reduction estimates related to connector monitoring. One of these commenters notes that the EPA based its cost-effectiveness calculations on the approach from the December 21, 2011, memorandum, *Analysis of Emissions Reduction Techniques for Equipment Leaks,* developed for the Uniform Standards, and provides comments on the approach used in this memorandum. This commenter and another commenter state that the leak rate factor of 1.7 for connectors was determined for the refining industry, and the EPA provides no basis that it applies to the synthetic organic chemical manufacturing industry (SOCMI) or the OSWRO source category. One commenter states that if the EPA believes the 1.7 factor is warranted, it should use petroleum refinery leak rates as a starting point instead of SOCMI rates. The commenter asserts that based on the experience of member companies with process units subject to HON connector monitoring, commencement of Method 21 monitoring with a leak definition of 500 ppm will not reduce emissions by 50 percent, as the EPA estimates. This commenter submitted a report that concluded there is no statistical difference in average leak rates between the initial Method 21 inspections and subsequent inspections and that volatile organic compound (VOC) emissions from connectors at plants subject to the HON or Miscellaneous Organic NESHAP (MON) are far below SOCMI average factor estimates. The commenter suggests that sensory methods of detecting leaks are adequate and the imposition of Method 21 in addition to current practices will not further reduce the number of leaks. The commenter asserts that operators are trained to recognize hazards associated with leaks using sensory methods and are expected to take prompt action when leaks occur.

Another commenter asserts that the revised monitoring requirements for connectors will not result in substantial, or any, HAP emission reductions. The commenter's assertion is based on data obtained from LDAR records of its member facilities, where only five connectors were found to have a leak above 500 ppm out of 10,542 connectors analyzed over the past year. The commenter also asserts that the EPA's assumption of 82-percent HAP composition is incorrect, and was taken from an OSWRO NESHAP background information document from 1994 which is based on an outdated HAP list (*i.e.,* methyl ethyl ketone has since been removed).

Response: The EPA stands by our analysis of emission reduction estimates related to connector monitoring for the OSWRO source category.

Regarding the factor used in estimating the leak frequency, we increased the connector leak frequency by a factor of 1.7. As explained below, we believe it is appropriate to apply this factor to the OSWRO source category to account for differences in industry-reported and National Enforcement Investigations Center (NEIC) measured leak frequencies. In 1999, the NEIC published the results of a comparative monitoring study at 17 petroleum refineries, which showed the percentage of valves identified as leaking by NEIC was always higher than the results of monitoring conducted by the petroleum refiners.[3] This NEIC report states that the disparity between the NEIC and company results may be attributable to refineries not monitoring in the manner prescribed in Method 21 of 40 CFR part 60, appendix A–7. In a subsequent analysis of these results, the NEIC results were shown to be higher than the industry results by a factor of at least 2.6 at the 99-percent confidence level.[4] As the initial connector leak frequency used in the analysis of OSWRO connector leak emissions was the same as that used in the Uniform Standards analysis,[5] which was based on industry–supplied data for facilities regulated by the MON, we applied a factor to account for the differences noted between industry-supplied data and NEIC-measured leak frequency data. For the OSWRO analysis, the factor of 1.7 was used rather than 2.6. This 1.7 factor represents the 10th percentile of the data set (*i.e.,* 90 percent of the NEIC leak frequencies were at least 1.7 times higher than the leak frequencies reported by the refineries). This conservative factor was chosen, in part, to account for the possibility that refineries and OSWRO facilities could leak at different rates.

We disagree with the commenter that applying the connector leak frequency

[3] U.S. EPA, Office of Enforcement and Compliance Assurance. October 1999. *Enforcement Alert: Proper Monitoring Essential to Reducing 'Fugitive Emissions' Under Leak Detection and Repair Programs.*

[4] Memorandum from D. Randall, RTI International, to K. Rackley, USEPA. October 30, 2007. *Statistical Analysis of Valve Leak Frequencies Obtained by Industry and EPA for Petroleum Refining Process Units.*

[5] Memorandum from C. Hancy, RTI International, to J. Howard, USEPA. December 21, 2011. *Analysis of Emissions Reduction Techniques for Equipment Leaks. This memorandum is available in the docket for this action.*

factor of 1.7 necessitates the use of petroleum refinery leak frequency rates. Since the process equipment and chemicals used at OSWRO facilities are more similar to those of the SOCMI than those at petroleum refineries, we believe it is appropriate to use SOCMI leak frequencies. Further, the factor we applied to the connector leak frequency to account for differences noted between industry-supplied and NEIC-measured data already accounted for potential differences in leak frequencies between petroleum refineries and OSWRO facilities by using the more conservative factor of 1.7 than the factor of 2.6 that would be applied to refinery data. We note that the initial leak frequency of 0.36 percent used in the OSWRO analysis is the same as that reported by the commenter's member companies for the HON initial monitoring, and we made the conservative assumption that the subsequent leak frequency after implementation of Method 21 monitoring of connectors would be the same as the initial leak frequency. However, we also assumed, as we have in other rulemakings, that these leaking connectors would be fixed so that the average leak frequency over each monitoring cycle would be equal to one-half of the subsequent leak frequency (*i.e.,* 0.18 percent).[6]

We disagree with the commenter's claim that the estimated emissions per connector used in the EPA's analysis are too high. The leak rates used were based on those reported in the Protocol for Equipment Leak Emissions Estimates (EPA–453/R–95–017, November 1995), which determined these leak rates based on screening data from 33 chemical production units and bagging data from 22 chemical production units. We consider this to be relevant and robust data, and the resulting average leak emissions rates are appropriate to use in our analyses.

We agree with the commenter that the HAP composition used in our analyses of 82 percent was taken from the 1994 OSWRO NESHAP background information document. The commenter did not provide any information to show that another estimate of HAP composition would be appropriate, and, without any basis for a different value, we have not changed our analyses to include a different HAP composition.

Comment: Two commenters dispute the EPA's assessment of the costs to monitor connectors. Specifically, one commenter disputes the EPA's assumed cost of $2.50 per monitored connector and outlines the various challenges in monitoring connectors in comparison with other types of equipment components. The other commenter states that the EPA underestimated the annual administrative costs of monitoring connectors and provides their own estimate of $27,000. Both commenters provide a revised analysis of the cost of connector monitoring based on a recent study conducted by one company at one facility, and conclude that monitoring connectors would cost $6.50 per component and $18,139/ton. Another commenter states that the requirement to conduct connector monitoring could result in OSWRO facilities being forced to hire outside consultants to perform the monitoring due to the large number of connectors at each site and that the annual monitoring costs for connectors could be the same as that for all other monitored components.

Response: We have considered the commenters' concerns that the estimated connector monitoring costs used in our analysis of the costs of an LDAR program, including periodic connector monitoring using Method 21, are too low. The two areas in which the commenters dispute the estimated connector monitoring costs are in the ongoing monitoring costs per connector and the estimated annual administrative and reporting costs. Regarding ongoing monitoring costs, we do not believe the $2.50 used in the EPA's analysis is an unreasonable estimate of the monitoring costs per connector. This estimate is based on an average monitoring cost per component of $1.00 to $1.50, and then increased to $2.50 to account for industry claims that connectors are more difficult than other components to monitor.[7] However, to determine how a fee of $6.50 per connector, as suggested by the commenters, would affect the cost effectiveness of the provisions, we conducted an additional analysis of costs of an LDAR program using this value. We note that all monitoring costs already assume an outside contractor would be used. Regarding the administrative and reporting costs, the submitted study includes $27,000 per year for these activities for connectors alone. At the labor rates used in the study, this equates to 781 hours per year. We do not find this amount of time to be reasonable for connector administrative and reporting costs, especially considering that connector monitoring may only be required once every four years. However, it may be possible that our estimate of 50 hours per year at a labor rate of $92.92 per hour overestimates the labor rate and underestimates the amount of time required to complete the necessary administrative requirements. Therefore, we conducted an additional analysis of the costs of the LDAR program assuming twice as many hours as we previously estimated and the labor rates provided by the commenter for these administrative actions. Using these more conservative values, the incremental cost effectiveness for connectors would be $6,825/ton. This incremental cost effectiveness is still $7,000/ton of HAP reduced, as was calculated without the alternate connector monitoring costs. Therefore, using these alternative values would not change our determination that the costs of the subpart H LDAR program (including connector monitoring) are reasonable, given the level of HAP emissions reduction that would be achieved, and we are finalizing the equipment leak amendments to require subpart H LDAR (including connector monitoring) as proposed.

Comment: One commenter states the EPA used several assumptions the commenter does not agree with in its estimate of emissions from tanks. One is that the EPA overestimated the tank throughput. The commenter asserts that, based on data from its members, the average waste throughput is typically less than 20,000,000 gallons for each facility, which is much lower than the EPA's estimate of 35,000,000 gallons per facility. The commenter also disagrees with the EPA's assumption that OSWRO tanks contain 100-percent HAP, as hazardous wastes processed by OSWRO facilities contain a large portion of organic and inorganic non-HAP constituents. The commenter estimates that as little as 50 percent of the tank constituents are HAP and provided a suggested mix of HAP constituents. The commenter also states that the EPA's selection of Houston as the location of the model facility is inappropriate because of its average sub-tropical temperatures, and a location more representative of the national average should be selected. The commenter also states that the EPA's use of the default conservation vent pressure settings of 0.03 pounds per square inch (psi) and −0.03 psi in the calculation of uncontrolled emissions is too low, and actual pressure settings for tanks currently subject to the OSWRO Level 1 control requirements are typically set at 0.5 psi.

[6] Memorandum from K. Parrish and D. Randall, RTI International, to K. Rackley, USEPA. October 30, 2007. *Final Impacts Analysis for Regulatory Options for Equipment Leaks of VOC in the SOCMI.*

[7] Memorandum from K. Parrish and D. Randall, RTI International, to K. Rackley, USEPA. October 30, 2007. *Final Impacts Analysis for Regulatory Options for Equipment Leaks of VOC in the SOCMI.*

This commenter also disputes the EPA's estimate of the costs that would be incurred by facilities to comply with the proposed amendments to the vapor pressure thresholds for tank control level. The commenter states that contrary to the EPA's assumptions, there are a significant number of sources that would require the installation of a new control device or would have to upgrade and/or expand their existing control device systems to comply with the Control Level 2 standards. The commenter asserts that the EPA provided no assessment of whether existing control devices are sized to accommodate additional vented sources, and control devices are typically not sized with significant excess capacity due to economic and space considerations. The commenter states that the EPA also did not consider flame arrestors to prevent back-flash to tanks, which would cost $10,000 per unit. In addition, the commenter asserts that the EPA did not consider capital costs related to engineering installation, or regulatory and safety costs, such as additional process hazard reviews and analyses under either the Occupational Safety and Health Administration (OSHA) Process Safety Management or CAA Risk Management Plan regulations that would likely be required if tanks are connected to a control device.

The commenter also disputes EPA's estimate of annual costs, and states that the EPA did not consider the additional cost associated with operation of the control device itself, such as costs associated with replacement and disposal or regeneration of carbon (for a carbon adsorption system). The commenter asserts that the annual cost should still be applied even if there is an existing control device because annual carbon costs are a function of the throughput of the newly affected units. The commenter further asserts that additional annual and capital costs would be incurred from the operation of a nitrogen blanketing system that may be required if carbon adsorption units is used as the HAP control device.

The commenter estimates that the cost effectiveness of the proposed amendments to the tank vapor pressure thresholds is actually $48,000 per ton of HAP controlled, which the commenter claims is an unnecessary cost to achieve minor emission reductions.

Response: Our analysis presented the best quantification of the emission reductions and costs of the proposed amendments to the tank provisions based on the information available at the time. We have revised some of the assumptions used in the analysis to address concerns raised by the commenter and to include additional information that the commenter has provided. Details of this analysis are presented in the memo, *Revised Technology Review for the Off-Site Waste and Recovery Operations Tanks,* which is available in the docket for this action.

We agree with the commenter that OSWRO tanks likely do not contain 100-percent HAP, and have revised the analysis to include a mix of tank constituents that comprises 60-percent HAP, as suggested by the commenter. We have moved the location of the model facility from Houston to a location near the center of the continental United States, which has temperatures more representative of the national average. We have also increased the conservation vent pressure setting from the default value of 0.03 psi to 0.5 psi, as suggested by the commenter. We did not revise the average waste throughput used in the analysis. The commenter did not provide data to support the claim that the average waste throughput is actually 20,000,000 gallons per facility, and the EPA's estimate of 35,000,000 gallons per facility is supported by data obtained through the 2013 CAA section 114 questionnaire for the one OSWRO facility with tanks in the size and vapor pressure range affected by the proposed standards.

In addition, while some facilities may have control devices with adequate capacity to control emissions from the additional tanks that would become subject to Level 2 control requirements as a result of the proposed amendments, it may be possible that some facilities do not have the required excess capacity. Therefore, we have revised the analysis to add the conservative assumption that each facility would need to install a carbon adsorber to comply with the proposed amendments. The revised analysis includes the cost of a carbon adsorber canister system, including installation and other associated capital costs, as well as annual costs for the operation of the device (*e.g.,* cost of carbon). We have also revised the analysis to include costs for flame arrestors, as suggested by the commenter. We have revised the number of tanks in the analysis from 21 to 14 to account for seven tanks that are known to already be controlled based on information collected through the CAA section 114 questionnaire.

We disagree with the commenter that the cost of nitrogen blanketing systems should be included in the analysis. Nitrogen blankets are not required by the OSWRO NESHAP for use with a control device, and we do not believe that nitrogen blankets are necessary for the operation of control devices, including a carbon adsorption system, as suggested by the commenter. Further, nitrogen blanketing systems can be used on tanks that are not controlled by a control device, and may already be in place for the tanks that would be affected by the revised standard. We also disagree with the commenter that we have not considered capital costs related to engineering installation and regulatory and safety costs. We explicitly include installation costs of equipment, and we follow the procedure of the EPA Control Cost Manual for including indirect costs.

Considering the revisions to emission controls and costs identified above, we have determined that the capital costs for the proposed amendments to the tank provisions are approximately $139,000, and the total annualized costs are estimated to be approximately $192,000. The estimated HAP emissions reduction is approximately 26 tpy, and the cost effectiveness is approximately $7,000 per ton of HAP reduced. While the revised analysis resulted in lower emission reductions at a higher cost than the estimates developed prior to proposal, we still find the amendments to the tank control provisions to be cost effective, and are, therefore, finalizing the amendments as proposed.

4. What is the rationale for our final decisions for the technology review?

Based on our revised analysis for tanks, the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. Therefore, as a result of this revised technology review pursuant to CAA section 112(d)(6), we have determined, as we did at proposal, that it is appropriate to revise the OSWRO NESHAP to require Level 2 controls for tanks with capacities greater than or equal to 75 m^3, but less than 151 m^3, if the vapor pressure of the stored material is 13 kPa or greater.

Considering our revised analysis for equipment leaks, we have determined the costs of Option 2, which includes all of the requirements of Option 1, are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. We note that, while we did not include the higher connector monitoring costs analyzed in response to commenter suggestions in this determination, the inclusion of these costs would not change our conclusion that the costs of Option 2 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option.

Therefore, as a result of this revised technology review pursuant to CAA section 112(d)(6), we have determined, as we did at proposal, that it is appropriate to revise the OSWRO NESHAP to require existing and new affected sources to comply with 40 CFR part 63, subpart H rather than 40 CFR part 61, subpart V, including the subpart H requirements for connectors in gas/vapor service and in light liquid service.

As noted in section IV.A.4 of the preamble, we are promulgating these revisions concurrently under section 112(f)(2) of the CAA to provide an ample margin of safety to protect public health. Furthermore, for the reasons discussed above and in the preamble to the proposed rule, we have determined that it is not necessary pursuant to CAA section 112(d)(6) to revise the OSWRO NESHAP to require additional HAP emission controls for process vents or any other equipment or processes at OSWRO facilities.

C. Startup, Shutdown and Malfunction Provisions for the OSWRO Source Category

1. What SSM provisions did we propose for the OSWRO source category?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

We have eliminated the SSM exemption in this rule. Consistent with *Sierra Club* v. *EPA,* the EPA proposed standards in this rule that apply at all times. We have also revised Table 2 (the General Provisions applicability table) in several respects as is explained in more detail below. For example, we have eliminated the incorporation of the General Provisions' requirement that the source develop an SSM plan. We have also eliminated and revised certain recordkeeping and reporting that is related to the SSM exemption as described in detail in the proposed rule and summarized again here.

In proposing the standards in this rule, the EPA took into account startup and shutdown periods and, for the reasons explained below, did not propose alternate standards for those periods. Information on periods of startup and shutdown received from the facilities through CAA section 114 questionnaire responses indicated that emissions during these periods are the same as during normal operations. The facilities do not process waste unless and until their control devices are operating to fully control emissions. Therefore, we determined that separate standards for periods of startup and shutdown are not necessary.

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent and not reasonably preventable failures of emissions control, process or monitoring equipment. (40 CFR 63.2) (Definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. Under CAA section 112, emission standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the EPA to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the United States Court of Appeals for the District of Columbia Circuit has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emission standards, nothing in CAA section 112 requires the EPA to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' ''). See also *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods,

including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable and was not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action, and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

To address the United States Court of Appeals for the District of Columbia Circuit vacatur of portions of the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), we proposed to revise and add certain provisions to the OSWRO rule. As described in detail below, we proposed to revise the General Provisions Applicability Table (Table 2) to change several references related to requirements that apply during periods of SSM. We also proposed to add the following provisions to the OSWRO rule: (1) The general duty to minimize emissions at all times; (2) the requirement for sources to comply with the emission limits in the rule at all times, with clarification for what constitutes a deviation; (3) performance testing conditions requirements; (4) excused monitoring excursions provisions; and (5) malfunction recordkeeping and reporting requirements.

i. General Duty

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.6(e) by adding rows specifically for 40 CFR 63.6(e)(1)(i), 63.6(e)(1)(ii), 63.6(e)(1)(iii), and 63.6(e)(3) and to include a ''no'' in the column 2 for the 40 CFR 63.6(e)(1)(i) entry. Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We proposed instead to add general duty regulatory text at 40 CFR 63.683(e) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA proposed for 40 CFR 63.683(e) does not include that language from 40 CFR 63.6(e)(1).

We also proposed to include a ''no'' in column 2 for the newly added entry for 40 CFR 63.6(e)(1)(ii). Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 63.683(e).

The provisions of 40 CFR 63.6(e)(1)(iii) still apply, and we proposed to keep the ''yes'' in column 2 for that section. For 40 CFR 63.6(e)(2), we proposed to include a ''no'' in the second column for that section because it is a reserved section in the General Provisions.

We also proposed to clarify in the applicability section of 40 CFR 63.680(g)(1) and (2) that the emission limits of subpart DD apply at all times except when the affected source is not operating and that the owner or operator must not shut down items of equipment required or used for compliance with the requirements of subpart DD.

ii. SSM Plan

We proposed to include a ''no'' in column 2 for the newly added 40 CFR 63.6(e)(3) entry. Generally, this paragraph requires development of an SSM plan and specifies SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA proposed to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

iii. Compliance With Standards

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in column 2 to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some section 112 standards apply continuously. Consistent with *Sierra Club,* the EPA proposed to revise the standards in this rule to apply at all times.

iv. Performance Testing

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in column 2 to a ''no.'' Section 63.7(e)(1) describes performance testing requirements. The EPA instead proposed to add a performance testing requirement at 40 CFR 63.694(l). The performance testing requirements we proposed to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The proposed performance testing provisions specified that performance tests conducted under this subpart should be based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions often are not representative of normal operating conditions. The EPA proposed to add language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Section 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' upon request, but does not specifically require the information to be recorded. The regulatory text the EPA proposed to add to this provision builds on that requirement and makes explicit the requirement to record the information.

v. Monitoring

We proposed to revise the General Provisions applicability table (Table 2) entries for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in column 2 to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

vi. Recordkeeping

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(b)(2)(i) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA proposed that recordkeeping and reporting applicable to normal operations will apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods.

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(b)(2)(ii) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA proposed to add such requirements to 40 CFR 63.696(h). The regulatory text we proposed to add differs from the General Provisions it is replacing in that the General Provisions require the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control and monitoring equipment. The EPA proposed that this requirement apply to any failure to meet an applicable standard and is requiring that the source record the date, time and duration of the failure rather than the ''occurrence.'' The EPA also proposed to add to 40 CFR 63.696(h) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA proposed to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(b)(2)(iv) by changing the ''yes'' in column 2 to a ''no.'' When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to 40 CFR 63.696(h).

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(b)(2)(v) by changing the ''yes'' in column 2 to a ''no.'' When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

vii. Reporting

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(d)(5)(i) by consolidating it with the entry for 63.10(d)(5)(ii) and changing the ''yes'' in column 2 to ''no.'' Section 63.10(d)(5)(i) describes the reporting requirements for SSM. To replace the General Provisions reporting requirements, the EPA proposed to add reporting requirements to 40 CFR 63.697(b)(3). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We proposed language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semiannual summary report already required under this rule. We proposed that the report must contain the number, date, time, duration and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available or engineering judgment based on known process parameters. The EPA proposed this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments, therefore, eliminated the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

We proposed to revise the General Provisions applicability table (Table 2) entry for 40 CFR 63.10(d)(5)(ii) by consolidating it with the entry for 63.10(d)(5)(i) and changing the ''yes'' in column 2 to a ''no.'' Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdown and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a startup, shutdown or malfunction were not consistent with an SSM plan, because plans would no longer be required.

2. How did the SSM provisions change for the OSWRO source category?

We have not changed any aspect of the SSM provisions since the proposal.

3. What key comments did we receive on the SSM provisions, and what are our responses?

Comments were received regarding the proposed revisions to remove the SSM exemptions for the OSWRO source category. Some commenters suggested that the rule should provide a six-month compliance period for the SSM provisions, that the rule requirements, which were based on steady-state conditions, should not apply during periods of malfunction, and that the EPA should establish work practice standards for malfunctions. One

commenter generally supported the revised provisions for the emission standards in the OSWRO NESHAP to apply at all times but suggested that more stringent monitoring, recordkeeping, reporting and notification requirements are needed for malfunctions. The commenters did not provide new information or a basis for EPA to change the proposed provisions and did not provide sufficient information to show that facilities cannot comply with the MACT standards at all times, including periods of startup, shutdown and malfunction. The comments and our specific responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

4. What is the rationale for our final decisions for the SSM provisions?

For the reasons provided above, provided in the preamble for the proposed rule and provided in the comment summary and response document available in the docket, we have removed the SSM exemption from the OSWRO NESHAP; eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption; and removed or modified inappropriate, unnecessary or redundant language in the absence of the SSM exemption. We are, therefore, finalizing our proposed determination that facilities comply with the standards at all times and no additional standards are needed to address emissions during startup or shutdown periods.

D. Other Changes Made to the OSWRO NESHAP

1. What other changes did we propose for the OSWRO NESHAP?

i. Electronic Reporting

As stated in the preamble to the proposed rule, to increase the ease and efficiency of data submittal and data accessibility, the EPA proposed to require owners and operators of OSWRO facilities to submit electronic copies of certain required performance test reports.

Data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. This EPA-provided software is an electronic performance test report tool called the ERT. The ERT will generate an electronic report package which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site (*http://www.epa.gov/cdx*).

The requirement to submit performance test data electronically to the EPA will not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT Web site. The EPA believes, through this approach, industry will save time in the performance test submittal process. Additionally, this rulemaking benefits industry by reducing recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI will no longer be required to be kept in hard copy.

State, local and tribal agencies may benefit from more streamlined and accurate review of performance test data that will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble to the proposal.

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, tribal agencies and the EPA significant time, money and effort while improving the quality of emission inventories and air quality regulations and providing greater transparency to the public.

ii. Routine Maintenance

The OSWRO NESHAP at 40 CFR 63.693(b)(3)(i) allows a facility to bypass control devices for up to 240 hours per year to perform planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the control device is shut down.

The routine maintenance provision was originally established in the HON (see 40 CFR 63.119(e)(3)–(4); 57 FR 62710, December 31, 1992 (proposed); 59 FR 19402, April 22, 1994 (final)) for facilities that elected to use a closed vent system and control device to comply with the emission limitation requirements for tanks. We included the routine maintenance provision in the HON for tanks routing emissions to control devices because the estimated HAP emissions to degas the tank would be greater than the emissions that would result if the tank emitted directly to the atmosphere for a short period of time during routine maintenance of the control device.

We intended for the OSWRO NESHAP to track the HON maintenance provisions, and, therefore, those provisions should have been limited to tanks. We did not identify a basis for applying the routine maintenance provisions in the OSWRO NESHAP to emission points other than tanks, and, therefore, proposed to limit the provision to tanks routing emissions to a control device, consistent with the rationale provided in the HON.

iii. Open-Ended Valves and Lines

The OSWRO NESHAP at 40 CFR 63.691(b) requires an owner or operator to control emissions from equipment leaks according to the requirements of either 40 CFR part 61, subpart V or 40 CFR part 63, subpart H.[8] For OELs, both subpart V in 40 CFR 61.242–6(a) and subpart H in 40 CFR 63.167(a) require that the open end be equipped with a cap, blind flange, plug or second valve that shall ''seal the open end.'' However, ''seal'' is not defined in either subpart, leading to uncertainty for the owner or operator as to whether compliance is being achieved. Inspections under the EPA's Air Toxics LDAR initiative have provided evidence that while certain OELs may be equipped with a cap, blind flange, plug or second valve, they are not operating in a ''sealed'' manner as the EPA interprets that term.

In response to this uncertainty, we proposed to amend 40 CFR 63.691(b) to clarify what ''seal the open end'' means for OELs. The proposed clarification explains that, for the purpose of complying with the requirements of 40 CFR 61.242–6(a)(2) of subpart V or 40 CFR 63.167(a)(2) of subpart H, as applicable, OELs are ''sealed'' by the cap, blind flange, plug or second valve when instrument monitoring of the OELs conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

In addition, 40 CFR 63.167(d) of subpart H and 40 CFR 61.242–6(d) of subpart V exempt OELs that are in an

[8] As discussed in sections III.A, III.B, IV.A and IV.B of this preamble, we are removing the option from subpart DD to comply with 40 CFR part 61, subpart V for equipment leaks and are requiring compliance with 40 CFR part 63, subpart H. The compliance date for existing sources is 1 year from the effective date of the final amendments, and new sources must comply immediately upon the effective date of the final amendments, or upon startup, whichever is later.

emergency shutdown system, and which are designed to open automatically, from the requirements to be equipped with a cap, blind flange, plug or second valve that seals the open end. We proposed that these OELs be equipped with either a flow indicator or a seal or locking device. We also proposed recordkeeping and reporting requirements for these OELs.

iv. Safety Devices, Pressure Tanks, Bypasses and PRDs

To ensure the OSWRO MACT standards are consistent with the *Sierra Club* decision, we proposed to remove the SSM exemption from the rule. In addition, in order for our treatment of malfunction-caused releases to the atmosphere to conform with the reasoning of the Court's ruling, we proposed to add a provision that releases of HAP listed in Table 1 of 40 CFR part 63, subpart DD directly to the atmosphere from PRDs and closure devices on pressure tanks in off-site material service are prohibited. We also proposed to prohibit bypasses that divert a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device, except to perform planned routine maintenance of the closed-vent system or emission control device for tanks, as discussed in section IV.D.3 of this preamble. We further proposed to require owners or operators to keep records and report any bypass and the amount of HAP released to the atmosphere with the next periodic report. In addition, to add clarity to these provisions, we proposed to add definitions for ''bypass,'' ''pressure release,'' ''pressure relief device or valve,'' ''in gas/vapor service,'' ''in light liquid service,'' ''in heavy liquid service'' and ''in liquid service'' to 40 CFR part 63, subpart DD. We also proposed to remove the definition of ''safety device'' and the provisions related to safety devices from 40 CFR part 63, subpart DD, which would overlap with and be redundant of parts of the proposed definition of ''pressure relief device or valve'' and the provisions related to these devices.

To ensure compliance with these provisions, we also proposed that facilities subject to the OSWRO NESHAP monitor PRDs in off-site material service that release to the atmosphere by using a device or system that is capable of identifying and recording the time and duration of each pressure release and notifying operators immediately that a pressure release is occurring. Owners or operators would be required to keep records and report any pressure release and the amount of organic HAP released to the atmosphere with the next periodic report. As with the prohibition, this proposed monitoring requirement would not apply to PRDs for which HAP releases are captured and routed to a drain system, process or control device.

For purposes of estimating the costs of the proposed requirement to monitor HAP releases to the atmosphere from PRDs, we assumed that operators would install electronic indicators on each PRD in off-site material service that vents to the atmosphere (rather than to a control device, process or drain system) to identify and record the time and duration of each pressure release. However, the proposed requirements allowed owners or operators to use a range of methods to satisfy these requirements, including the use of a parametric monitoring system (that may already be in use at facilities) on the process system or piping that is sufficient to notify operators immediately that a release is occurring, as well as recording the time and duration of the pressure release. Based on our conservative cost assumptions that the most expensive approach would be used, the nationwide capital cost of installing these monitors was estimated to be $1.75 million, and the total annualized cost of installing and operating these monitors is $250,000 per year for the OSWRO source category.

v. Performance Test Method Clarifications and Alternative Methods

The OSWRO NESHAP at 40 CFR 63.694 specifies test methods and procedures to be used in determining compliance with the requirements of subpart DD. We proposed several minor changes to these provisions to correct errors and to provide consistency, clarification and flexibility. These proposed changes included:

- Requiring that test runs last ''at least 1 hour,'' rather than stating that tests last ''1 hour'' in § 63.694(f)(1) and (i)(1);
- Specifying that a minimum of three test runs are required in § 63.694(l)(3)(i) and (l)(4)(i), consistent with the Part 63 General Provisions and standard testing practices;
- Specifying in § 63.694(m)(2) that in the determination of process vent stream flow rate and total HAP concentration, the sample site selected must be at the center of the vent for vents smaller than 0.10 meter in diameter, which is the point most likely to provide a representative sample of the gas stream;
- Clarifying in § 63.694(j)(3) that results from direct measurement must be used as the maximum HAP vapor pressure for off-site material in a tank if the Administrator and the owner or operator disagree on a determination of the maximum HAP vapor pressure for an off-site material stream using knowledge;
- Correcting a citation in § 63.694(k)(3) to the appropriate section of EPA Method 21 for instrument response factors;
- Allowing the use of either EPA Method 25A or Method 18 in § 63.694(l)(3) for determining compliance with the control device percent reduction requirement and in § 63.694(l)(4) for determining compliance with the enclosed combustion device concentration limit and clarifying that Method 25A must be used when measuring total organic compounds, while Method 18 must be used for measuring the total HAP compounds included in Table 1 to the OSWRO NESHAP;
- Including the use of EPA Method 3A as an alternative to EPA Method 3B in § 63.694(l)(4)(iii)(A) for determining the oxygen concentration to use in oxygen correction equations; and
- Including the use of EPA Methods 2F and 2G as options for flow rate measurement in § 63.694(l)(2) and (m)(3), which are newer velocity measurement methods that were published after the original OSWRO rule.

vi. Other Clarifications and Corrections

We proposed several miscellaneous minor changes to improve the clarity of the OSWRO NESHAP requirements. These proposed changes included:

- Updating the list of combustion devices in § 63.684(b)(5) that may be used to destroy the HAP contained in an off-site material stream. This revision would include incinerators, boilers or industrial furnaces for which the owner or operator complies with the requirements of 40 CFR part 63, subpart EEE, which had not been promulgated when the OSWRO MACT standards were developed. We also proposed conforming changes to the boiler and process heater control device requirements to clarify that combustion units complying with the requirements of subpart EEE may be used for the purposes of compliance with the OSWRO NESHAP.
- To clarify the requirements for tanks of all sizes and tank content vapor pressures, we proposed to revise the tank control level tables to include tanks less than 75 m^3 in capacity with a vapor pressure less than 76.6 kPa along with the requirements for tanks of other sizes and vapor pressures, and we proposed

to remove the requirements for these tanks from the text of § 63.685(b)(4).

• Clarifying that where § 63.691 requires the owner or operator to control the HAP emitted from equipment leaks in accordance with either 40 CFR part 61, subpart V or 40 CFR part 63, subpart H, the definitions in 40 CFR 61.241 and 40 CFR 63.161 apply, with the differences listed, for the purposes of the OSWRO NESHAP.

• Revising the clerical errors to insert ppm values in the requirements where they were omitted. These revisions included clarifying in § 63.683(c)(1)(ii) that the average volatile organic HAP (VOHAP) concentration of the off-site material must be less than 500 parts per million by weight (ppmw) at the point-of-delivery and clarifying the requirements of § 63.693(f)(1)(i)(B) and § 63.693(f)(1)(ii)(B) are to achieve a total incinerator outlet concentration of less than or equal to 20 500 parts per million by volume (ppmv) on a dry basis corrected to 3-percent oxygen.

• Clarifying in §§ 63.684(h), 63.693(b)(8) and 63.694(b)(3)(iv) that the Administrator may require a performance test, revisions to a control device design analysis, or that direct measurement be used in the determination of a VOHAP concentration, rather than that the Administrator may only request such actions.

• Revising several references to the Part 63 General Provisions in Table 2 to correct errors, including errors where the entries in Table 2 conflict with the regulatory text in subpart DD and where references to specific sections of the General Provisions do not exist or are reserved.

2. How did the provisions regarding these other proposed changes to the OSWRO NESHAP change since proposal?

We have not made any changes to the proposed provisions for electronic reporting, routine maintenance, OELs, the proposed performance test method clarifications and alternative methods or the other proposed clarifications and corrections.

For PRDs, in the PRD monitoring requirements at 40 CFR 63.691(c)(3)(i), we are including examples of parametric monitoring systems, in addition to the direct monitoring device examples listed at proposal. We are also clarifying that tank conservation vents are not PRDs in 40 CFR 63.685(c)(2)(iii)(B), and we are adding fuel gas systems to the list of equipment a PRD may be routed to in 40 CFR 63.691(c)(4) to be exempt from the PRD monitoring requirements and pressure release prohibition. In addition to these revisions, we are making the following revisions, clarifications and corrections in the final rule:

• Revisions

○ We are revising the language in 40 CFR 63.680(b)(2)(v) to indicate that facilities complying with the wastewater provisions under any other part 63 regulation, not just the HON, are not required to also comply with the OSWRO NESHAP provisions for that waste.

○ We are revising the requirements for boilers and process heaters and also for incinerators in 40 CFR 63.693(f)(2)(iii) and 63.693(g)(2)(i)(C) to exclude such equipment that has been issued a final or interim status RCRA permit from the OSWRO NESHAP performance test requirements, since the performance tests required under RCRA to obtain a permit satisfy the performance test requirements of the OSWRO NESHAP.

○ We are revising three additional references to the Part 63 General Provisions in Table 2 to correct errors where the entries in Table 2 conflict with the regulatory text in subpart DD regarding notification of performance tests. The specific changes were to revise the entries for 63.7(b), 63.7(c) and 63.9(e) from a ''no'' to a ''yes'' in column 2 of Table 2.

• Clarifications

○ We are revising the definitions of ''in gas/vapor service'' and ''in light liquid service'' in 40 CFR 63.681 to clarify our intent that equipment in off-site material service that ''contains or contacts'' a gas or vapor is ''in gas/vapor service.'' For consistency, we are also revising the definition of ''in light liquid service'' to include equipment that ''contains or contacts'' liquid.

○ To improve clarity we are revising the wording of the proposed tank provisions in 40 CFR 63.685(g)(2) to remove a repeated phrase.

○ We have rephrased the proposed requirements in 40 CFR 63.694(l) to more simply state that performance tests must be conducted under representative performance (*i.e.,* performance based on normal operating conditions).

○ We have added language in 40 CFR 63.691(b)(2)(v) to clarify which requirements apply to PRDs in liquid service and to clarify when the PRD provisions of 40 CFR 63.691(c) apply rather than the PRD provisions of 40 CFR part 63, subpart H or 40 CFR part 61, subpart V.

• Corrections

○ We are revising 40 CFR 63.680(e)(1)(i) through (iii) and 63.680(e)(2) to reference 63.691(b)(2) rather than 63.691(b) to indicate that compliance with 40 CFR part 63, subpart H is required after a specified date. Consistent with our intention discussed in the preamble to the proposed rule, this correction will allow compliance with 40 CFR part 61, subpart V only until the date at which compliance with 40 CFR part 63, subpart H is required.

○ We are including the correct VOHAP concentration of 500 ppmw in 40 CFR 63.683(c)(1)(ii).

○ We are correcting an erroneous reference to 40 CFR part 67 in 40 CFR 63.685(c)(2)(iii)(B) to properly reference 40 CFR part 63.

○ We are adding a reference in the semiannual reporting requirements of 40 CFR 63.697(b)(4) to 40 CFR 63.683(f), which includes additional deviations that must be reported.

○ We are correcting three entries in the General Provisions Applicability table

3. What key comments did we receive on the other changes to the OSWRO NESHAP, and what are our responses?

Several comments were received regarding the proposed revisions to the ERT, OELs, PRDs and other provisions for the OSWRO source category. The following is a summary of several of these comments and our response to those comments. Other comments received and our responses to those comments can be found in the Comment Summary and Response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

i. Electronic Reporting

Comment: One commenter notes that requiring electronic reporting to the EPA does not increase the ease and efficiency of data submittal for the regulated community because state agencies also want the reports submitted to them in their own standard format. The commenter requests that the EPA work with air agencies to provide a one-stop location for submittal of air emissions testing results.

Response: The EPA continues to work with air agencies as well as stack testing companies (who typically prepare test reports) to develop the ERT. E-Enterprise is an EPA-state initiative to improve environmental performance and enhance services to the regulated community, environmental agencies and the public. We currently have active E-Enterprise projects related to electronic reporting that involve several states, and we are actively seeking input from all states willing to participate in such projects with EPA. The current ERT was designed to accept data and information that is typically collected

during a performance test. Some air agencies have begun accepting the ERT as their reporting mechanism, and with experience, we believe acceptance by other air agencies will increase. CEDRI, the portal through which this data is submitted to CDX, includes the ability for states to interact with submitted ERT files directly, immediately after electronic submission. During the first phase in the development of CEDRI, we initiated a multi-disciplinary, cross-functional Integrated Project Team (IPT) consisting of EPA personnel from various offices and representatives from air agencies. The objectives of the CEDRI IPT were to gain insight and ideas regarding the data flow process within the CEDRI. States have the ability to access files in CEDRI as soon as they are submitted and can review these documents from anywhere that has Internet access. While in some instances air agencies may still want a hard copy of a test report, the ERT can generate a printed test report or export the report to a word processor for reformatting. This report can be generated by an air agency with an ERT they have opened, or generated by a regulated entity and submitted to the air agency as an emissions test report.

The EPA believes that electronic reporting is a more efficient way to collect test data and has set up a retrieval system such that air agencies can access files that have been submitted using the ERT. As more air agencies adopt electronic reporting, we believe that the need for paper reports will diminish. The EPA is also developing a web-based ERT and has plans to release an extensible markup language (XML) schema that could be used by third parties to develop customized reporting software that meets the EPA's reporting requirements. The EPA expects these additional reporting options will provide a more robust and user friendly reporting process in the future.

ii. Open-Ended Valves and Lines

Comment: One commenter states that the OEL provisions are ''equipment standards,'' and compliance is determined by whether a cap, blind flange, plug or second valve is physically installed, and the term ''sealed'' historically has meant one of these devices is present.

Response: The EPA disagrees with the commenter. The EPA's intent has always been that caps, blind flanges, plugs or second valves that are installed on OELs provide a seal, *i.e.,* no detectable emissions. This is further supported by examples of compliance audits conducted by the EPA's Office of Enforcement and Compliance Assurance (OECA) and EPA Regional enforcement personnel in which companies were cited for OELs not being sealed. We have placed these audits in the docket for this action.

Comment: Two commenters believe the EPA must show that imposing a new emissions limit for OELs is justified according to the criteria of CAA section 112(d)(6), including the technical feasibility, potential emission reductions and cost effectiveness. The commenters state that the EPA failed to provide new data or rationale showing that the definition of ''seal'' is needed for compliance assurance or to relieve regulatory uncertainty, relying only on enforcement inspections referenced in the 2007 40 CFR part 61, subpart VV rulemaking in which monitoring OELs was determined to not be cost effective and was not the best demonstrated technology (BDT). Another commenter states that the EPA did not provide any data specific to the OSWRO source category for OELs, and the data that were provided did not include the concentration detected, whether the measurements were for HAP or VOCs, or what standardization chemicals were used. One commenter states that the existence of leaks from OELs is low and notes that while the EPA did not request information to support monitoring of OELs, the commenter referred to a monitoring study its member performed for OELs showing that less than 1 percent of OELs were leaking at rates of 500 ppm or greater. Another commenter states that the EPA's proposed definition for a ''seal'' is actually a new loophole that would exempt leaks from OELs below 500 ppm from the standards. The commenter contends this definition is another type of exemption similar to the SSM exemption the United States Court of Appeals for the District of Columbia Circuit found unlawful, and the EPA should not finalize the definition as proposed.

Response: The EPA disagrees with the commenters that we are imposing a new emissions limit for OELs. As discussed in the preamble for the proposed rule and summarized above, the existing OSWRO NESHAP already requires the open end of OELs to be equipped with a cap, blind flange, plug or second valve that shall ''seal the open end.'' In response to compliance uncertainty for owners and operators, we are amending 40 CFR 63.691(b) to clarify that, for the purpose of complying with the requirements of subpart H or subpart V, as applicable,[9] OELs are ''sealed'' by the cap, blind flange, plug or second valve when instrument monitoring of the OEL conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater. This is consistent with how we have interpreted the term ''seal'' during inspections and, contrary to the commenters' assertions, is not a new requirement. As demonstrated by the data provided in the docket and the commenter's data showing that about 1 percent of all OELs are leaking, OELs are not uniformly operating in a ''sealed'' manner by keeping emissions below the 500 ppm threshold. The commenters have not identified a reason to conclude that the OEL data provided in the docket are not representative of the OSWRO source category. With this clarification, the EPA is removing any ambiguity regarding what constitutes a ''sealed'' OEL.

The EPA also disagrees with the commenter that clarifying the meaning of ''seal'' creates a new loophole for OELs. As discussed in the preamble to the proposed rule and elsewhere in this document, we are clarifying an existing requirement that OELs be sealed.

iii. PRDs

Comment: Several commenters state or suggest that PRDs are safety devices, and these requirements will ask plant operators to choose between safety and committing a violation. Two of these commenters claim that this position is in direct contrast to the General Duty provisions, which state that, ''at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions . . .'' Two other commenters state that the proposed rule would require that PRD emissions be vented to a control device, which could reduce the effectiveness of PRD by not allowing over-pressure from the tank or process unit to vent quickly enough to prevent damage. One commenter asserts that an OSHA Process Safety Management Review would indicate that venting a PRD to a control device would create an unacceptable risk. Further, one commenter argues that the requirements will assign the same level

[9] As discussed in sections III.A, III.B, IV.A and IV.B of this preamble, we are removing the option from subpart DD to comply with 40 CFR part 61, subpart V for equipment leaks and are requiring compliance with 40 CFR part 63, subpart H. The compliance date for existing sources is 1 year from the effective date of the final amendments, and new sources must comply immediately upon the effective date of the final amendments, or upon startup, whichever is later.

of importance to minor releases as to significant releases that require immediate attention, which will divert resources from critical safety tasks.

One commenter states that the proposed PRD monitoring requirements will predetermine the imposition of systems that safety experts may deem unnecessary, and the placement of such systems, including monitoring, should rather be determined during a process hazards analysis, which is specific to each situation and is implemented for the explicit purpose of protecting life and property. Another commenter also argues that process safety professionals should make risk-based decisions, and asserts that the proposed requirements do not recognize the variations that exist between different types of systems and that choices must be made for each individual system considering site conditions. The commenter asserts that the management requirements for PRDs should have a wide variety of options depending on the character of the discharge. The commenter states that the industry's success in preventing accidents has lead the EPA to wrongly assume that it is easy to anticipate and prevent all circumstances that may cause an over-pressurization event.

Response: The EPA disagrees with the commenters that we are forcing plant operators to choose between safety and committing a violation. We recognize that industry has stated that they believe releases from PRDs sometimes occur in order to protect systems from failures that could endanger worker safety and the systems that the PRDs are designed to protect. The PRD requirements were established with the recognition that emission releases to the atmosphere from these devices occur only in the event of unplanned and unpredictable events. When PRD releases are due to malfunctions, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. This approach is consistent with the General Duty provisions and is designed to minimize emissions while recognizing that these events may be unavoidable even in a well-designed and maintained system.

We disagree with the comment that minor releases will divert attention and resources away from critical safety tasks. These releases are associated with malfunction events that would require immediate corrective action and have the potential to emit large quantities of HAP. In addition, while the owner or operator must follow the PRD recordkeeping and reporting requirements for each release to the atmosphere, these tasks can be completed after the release has occurred and should not interfere with any actions needed to ensure process and system safety. Further, we note that the rule does not require PRDs to be vented to control devices, as suggested by a commenter; however, a facility owner or operator may choose to vent PRDs to control devices. We also note that the commenters did not provide data or information in support of their speculation that venting a PRD to a control device would reduce the effectiveness of the PRD or that a safety hazard would be created.

Regarding the comments that the PRD monitoring requirements will dictate the types of systems used at facilities, we note that, as discussed elsewhere in this preamble, the requirements for PRD monitoring provide a wide latitude in the type of monitoring system used, which may be chosen by the facility owner or operator, providing that the basic requirements for the system are met.

Comment: Several commenters state that the EPA added the PRD requirements without regard to the CAA section 112 MACT development process and without providing the legal justification, adequate record basis or technical justification. Two of these commenters add that they do not believe that the EPA has a legal obligation nor the discretion to promulgate the proposed PRD provisions because the PRD monitoring and reporting requirements were not derived from the technology reviews, in response to any residual risks detected, or the United States Court of Appeals for the District of Columbia Circuit's invalidation of the SSM provisions in the 40 CFR part 63 General Provisions. Two commenters suggest that these revisions should be evaluated as part of the technology review, and the EPA should analyze the technical feasibility, potential emissions reductions and cost effectiveness of the revisions.

Several commenters argue that the EPA provided no data to support the claim that a large number of releases occur and may emit large quantities of HAP, or to support the contention that releases are not being identified. One commenter asserts that PRD releases are rare, and that the EPA's data from PRD episodes at California South Coast refineries, which resulted in large emissions, does not apply to chemical operations. Another commenter notes that at its facility, PRD releases are infrequent events that last for 1 or 2 seconds and states that the proposed PRD provisions are not warranted. One commenter states that the industry already quantifies and reports releases through the use of pressure monitoring and other types of process controls that are also implemented to maintain stable operation. The commenter asserts that the EPA is establishing a numeric standard of zero that is based on the premise that most relief devices do not release, which fails to acknowledge the differences between systems.

Response: Under CAA section 112(d)(2), the EPA must promulgate technology-based standards that reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts), and such standards must contain compliance assurance provisions to make sure that they are practicably enforceable. Nothing in the CAA or its legislative history suggests that the EPA is prohibited from reviewing and revising MACT standards and their compliance assurance provisions, except as part of the CAA section 112(d)(6) or CAA section 112(f) reviews or an action taken in response to a ruling by a Court. The amendments being finalized for PRD releases do not impose new emission standards for which a MACT analysis is required by the CAA. Instead, they prohibit releases to the atmosphere from PRDs in off-site material service that are not appropriate for exemption from emission standards following the 2008 *Sierra Club* v. *EPA* ruling, and impose additional monitoring requirements to address potential releases.

In light of, and consistent with, the *Sierra Club* v. *EPA* ruling, the EPA is eliminating the SSM exemption in the OSWRO MACT standards and requiring that the standards apply at all times, including during periods of SSM. In addition, in order for our treatment of malfunction-caused pressure releases to the atmosphere to conform with the reasoning of the Court's ruling, the final rule adds a provision stating that releases of HAP listed in Table 1 of subpart DD directly to the atmosphere from PRDs in off-site material service are prohibited. To prohibit these malfunction-caused releases, it is not necessary for us to set an emission standard that is based on a MACT floor or beyond-the-floor analysis; indeed, the EPA has consistently explained that we are not required to take malfunctions into account in setting standards or to devise standards that apply specifically to malfunction-caused emissions, such as PRD releases that cause HAP emissions only during malfunctions. The final rule requires that sources

monitor PRDs using a system that is capable of detecting and recording the time and duration of each pressure release, and the final rule provides owners and operators flexibility to either install a monitor on the PRD or to use equipment and operations they already have in place if they are sufficient to detect and indicate pressure releases to the atmosphere. The rule also establishes requirements that these release indicators be capable of immediately notifying operators that a release is occurring, so that HAP emissions from these releases can be mitigated as soon as possible. Additionally, the final rule requires reporting of PRD releases to the atmosphere to ensure that these releases will be reported nationally.

Contrary to some commenters' assertions that the EPA did not provide data to support the claim that a large number of PRD releases occur and may emit large quantities of HAP, a report by the South Coast Air Quality Management District (SCAQMD) containing such data was referenced and made available with the proposed rule in the memorandum, *Cost Impacts of Pressure Relief Device Monitoring for the Off-site Waste and Recovery Operations Source Category,* available in the docket for this action. The referenced report shows that releases from PRDs occur randomly and the emissions can only be approximated, but that large quantities of emissions may be released. Based on the SCAQMD analysis of refinery PRD reports of PRD releases from nine facilities in its district, there were eight PRD releases from 2003 to 2006 that were estimated to release greater than 2,000 lbs of emissions to the atmosphere, and eight PRD releases from 2003 to 2006 that were estimated to release between 500 and 2,000 lbs of emissions to the atmosphere. The SCAQMD analysis focuses on VOC emissions (which would include organic HAP emissions) from refineries and marine terminals, and information provided by the commenter also suggests the SCAQMD analysis results are similar to results from another analysis for PRDs at chemical production facilities.[10] Additionally, the Texas Commission on Environmental Quality Emission Event Reporting Database is populated with Emission Event Reports from both the refinery and chemical sectors where the reason for the report was due to a PRD release. This database also shows that PRD releases do occur and that the quantity of emissions varies and can be large. While there may be differences in PRD systems and emissions, we continue to believe the requirements proposed and being finalized for the OSWRO NESHAP in this action are necessary to address the otherwise unregulated HAP emissions releases from PRDs.

Comment: Several commenters suggest certain types of PRDs should be excluded from the PRD requirements because they have a low potential to emit large quantities of HAP. These commenters specifically state that PRDs in liquid service should be excluded from these requirements. For PRDs with little potential for loss to the atmosphere, the commenters suggest that the EPA set a reporting threshold value equal to the reportable quantity (RQ) values in Emergency Planning and Community Right-To-Know Act (EPCRA) and/or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). One commenter asserts that the PRD provisions should exclude PRDs in less than 5-percent VOHAP service. The commenter also suggests that the OSWRO MACT should refer to Table 9 of subpart G (VOHAPs) instead of Table 1 of subpart DD, should exclude ethylene glycol from Table 1 of subpart DD, or should exclude heavy liquids from the definition of a PRD.

This commenter states that the exclusion for PRDs discharged to a drain system that meets the requirements of 40 CFR 63.689 is not useful, and states that the EPA provides no cost justification or assessment of potential emission reductions of this alternative requirement. The commenter asserts that hard-piping discharge to a closed sewer system is neither feasible nor safe in many situations, and suggests that the EPA require only that liquids be sent for on-site or off-site treatment, which would be consistent with the Chemical Manufacturing Area Source standard (40 CFR part 63, subpart VVVVVV). This commenter and another commenter state that, to be consistent with the HON, PRDs that are routed to a fuel gas system should be exempted in 40 CFR 63.691(c)(4).

Response: We generally do not agree with the commenters' suggestions to add an exclusion from the PRD requirements for PRDs that emit smaller amounts of HAP. Regarding PRDs in liquid service, equipment is in liquid service when it contains or contacts off-site material that is liquid at operating conditions, and for processes that are under pressure, the liquid may escape as a gas or vapor when released to the atmosphere. For these reasons, we continue to believe PRDs in liquid service, as well as those in gas/vapor service, should be subject to the PRD requirements. We note that the OSWRO NESHAP provides that only PRDs that contain or contact off-site material having a total HAP concentration equal to or greater than 10 percent by weight and that are intended to operate for 300 hours or more during a calendar year in off-site material service are subject to these requirements (see 40 CFR 63.680(c)(3)). We also disagree with the suggestion that the OSWRO MACT refer to Table 9 of subpart G rather than Table 1 of subpart DD for HAPs regulated by the PRD provisions. All of the provisions of the OSWRO NESHAP apply to the chemicals listed in Table 1 of subpart DD, and we do not find that an exception should be made for PRDs to exclude any chemicals with relatively lower volatility from these requirements.

We disagree with the commenter that the provisions that exclude PRDs that are routed to a drain system meeting the requirements of 40 CFR 63.689 from the PRD release and monitoring requirements is an alternate requirement. This provision acknowledges that such equipment would not have uncontrolled HAP emission releases directly to the atmosphere, and therefore the PRD release management and monitoring provisions should not apply, but it does not require that any equipment be routed to such a drain system. We also note that the chemical manufacturing area source standard does not have pressure release management or monitoring requirements, and the standards in that rule are not applicable to the OSWRO NESHAP. The EPA agrees with commenters' suggestion to exclude PRDs that release to a fuel gas system from the PRD monitoring provisions, and we have revised the final rule to reflect this change.

Comment: One commenter requests that the EPA clarify the meaning of PRDs in light liquid versus gas/vapor service. The commenter notes that most facilities subject to the OSWRO MACT operate fixed roof storage tanks that must be operated with a void space at

[10] The commenter stated that ''DuPont experience is that PRD releases are rare; DuPont has provided data through ACC to EPA.'' ACC's comments referred to a study submitted with its comments for another rulemaking. We located and reviewed this study, available at Docket ID No. EPA–HQ–OAR–2011–0435–0041, in which the data provided by DuPont is summarized with other data supplied by ACC member companies. Both the data provided by ACC and the SCAQMD showed just over 1 percent of the PRDs had a release. The data provided by ACC showed over 20 percent of PRD releases were over 500 pounds and the SCAQMD data showed that approximately 38 percent of the PRD releases were over 500 pounds.

the top that consists of vapors from the tank and may also include a nitrogen blanket. The commenter asserts that the determination of the service type should be based on the contents of the tank (*i.e.,* liquid) and not the location where the PRD is installed, which will always be at the top of the tank in contact with vapors in the void space. The commenter asserts that if these types of tanks are considered to be in gas/vapor service, then there can be no PRDs on fixed roof tanks that operate in liquid service.

Response: The OSWRO NESHAP directs facility owners/operators to comply with the equipment leak requirements of the HON, which contains different requirements for various components depending upon the type of fluid (whether gas or liquid) that flows through (*e.g.,* contains or contacts) the components. The basis for these different requirements is data collected from petroleum refineries, which indicate that emission rates of equipment leak sources decrease as the vapor pressure (volatility) of the process fluid decreases. For the HON, three classes of volatility were established based on the petroleum refinery data and the potential for emissions through equipment leaks; these include gas/vapor service, light-liquid service and heavy-liquid service. The proposed OSWRO definition stated that in gas/vapor service means that a piece of equipment in off-site material service contains a gas or vapor at operating conditions. To clarify our intent and avoid any confusion as to whether PRDs with a flow of gas or vapor through the device are ''in gas/vapor service,'' we are revising the definition to state that in gas/vapor service means that a piece of equipment in off-site material service contains or contacts a gas or vapor at operating conditions. With this revision, it should be clear that a PRD in off-site material service on the roof of a tank containing liquid, but which only contacts gas/vapor itself and does not contact liquid, would be in gas/vapor service. For consistency, we also are revising the definition of ''in light liquid service'' to include equipment that contains or contacts liquid.

Comment: One commenter states that the EPA revised the Tank Level 1 control requirements in 40 CFR 63.685(c)(2)(i) and (iii)(B) to preclude routine venting of PRD by excluding 40 CFR 63.902(c)(2) and (3); however, the commenter notes that this revision would also preclude the operation of conservation vents on Level 1 tanks. The commenter suggests that the EPA remove the exclusion or amend the provision to allow for the operation of conservation vents.

Response: We agree that conservation vents should be allowed to operate on Level 1 tanks, and, while we do not believe these would meet the definition of a PRD, we have revised the text of the final rule at 40 CFR 63.684(c)(2)(iii)(B)(1) to clarify that the use of these devices is permitted.

iv. Other Comments

Comment: One commenter states that the EPA should provide an exemption in 40 CFR 63.693(b)(9) to the performance testing or design evaluation requirements for combustion devices if a unit has been issued a final or interim status RCRA permit, since performance tests are required to obtain such a permit.

Response: The EPA agrees with the commenter that the combustion units required to obtain a RCRA permit would have conducted performance tests under those provisions which satisfy the performance test requirements of the OSWRO NESHAP and that separate or additional performance testing would not be necessary. We have therefore added a provision to the final rule that excludes combustion devices that have been issued a RCRA permit from the OSWRO NESHAP performance test requirements.

Comment: One commenter states that the OSWRO provisions should more clearly indicate that facilities subject to onsite wastewater provisions under other CAA MACT regulations should not also be required to comply with the OSWRO NESHAP. The commenter references the applicability provisions that exclude certain types of waste subject to other MACT rules in 40 CFR 63.680(b)(2)(v), and states that the exclusion is limited to SOCMI. The commenter suggests removing paragraphs 40 CFR 63.680(b)(2)(v)(A) and (B) to broaden the exclusion to wastewater sources subject to any other subpart in 40 CFR part 63.

Response: The EPA agrees with the commenter that the exclusion of certain types of waste in 40 CFR 63.680(b)(2)(v) should not be limited to SOCMI and has revised the regulatory text to exempt waste that is transferred from a facility at which management of the waste has complied with the air emission control standards for process wastewater specified by another subpart in 40 CFR part 63.

4. What is the rationale for our final decisions regarding these other changes to the OSWRO NESHAP?

For the reasons provided above and in the preamble for the proposed rule, we are finalizing the proposed provisions regarding electronic reporting; routine maintenance; OELs; safety devices, pressure tanks, bypasses and PRDs; performance test method clarifications and alternative methods; and other clarifications and corrections.

For the reasons provided above, we are making the revisions, clarifications and corrections noted in section IV.D.2 in the final rule.

V. Summary of Cost, Environmental and Economic Impacts and Additional Analyses Conducted

A. What are the affected sources?

We estimate that there are 56 major source OSWRO facilities. Based on available permit information, seven facilities are known to be exempt from most of the rule requirements due to the low HAP content of the off-site waste they receive or because they comply instead with 40 CFR part 61, subpart FF, as allowed by the OSWRO NESHAP, and they are not expected to be affected by the final rule revisions. These facilities are only required to document that the total annual quantity of the HAP contained in the off-site material received at the plant site is less than 1 megagram per year, and they are not subject to any other emissions limits or monitoring, reporting or recordkeeping requirements. We are not aware of any new OSWRO facilities that are expected to be constructed in the foreseeable future.

B. What are the air quality impacts?

For equipment leaks, we are eliminating the option of complying with 40 CFR part 61, subpart V, and requiring facilities in the OSWRO source category to comply with 40 CFR part 63, subpart H, including connector monitoring. Our revised estimate of the HAP emission reduction for this change is approximately 185 tpy.

For tanks, we are finalizing requirements for tanks of certain sizes and containing materials above certain vapor pressures to use Level 2 controls. Our revised estimate of the HAP emission reduction for this change is approximately 26 tpy.

We do not anticipate any HAP emission reduction from our clarification of the rule provision ''seal the open end'' (in the context of OELs), clarification of the scope of the routine maintenance provisions, or requirement to electronically report the results of emissions testing.

For the revisions to the MACT standards regarding SSM, including monitoring of PRDs in off-site material service, we were not able to quantify the

possible emission reductions, so none are included in our assessment of air quality impacts.

Therefore, the estimated total HAP emission reductions for the final standards for the OSWRO source category are estimated to be 211 tpy.

C. What are the cost impacts?

For equipment leaks, we are eliminating the option of complying with 40 CFR part 61, subpart V, and requiring facilities in the OSWRO source category to comply with 40 CFR part 63, subpart H (including connector monitoring). We estimate the nationwide capital costs to be $2.1 million and the annualized costs to be $664,000.

For tanks, we are requiring tanks of certain sizes and containing materials above certain vapor pressures to use Level 2 controls. We estimate the nationwide capital costs to be $139,000 and the annualized costs to be $192,000.

We do not anticipate any quantifiable capital or annualized costs for our definition of ''seal'' (in the context of OELs), clarification of the scope of the routine maintenance provisions and requirement to electronically report the results of emissions testing.

For the requirement to install and operate monitors on PRDs, we estimate the nationwide capital costs to be $1.9 million and the annualized costs to be $270,000. Therefore, the total capital costs for the final amendments for the OSWRO source category are approximately $4.1 million and the total annualized costs are approximately $1.1 million.

D. What are the economic impacts?

Both the magnitude of control costs needed to comply with a regulation and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to that regulation. Total annualized costs for the final amendments are estimated to be about $1.1 million. The average annualized cost per facility is estimated to be about $23,000. Without detailed industry data, it is not possible to conduct a complete quantitative analysis of economic impacts. However, prior analyses suggest the impacts of these final amendments will be minimal. The Economic Impact Analysis for the final OSWRO NESHAP [11] found that demand for off-site waste services was highly inelastic. This means that suppliers are predominantly able to pass along cost increases to consumers through higher prices with little, if any, decrease in the quantity of service demanded. While we do not have specific information on prices charged or the quantity of services provided, company revenues are a function of both these factors. The cost-to-sales ratio is less than 1 quarter of 1 percent for all of the 27 firms included in this analysis, suggesting any increase in price will be minimal.

E. What are the benefits?

We have estimated that this action will achieve HAP emissions reduction of 211 tpy. The final standards will result in significant reductions in the actual and MACT-allowable emissions of HAP and will reduce the actual and potential cancer risks and non-cancer health effects due to emissions of HAP from this source category, as discussed in the proposal preamble (79 FR 37869–37870). We have not quantified the monetary benefits associated with these reductions; however, these avoided emissions will result in improvements in air quality and reduced negative health effects associate with exposure to air pollution of these emissions.

F. What analysis of environmental justice did we conduct?

The EPA is making 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 minority populations and low-income populations in the United States. The EPA has established policies regarding the integration of environmental justice into the agency's rulemaking efforts, including recommendations for the consideration and conduct of analyses to evaluate potential environmental justice concerns during the development of a rule.

Following these recommendations, to gain a better understanding of the source category and near source populations, the EPA conducted a proximity analysis for OSWRO facilities prior to proposal to identify any overrepresentation of minority, low income or indigenous populations. This analysis gives an indication of the prevalence of sub-populations that may be exposed to air pollution from the sources. We have revised this analysis to include four additional OSWRO facilities that the EPA learned about after proposal.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low income or indigenous populations. Additionally, the final changes to the NESHAP increase the level of environmental protection for all affected populations by reducing emissions from equipment leaks and tanks and do not cause any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income or indigenous populations. Further details concerning this analysis are presented in the memorandum titled, *Updated Environmental Justice Review: Off-Site Waste and Recovery Operations RTR,* a copy of which is available in the docket for this action.

G. What analysis of children's environmental health did we conduct?

As part of the health and risk assessments, as well as the proximity analysis conducted for this action, risks to infants and children were assessed. These analyses are documented in the *Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category in Support of the February 2015 Risk and Technology Review Final Rule* and the Updated *Environmental Justice Review: Off-Site Waste and Recovery Operations RTR* documents and are available in the docket for this action.

The results of the proximity analysis show that the average percentage of children 17 years and younger in close proximity to OSWRO is similar to the percentage of the national population in this age group. The difference in the absolute number of percentage points of the population 17 years old and younger from the national average indicates a 7-percent over-representation near OSWRO facilities. Consistent with the EPA's Policy on Evaluating Health Risks to Children, we conducted inhalation and multipathway risk assessments for the OSWRO source category considering risk to infants and children.[12] Children are exposed to chemicals emitted to the atmosphere via two primary routes: Either directly via inhalation, or indirectly via ingestion or dermal contact with various media that have been contaminated with the emitted chemicals. The EPA considers the possibility that children might be more sensitive than adults to toxic chemicals, including chemical carcinogens.

For our inhalation risk assessment, several carcinogens emitted by facilities in this source category have a mutagenic mode of action. For these compounds,

[11] EPA. June 1996.

[12] Policy on Evaluating Health Risks to Children, U.S. Environmental Protection Agency, Washington, DC. May 2014. Available at *http://www2.epa.gov/sites/production/files/2014-05/documents/1995_childrens_health_policy_statement.pdf.*

we applied the age-dependent adjustment factors (ADAF) described in the EPA's Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens.[13] This adjustment has the effect of increasing the estimated lifetime risks for these pollutants by a factor of 1.6. For one group of these chemicals with a mutagenic mode of action, POM, only a small fraction of the total emissions were reported as individual compounds. The EPA expresses carcinogenic potency of POM relative to the carcinogenic potency of benzo[a]pyrene, based on evidence that carcinogenic POM have the same mutagenic mode of action as does benzo[a]pyrene. The EPA's Science Policy Council recommends applying the ADAF to all carcinogenic compounds for which risk estimates are based on potency relative to benzo[a]pyrene. Accordingly, we have applied the ADAF to the benzo[a]pyrene-equivalent mass portion of all POM mixtures.

For our multipathway screening assessment (*i.e.,* ingestion), we assessed risks for adults and various age groups of children. Childrens' exposures are expected to differ from exposures of adults due to differences in body weights, ingestion rates, dietary preferences and other factors. It is important, therefore, to evaluate the contribution of exposures during childhood to total lifetime risk using appropriate exposure factor values, applying ADAF as appropriate. The EPA developed a health protective exposure scenario whereby the receptor, at various lifestages, receives ingestion exposure via both the farm food chain and the fish ingestion pathways. The analysis revealed that fish ingestion is the dominant exposure pathway across all age groups for several pollutants, including POM. For POM, the farm-food-chain also is a major route of exposure, with beef and dairy contributing significantly to the lifetime average daily dose. Preliminary calculations of estimated dermal exposure and risk from these pollutants showed that the dermal exposure route is not a significant risk pathway relative to ingestion exposures.

Based on the analyses described above, the EPA has determined that the changes to this rule, which will reduce emissions of HAP by over 200 tpy, will lead to reduced risk to children and infants.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

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

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1717.11. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The information requirements in this rulemaking are based on the notification, recordkeeping and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These notifications, reports and records are essential in determining compliance, and are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

Respondents/affected entities: OSWRO facilities that store, treat, recycle, reprocess, or dispose of wastes containing organic chemical compounds.

Respondent's obligation to respond: Mandatory (42 U.S.C. 7414).

Estimated number of respondents: 49.

Frequency of response: Semiannual.

Total estimated burden: 49,118 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $4.1 million (per year), includes $1.2 million annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are businesses that can be classified as small firms using the SBA size standards for their respective industries. The agency has determined that of the 27 firms that own the 49 facilities in the OSWRO source category, four firms, or 15 percent, can be classified as small firms. Based on the sales test screening methodology, all four firms will experience minimal impact, or a cost-to-sales ratio of 1 percent or less. Details of this analysis are presented in the memo, *Economic Impact Analysis for Risk and Technology Review: Off-site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments, or on 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. There are no OSWRO facilities that are owned or operated by tribal governments. Thus, Executive Order 13175 does not apply to this action.

[13] Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens. Risk Assessment Forum, U.S. Environmental Protection Agency, Washington, DC. EPA/630/R–03/003F. March 2005. Available at *http://www.epa.gov/raf/publications/pdfs/childrens_supplement_final.pdf.*

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the: *Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category in Support of the February 2015 Risk and Technology Review Final Rule* document, which is available in the docket for this action, and are discussed in section V.G of this preamble.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. The EPA has decided to add EPA Methods 2F and 2G to the list of methods allowed to determine process vent stream gas volumetric flow rate. No applicable voluntary consensus standards (VCS) were identified for these methods. In addition, the EPA is finalizing provisions to allow EPA Method 3A as an alternative to EPA Method 3B for determining the oxygen concentration to use in oxygen correction equations. While the EPA identified several candidate VCS for this method (ANSI/ASME PTC 19–10–1981 Part 10, ASME B133.9–1994 (2001), ISO 10396:1993 (2007), ISO 12039:2001, ASTM D5835–95 (2013), ASTM D6522–00 (2011), and CAN/CSA Z223.2–M86 (1999)) as being potentially applicable, the agency decided not to use them. The use of these VCS would not be practical due to lack of equivalency, documentation, validation data and other important technical and policy considerations. The EPA also is finalizing requirements to use EPA Method 25A to determine compliance with the control device percent reduction requirement, if the owner or operator chooses to measure total organic content. While the EPA identified two candidate VCS (ISO 14965:2000(E), EN 12619 (1999)) as being potentially applicable, we are not including either standard in this final rule. The use of these VCS would not be practical due to the limited measurement ranges of these methods. (For more detail, see the document titled, *Voluntary Consensus Standard Results for NESHAP: Off-Site Waste and Recovery Operations 40 CFR part 63, subpart DD* in the docket for this final rule.) The EPA solicited comments on VCS and invited the public to identify potentially-applicable VCS, but no comments were received regarding this aspect of the rule.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it increases the level of protection provided to human health or the environment. The results of this evaluation are contained in the memorandum titled, Updated *Environmental Justice Review: Off-Site Waste and Recovery Operations RTR,* which is available in the docket for this action, and are discussed in section V.F of this preamble.

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 26, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) is amending title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart DD—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FROM OFF-SITE WASTE AND RECOVERY OPERATIONS

■ 2. Section 63.680 is amended by:

■ a. Revising paragraphs (b)(2)(v) introductory text and (e)(1) and (2); and

■ b. Adding paragraph (g).

The revisions and addition read as follows:

§ 63.680 Applicability and designation of affected sources.

* * * * *

(b) * * *

(2) * * *

(v) Waste that is transferred from a chemical manufacturing plant or other facility for which the owner or operator of the facility from which the waste is transferred has complied with the provisions of the air emission control standards for process wastewater specified by another subpart of this part. This exemption does not apply to a source which complies with another subpart of this part by transferring its wastewater off-site for control.

* * * * *

(e) * * * (1) *Existing sources.* The owner or operator of an affected source that commenced construction or reconstruction before October 13, 1994, must achieve compliance with the provisions of this subpart on or before the date specified in paragraphs (e)(1)(i), (ii), or (iii) of this section as applicable to the affected source.

(i) For an affected source that commenced construction or reconstruction before October 13, 1994 and receives off-site material for the first time before February 1, 2000, the owner or operator of this affected source must achieve compliance with the provisions of the subpart (except §§ 63.685(b)(1)(ii), 63.691(b)(2), and 63.691(c)(3)(i) and (ii)) on or before February 1, 2000 unless an extension has been granted by the Administrator as provided in § 63.6(i). These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) 2 years after the publication date of the final amendments on March 18, 2015, the equipment leak requirements of § 63.691(b)(2) 1 year after the publication date of the final amendments on March 18, 2015, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) 3 years after the publication date of the final amendments on March 18, 2015.

(ii) For an affected source that commenced construction or reconstruction before October 13, 1994, but receives off-site material for the first

time on or after February 1, 2000, but before March 18, 2015, the owner or operator of the affected source must achieve compliance with the provisions of this subpart (except §§ 63.685(b)(1)(ii), 63.691(b)(2), and 63.691(c)(3)(i) and (ii)) upon the first date that the affected source begins to manage off-site material. These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) 2 years after the publication date of the final amendments on March 18, 2015, the equipment leak requirements of § 63.691(b)(2) 1 year after the publication date of the final amendments on March 18, 2015, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) 3 years after the publication date of the final amendments on March 18, 2015.

(iii) For an affected source that commenced construction or reconstruction before October 13, 1994, but receives off-site material for the first time on or after March 18, 2015, the owner or operator of the affected source must achieve compliance with the provisions of this subpart (except §§ 63.685 (b)(1)(ii), 63.691(b)(2), and 63.691(c)(3)(i) and (ii)) upon the first date that the affected source begins to manage off-site material. These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) 2 years after the publication date of the final amendments on March 18, 2015, the equipment leak requirements of § 63.691(b)(2) 1 year after the publication date of the final amendments on March 18, 2015, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) 3 years after the publication date of the final amendments on March 18, 2015.

(2) *New sources.* The owner or operator of an affected source for which construction or reconstruction commences on or after October 13, 1994, must achieve compliance with the provisions of this subpart (except §§ 63.685(b)(2), 63.691(b)(2), and 63.691(c)(3)(i) and (ii)) on or before July 1, 1996, or upon initial startup of operations, whichever date is later as provided in 40 CFR 63.6(b). New affected sources that commenced construction or reconstruction after October 13, 1994, but on or before July 2, 2014, shall be in compliance with the tank requirements of § 63.685(b)(2) 2 years after the publication date of the final amendments, the equipment leak requirements of § 63.691(b)(2) 1 year after the publication date of the final amendments, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) 3 years after the effective date of the final amendments. New affected sources that commence construction or reconstruction after July 2, 2014, shall be in compliance with the tank requirements of § 63.685(b)(2), the equipment leak requirements of § 63.691(b)(2), and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) upon initial startup or by the effective date of the final amendments, whichever is later.

* * * * *

(g) *Applicability of this subpart.* (1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

(2) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with this subpart during times when emissions are being routed to such items of equipment, if the shutdown would contravene requirements of this subpart applicable to such items of equipment.

■ 3. Section 63.681 is amended by:

■ a. Adding, in alphabetical order, definitions for ''Bypass'', ''In gas/vapor service'', ''In heavy liquid service'', ''In light liquid service'', ''In liquid service'', ''Pressure release'', and ''Pressure relief device or valve'';

■ b. Revising the definitions of ''Point-of-treatment'' and ''Process vent''; and

■ c. Removing the definition of ''Safety device''.

The additions and revisions read as follows:

§ 63.681 Definitions.

* * * * *

Bypass means diverting a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device.

* * * * *

In gas/vapor service means that a piece of equipment in off-site material service contains or contacts a gas or vapor at operating conditions.

In heavy liquid service means that a piece of equipment in off-site material service is not in gas/vapor service or in light liquid service.

In light liquid service means that a piece of equipment in off-site material service contains or contacts a liquid that meets the following conditions:

(1) The vapor pressure of one or more of the organic compounds is greater than 0.3 kilopascals at 20 °C;

(2) The total concentration of the pure organic compounds constituents having a vapor pressure greater than 0.3 kilopascals at 20 °C is equal to or greater than 20 percent by weight of the total process stream; and

(3) The fluid is a liquid at operating conditions. Note to *In light liquid service:* Vapor pressures may be determined by the methods described in 40 CFR 60.485(e)(1). *In liquid service* means that a piece of equipment in off-site material service is not in gas/vapor service.

* * * * *

Point-of-treatment means a point after the treated material exits the treatment process but before the first point downstream of the treatment process exit where the organic constituents in the treated material have the potential to volatilize and be released to the atmosphere. For the purpose of applying this definition to this subpart, the first point downstream of the treatment process exit is not a fugitive emission point due to an equipment leak from any of the following equipment components: Pumps, compressors, valves, connectors, instrumentation systems, or pressure relief devices.

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

* * * * *

Process vent means an open-ended pipe, stack, or duct through which a gas stream containing HAP is continuously or intermittently discharged to the atmosphere from any of the processes listed in § 63.680(c)(2)(i) through (vi). For the purpose of this subpart, a process vent is none of the following: a pressure relief device; an open-ended line or other vent that is subject to the equipment leak control requirements under § 63.691; or a stack or other vent that is used to exhaust combustion products from a boiler, furnace, process heater, incinerator, or other combustion device.

* * * * *

■ 4. Section 63.683 is amended by:

■ a. Revising the first sentence of paragraph (c)(1)(ii); and

■ b. Adding paragraphs (e) and (f).

The revision and addition read as follows:

§ 63.683 Standards: General.

* * * * *

(c) * * *

(1) * * *

(ii) The owner or operator determines before placing off-site material in the process equipment associated with the process vent that the average VOHAP concentration of the off-site material is less than 500 ppmw at the point-of-delivery. * * *

* * * * *

(e) *General duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(f) In addition to the cases listed in § 63.695(e)(4), deviation means any of the cases listed in paragraphs (f)(1) through (6) of this section.

(1) Any instance in which an affected source subject to this subpart, or an owner or operator of such a source, fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limit, operating limit or work practice standard.

(2) When a performance test indicates that emissions of a pollutant in Table 1 to this subpart are exceeding the emission standard for the pollutant specified in Table 1 to this subpart.

(3) When the average value of a monitored operating parameter, based on the data averaging period for compliance specified in § 63.695, does not meet the operating limit specified in § 63.693.

(4) When an affected source discharges directly into the atmosphere from any of the sources specified in paragraphs (f)(4)(i) and (ii) of this section.

(i) A pressure relief device, as defined in § 63.681.

(ii) A bypass, as defined in § 63.681.

(5) Any instance in which the affected source subject to this subpart, or an owner or operator of such a source, fails to meet any term or condition specified in paragraph (f)(5)(i) or (ii) of this section.

(i) Any term or condition that is adopted to implement an applicable requirement in this subpart.

(ii) Any term or condition relating to compliance with this subpart that is included in the operating permit for an affected source to obtain such a permit.

(6) Any failure to collect required data, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

■ 5. Section 63.684 is amended by:

■ a. Revising paragraph (b)(5) introductory text;

■ b. Adding paragraph (b)(5)(v); and

■ c. Revising paragraph (h).

The revisions and addition read as follows:

§ 63.684 Standards: Off-site material treatment.

* * * * *

(b) * * *

(5) *Incineration.* The treatment process must destroy the HAP contained in the off-site material stream using one of the combustion devices specified in paragraphs (b)(5)(i) through (v) of this section.

* * * * *

(v) An incinerator, boiler, or industrial furnace for which the owner or operator has submitted a Notification of Compliance under §§ 63.1207(j) and 63.1210(d) and complies with the requirements of subpart EEE of this part at all times (including times when non-hazardous waste is being burned).

* * * * *

(h) The Administrator may at any time conduct or require that the owner or operator conduct testing necessary to demonstrate that a treatment process is achieving the applicable performance requirements of this section. The testing shall be conducted in accordance with the applicable requirements of this section. The Administrator may elect to have an authorized representative observe testing conducted by the owner or operator.

■ 6. Section 63.685 is amended by:

■ a. Revising paragraphs (b) introductory text, (b)(1), and (2);

■ b. Removing paragraph (b)(4);

■ c. Revising paragraphs (c)(1), (c)(2)(i) and (iii)(B), (g)(2), (h)(3), (i) introductory text; and

■ d. Removing paragraph (i)(3) and redesignating paragraph (i)(4) as paragraph (i)(3).

The revisions read as follows:

§ 63.685 Standards: Tanks.

* * * * *

(b) According to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time as established in § 63.680(e)(i) through (iii), the owner or operator shall control air emissions from each tank subject to this section in accordance with either paragraph (b)(1)(i) or (ii) of this section.

(1)(i) For a tank that is part of an existing affected source but the tank is not used for a waste stabilization process as defined in § 63.681, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 3 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 3 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 3 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(ii) For a tank that is part of an existing affected source but the tank is not used for a waste stabilization process as defined in § 63.681, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 4 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 4 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 4 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(2) For a tank that is part of a new affected source but the tank is not used for a waste stabilization process as defined in § 63.681, the owner or operator shall determine whether the tank is required to use either Tank Level

1 controls or Tank Level 2 controls as specified for the tank by Table 5 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 5 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 5 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

* * * * *

(c) * * *

(1) The owner or operator shall determine the maximum HAP vapor pressure for an off-site material to be managed in the tank using Tank Level 1 controls before the first time the off-site material is placed in the tank. The maximum HAP vapor pressure shall be determined using the procedures specified in § 63.694(j). Thereafter, the owner or operator shall perform a new determination whenever changes to the off-site material managed in the tank could potentially cause the maximum HAP vapor pressure to increase to a level that is equal to or greater than the maximum HAP vapor pressure limit for the tank design capacity category specified in Table 3, Table 4, or Table 5 of this subpart, as applicable to the tank.

(2) * * *

(i) The owner or operator controls air emissions from the tank in accordance with the provisions specified in subpart OO of this part—National Emission Standards for Tanks—Level 1, except that § 63.902(c)(2) and (3) shall not apply for the purposes of this subpart.

* * * * *

(iii) * * *

(B) At all other times, air emissions from the tank must be controlled in accordance with the provisions specified in subpart OO of this part—National Emission Standards for Tanks—Level 1, with the exceptions specified in paragraphs (c)(2)(iii)(B)(*1*) and (*2*) of this section.

(*1*) Where § 63.902(c)(2) provides an exception for a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere, only a conservation vent shall be eligible for the exception for the purposes of this subpart.

(*2*) Section 63.902(c)(3) shall not apply for the purposes of this subpart.

* * * * *

(g) * * *

(2) Whenever an off-site material is in the tank, the fixed roof shall be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except that venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:

(i) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

(ii) To remove accumulated sludge or other residues from the bottom of the tank.

* * * * *

(h) * * *

(3) Whenever an off-site material is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except at those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of § 63.693.

(i) The owner or operator who elects to control air emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device shall meet the requirements specified in paragraphs (i)(1) through (3) of this section.

* * * * *

■ 7. Section 63.686 is amended by revising paragraphs (b)(1) through (3) to read as follows:

§ 63.686 Standards: Oil-water and organic water separators.

* * * * *

(b) * * *

(1) A floating roof in accordance with all applicable provisions specified in subpart VV of this part—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart. For portions of the separator where it is infeasible to install and operate a floating roof, such as over a weir mechanism, the owner or operator shall comply with the requirements specified in paragraph (b)(2) of this section.

(2) A fixed-roof that is vented through a closed-vent system to a control device in accordance with all applicable provisions specified in subpart VV of this part—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart.

(3) A pressurized separator that operates as a closed system in accordance with all applicable provisions specified in subpart VV of this part—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart.

■ 8. Section 63.687 is amended by revising paragraphs (b)(1) and (2) to read as follows:

§ 63.687 Standards: Surface impoundments.

* * * * *

(b) * * *

(1) A floating membrane cover in accordance with the applicable provisions specified in subpart QQ of this part—National Emission Standards for Surface Impoundments, except that §§ 63.942(c)(2) and (3) and 63.943(c)(2) shall not apply for the purposes of this subpart; or

(2) A cover that is vented through a closed-vent system to a control device in accordance with all applicable provisions specified in subpart QQ of this part—National Emission Standards for Surface Impoundments, except that §§ 63.942(c)(2) and (3) and 63.943(c)(2) shall not apply for the purposes of this subpart.

■ 9. Section 63.688 is amended by revising paragraphs (b)(1)(i), (ii), and (3)(i) to read as follows:

§ 63.688 Standards: Containers.

* * * * *

(b) * * *

(1) * * *

(i) The owner or operator controls air emissions from the container in accordance with the standards for Container Level 1 controls as specified in subpart PP of this part—National Emission Standards for Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

(ii) As an alternative to meeting the requirements in paragraph (b)(1)(i) of this section, an owner or operator may choose to control air emissions from the container in accordance with the standards for either Container Level 2 controls or Container Level 3 controls as specified in subpart PP of this part—National Emission Standards for

Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

* * * * *

(3) * * *

(i) The owner or operator controls air emissions from the container in accordance with the standards for Container Level 2 controls as specified in subpart PP of this part—National Emission Standards for Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

* * * * *

■ 10. Section 63.689 is amended by revising paragraph (d)(5) to read as follows:

§ 63.689 Standards: Transfer systems.

* * * * *

(d) * * *

(5) Whenever an off-site material is in the transfer system, the cover shall be installed with each closure device secured in the closed position, except the opening of closure devices or removal of the cover is allowed to provide access to the transfer system for performing routine inspection, maintenance, repair, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a hatch or remove the cover to repair conveyance equipment mounted under the cover or to clear a blockage of material inside the system. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable.

* * * * *

■ 11. Section 63.691 is amended by:

■ a. Revising paragraph (b); and

■ b. Adding paragraph (c).

The revision and addition read as follows:

§ 63.691 Standards: Equipment leaks.

* * * * *

(b) According to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time, as established in § 63.680(e)(i) through (iii), the owner or operator shall control the HAP emitted from equipment leaks in accordance with the applicable provisions specified in either paragraph (b)(1) or (2) of this section.

(1)(i) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 61.241 through 61.247 in 40 CFR part 61, subpart V—National Emission Standards for Equipment Leaks, with the difference noted in paragraphs (b)(1)(iii) and (iv) of this section for the purposes of this subpart; or

(ii) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 63.161 through 63.182 in subpart H of this part—National Emission Standards for Organic Hazardous Air Pollutants from Equipment Leaks, with the differences noted in paragraphs (b)(2)(i) through (iv) of this section for the purposes of this subpart.

(iii) On or after March 18, 2015, for the purpose of complying with the requirements of 40 CFR 61.242–6(a)(2) or the requirements of § 63.167(a)(2), the open end is sealed when instrument monitoring of the open-ended valve or line conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

(iv) On or after March 18, 2015, for the purpose of complying with the requirements of 40 CFR 61.242–6(d) or the requirements of § 63.167(d), open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset and that are exempt from the requirements in 40 CFR 61.242–6(a), (b), and (c) or § 63.167(a), (b), and (c) must comply with the requirements in § 63.693(c)(2).

(2) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 63.161 through 63.183 in subpart H of this part—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks, with the differences noted in paragraphs (b)(2)(i) through (v) of this section for the purposes of this subpart.

(i) For each valve in gas/vapor or in light liquid service, as defined in § 63.681, that is part of an affected source under this subpart, an instrument reading that defines a leak is 500 ppm or greater as detected by Method 21 of 40 CFR part 60, appendix A.

(ii) For each pump in light liquid service, as defined in § 63.681, that is part of an affected source under this subpart, an instrument reading that defines a leak is 1,000 ppm or greater as detected by Method 21 of 40 CFR part 60, appendix A. Repair is not required unless an instrument reading of 2,000 ppm or greater is detected.

(iii) On or after March 18, 2015, for the purpose of complying with the requirements of § 63.167(a)(2), the open end is sealed when instrument monitoring of the open-ended valve or line conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

(iv) On or after March 18, 2015, for the purpose of complying with the requirements of § 63.167(d), open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset and that are exempt from the requirements in § 63.167(a), (b), and (c) must comply with the requirements in § 63.693(c)(2).

(v) For the purposes of this subpart, the pressure relief device requirements of § 63.691(c) of this subpart rather than those of § 63.165 or of 40 CFR 61.242–4, as applicable, shall apply. The pressure relief device requirements of § 63.691(c)(3) and (4) apply in addition to the requirements of § 63.169 or of 40 CFR 61.242–8, as applicable, for pressure relief devices in liquid service.

(c) *Requirements for pressure relief devices.* Except as provided in paragraph (c)(4) of this section, the owner or operator must comply with the requirements specified in paragraphs (c)(1) through (3) of this section for pressure relief devices in off-site material service.

(1) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in gas/vapor service with an instrument reading of less than 500 ppm above background as detected by Method 21 of 40 CFR part 60, appendix A.

(2) *Pressure release requirements.* For pressure relief devices in gas/vapor service, the owner or operator must comply with either paragraph (c)(2)(i) or (ii) of this section following a pressure release, as applicable.

(i) If the pressure relief device does not consist of or include a rupture disk, the pressure relief device shall be returned to a condition indicated by an instrument reading of less than 500 ppm above background, as detected by Method 21 of 40 CFR part 60, appendix A, no later than 5 calendar days after the pressure release device returns to off-site material service following a pressure release, except as provided in § 63.171.

(ii) If the pressure relief device consists of or includes a rupture disk, except as provided in § 63.171, install a replacement disk as soon as practicable but no later than 5 calendar days after the pressure release.

(3) *Pressure release management.* Except as provided in paragraph (c)(4) of this section, emissions of HAP listed in Table 1 of this subpart may not be discharged directly to the atmosphere from pressure relief devices in off-site material service, and according to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site

material for the first time, as established in § 63.680(e)(1)(i) through (iii), the owner or operator must comply with the requirements specified in paragraphs (c)(3)(i) and (ii) of this section for all pressure relief devices in off-site material service.

(i) The owner or operator must equip each pressure relief device in off-site material service with a device(s) or use a monitoring system. The device or monitoring system may be either specific to the pressure release device itself or may be associated with the process system or piping, sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices or monitoring systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, pressure monitor, or parametric monitoring system. The devices or monitoring systems must be capable of meeting the requirements specified in paragraphs (c)(3)(i)(A) through (C) of this section.

(A) Identifying the pressure release;

(B) Recording the time and duration of each pressure release; and

(C) Notifying operators immediately that a pressure release is occurring.

(ii) If any pressure relief device in off-site material service releases directly to the atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of HAP listed in Table 1 of this subpart released during each pressure release event and report this quantity as required in § 63.697(b)(5). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(4) *Pressure relief devices routed to a drain system, fuel gas system, process or control device.* If a pressure relief device in off-site material service is designed and operated to route all pressure releases through a closed vent system to a drain system, fuel gas system, process or control device, paragraphs (c)(1), (2), and (3) of this section do not apply. The fuel gas system or closed vent system and the process or control device (if applicable) must meet the requirements of § 63.693. The drain system (if applicable) must meet the requirements of § 63.689.

■ 12. Section 63.693 is amended by:

■ a. Revising paragraphs (b)(3) and (8), (c)(1)(ii), and (c)(2) introductory text;

■ b. Adding paragraph (c)(2)(iii); and

■ c. Revising paragraphs (f)(1)(i)(B), (f)(1)(ii)(B), and (f)(2) introductory text;

■ d. Adding paragraph (f)(2)(iii);

■ e. Revising paragraphs (g)(1)(v) and (g)(2)(i); and

■ f. Adding paragraph (g)(2)(i)(C).

The revisions and additions read as follows:

§ 63.693 Standards: Closed-vent systems and control devices.

* * * * *

(b) * * *

(3) Whenever gases or vapors containing HAP are routed from a tank through a closed-vent system connected to a control device used to comply with the requirements of § 63.685(b)(1), (2), or (3), the control device must be operating except as provided for in paragraphs (b)(3)(i) and (ii) of this section.

(i) The control device may only be bypassed for the purpose of performing planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that tank emissions are vented to the control device.

(ii) On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance shall not exceed 240 hours per each calendar year.

* * * * *

(8) In the case when an owner or operator chooses to use a design analysis to demonstrate compliance of a control device with the applicable performance requirements specified in this section as provided for in paragraphs (d) through (g) of this section, the Administrator may require that the design analysis be revised or amended by the owner or operator to correct any deficiencies identified by the Administrator. If the owner or operator and the Administrator do not agree on the acceptability of using the design analysis (including any changes required by the Administrator) to demonstrate that the control device achieves the applicable performance requirements, then the disagreement must be resolved using the results of a performance test conducted by the owner or operator in accordance with the requirements of § 63.694(l). The Administrator may choose to have an authorized representative observe the performance test conducted by the owner or operator. Should the results of this performance test not agree with the determination of control device performance based on the design analysis, then the results of the performance test will be used to establish compliance with this subpart.

* * * * *

(c) * * *

(1) * * *

(ii) A closed-vent system that is designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

(2) In situations when the closed-vent system includes bypass devices that could be used to divert a vent stream from the closed-vent system to the atmosphere at a point upstream of the control device inlet, each bypass device must be equipped with either a flow indicator as specified in paragraph (c)(2)(i) of this section or a seal or locking device as specified in paragraph (c)(2)(ii) of this section, except as provided for in paragraph (c)(2)(iii) of this section:

* * * * *

(iii) Equipment needed for safety reasons, including low leg drains, open-ended valves and lines not in emergency shutdown systems, and pressure relief devices subject to the requirements of § 63.691(c) are not subject to the requirements of paragraphs (c)(2)(i) and (ii) of this section.

* * * * *

(f) * * *

(1) * * *

(i) * * *

(B) To achieve a total incinerator outlet concentration for the TOC, less methane and ethane, of less than or equal to 20 ppmv on a dry basis corrected to 3 percent oxygen.

(ii) * * *

(B) To achieve a total incinerator outlet concentration for the HAP, listed in Table 1 of this subpart, of less than or equal to 20 ppmv on a dry basis corrected to 3 percent oxygen.

* * * * *

(2) The owner or operator must demonstrate that the vapor incinerator achieves the performance requirements in paragraph (f)(1) of this section by conducting either a performance test as specified in paragraph (f)(2)(i) of this section or a design analysis as specified in paragraph (f)(2)(ii) of this section, except as provided for in paragraph (f)(2)(iii) of this section.

* * * * *

(iii) An owner or operator is not required to conduct a performance test or design analysis if the incinerator has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 264, subpart O, or has certified compliance with the interim status requirements of 40 CFR part 265, subpart O.

(g) * * *

(1) * * *

(v) Introduce the vent stream to a boiler or process heater for which the owner or operator either has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or has certified compliance with the interim status requirements of 40 CFR part 266, subpart H; or has submitted a Notification of Compliance under §§ 63.1207(j) and 63.1210(d) and complies with the requirements of subpart EEE of this part at all times (including times when non-hazardous waste is being burned).

(2) * * *

(i) If an owner or operator chooses to comply with the performance specifications in either paragraph (g)(1)(i), (ii), or (iii) of this section, the owner or operator must demonstrate compliance with the applicable performance specifications by conducting either a performance test as specified in paragraph (g)(2)(i)(A) of this section or a design analysis as specified in paragraph (g)(2)(i)(B) of this section, except as provided for in paragraph (g)(2)(i)(C) of this section.

* * * * *

(C) An owner or operator is not required to conduct a performance test or design analysis if the boiler or process heater has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

* * * * *

■ 13. Section 63.694 is amended by revising paragraphs (b)(3)(iv), (f)(1), (i)(1), (j)(3), (k)(3), (l) introductory text, (l)(2), (l)(3) introductory text, (l)(3)(i), (l)(3)(ii)(B), (l)(4) introductory text, (l)(4)(i), (l)(4)(ii)(A) and (B), (l)(4)(iii)(A), and (m)(2) and (3) to read as follows:

§ 63.694 Testing methods and procedures.

* * * * *

(b) * * *

(3) * * *

(iv) In the event that the Administrator and the owner or operator disagree on a determination of the average VOHAP concentration for an off-site material stream using knowledge, then the results from a determination of VOHAP concentration using direct measurement as specified in paragraph (b)(2) of this section shall be used to establish compliance with the applicable requirements of this subpart. The Administrator may perform or require that the owner or operator perform this determination using direct measurement.

* * * * *

(f) * * *

(1) The actual HAP mass removal rate (MR) shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be at least 1 hour.

* * * * *

(i) * * *

(1) The actual HAP mass removal rate (MR_{bio}) shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be at least 1 hour.

* * * * *

(j) * * *

(3) *Use of knowledge to determine the maximum HAP vapor pressure of the off-site material.* Documentation shall be prepared and recorded that presents the information used as the basis for the owner's or operator's knowledge that the maximum HAP vapor pressure of the off-site material is less than the maximum vapor pressure limit listed in Table 3, Table 4, or Table 5 of this subpart for the applicable tank design capacity category. Examples of information that may be used include: the off-site material is generated by a process for which at other locations it previously has been determined by direct measurement that the off-site material maximum HAP vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category. In the event that the Administrator and the owner or operator disagree on a determination of the maximum HAP vapor pressure for an off-site material stream using knowledge, then the results from a determination of HAP vapor pressure using direct measurement as specified in paragraph (j)(2) of this section shall be used to establish compliance with the applicable requirements of this subpart. The Administrator may perform or require that the owner or operator perform this determination using direct measurement.

(k) * * *

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 8.1.1 of Method 21 shall be for the weighted average composition of the organic constituents in the material placed in the unit at the time of monitoring, not for each individual organic constituent.

* * * * *

(l) *Control device performance test procedures.* Performance tests shall be based on representative performance (*i.e.,* performance based on normal operating conditions) and shall exclude periods of startup and shutdown unless specified by the Administrator. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(2) The gas volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate.

(3) To determine compliance with the control device percent reduction requirement, the owner or operator shall use Method 18 of 40 CFR part 60, appendix A to measure the HAP in Table 1 of this subpart or Method 25A of 40 CFR part 60, appendix A to measure TOC. Method 18 may be used to measure methane and ethane, and the measured concentration may be subtracted from the Method 25A measurement. Alternatively, any other method or data that has been validated according to the applicable procedures in Method 301 in appendix A of this part may be used. The following procedures shall be used to calculate percent reduction efficiency:

(i) A minimum of three sample runs must be performed. The minimum sampling time for each run shall be 1 hour. For Method 18, either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time such as 15 minute intervals during the run.

(ii) * * *

(B) When the TOC mass rate is calculated, the average concentration reading (minus methane and ethane) measured by Method 25A of 40 CFR part 60, appendix A shall be used in the equation in paragraph (l)(3)(ii)(A) of this section.

* * * * *

(4) To determine compliance with the enclosed combustion device total HAP concentration limit of this subpart, the owner or operator shall use Method 18 of 40 CFR part 60, appendix A to measure the total HAP in Table 1 of this subpart or Method 25A of 40 CFR part 60, appendix A to measure TOC. Method 18 may be used to measure

methane and ethane and the measured concentration may be subtracted from the Method 25A measurement. Alternatively, any other method or data that has been validated according to Method 301 in appendix A of this part, may be used. The following procedures shall be used to calculate parts per million by volume concentration, corrected to 3 percent oxygen:

(i) A minimum of three sample runs must be performed. The minimum sampling time for each run shall be 1 hour. For Method 18, either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

(ii) * * *

(A) The TOC concentration (C_{TOC}) is the average concentration readings provided by Method 25 A of 40 CFR part 60, appendix A, minus the concentration of methane and ethane.

(B) The total HAP concentration (C_{HAP}) shall be computed according to the following equation:

$$C_{HAP} = \sum_{i=1}^{x} \frac{\sum_{j=1}^{n} C_{ji}}{x}$$

where:

C_{HAP} = Total concentration of HAP compounds listed in Table 1 of this subpart, dry basis, parts per million by volume.

C_{ij} = Concentration of sample components j of sample i, dry basis, parts per million by volume.

n = Number of components in the sample.

x = Number of samples in the sample run.

(iii) * * *

(A) The emission rate correction factor or excess air, integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A shall be used to determine the oxygen concentration ($\%O_{2dry}$). Alternatively, the owner or operator may use Method 3A of 40 CFR part 60, appendix A to determine the oxygen concentration. The samples shall be collected during the same time that the samples are collected for determining TOC concentration or total HAP concentration.

* * * * *

(m) * * *

(2) No traverse site selection method is needed for vents smaller than 0.10 meter in diameter. For vents smaller than 0.10 meter in diameter, sample at the center of the vent.

(3) Process vent stream gas volumetric flow rate must be determined using Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate.

* * * * *

■ 14. Section 63.695 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Adding paragraph (a)(5);

■ c. Revising paragraphs (e) introductory text and (e)(4) and (5); and

■ d. Removing paragraphs (e)(6) and (7).

The revisions and addition read as follows:

§ 63.695 Inspection and monitoring requirements.

(a) The owner or operator must install, calibrate, maintain, and operate all monitoring system components according to §§ 63.8, 63.684(e), 63.693(d)(3), (e)(3), (f)(3), (g)(3), and (h)(3), and paragraph (a)(5) of this section and perform the inspection and monitoring procedures specified in paragraphs (a)(1) through (4) of this section.

* * * * *

(5)(i) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), the owner or operator must operate the continuous monitoring system at all times the affected source is operating. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator is required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

(ii) The owner or operator may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. The owner or operator must use all the data collected during all other required data collection periods in assessing the operation of the control device and associated control system. The owner or operator must report any periods for which the monitoring system failed to collect required data.

* * * * *

(e) *Control device monitoring requirements.* For each control device required under § 63.693 to be monitored in accordance with the provisions of this paragraph (e), the owner or operator must ensure that each control device operates properly by monitoring the control device in accordance with the requirements specified in paragraphs (e)(1) through (5) of this section.

* * * * *

(4) A deviation for a given control device is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (e)(4)(i) through (iii) of this section being met. When multiple operating parameters are monitored for the same control device and during the same operating day more than one of these operating parameters meets a deviation criterion specified in paragraphs (e)(4)(i) through (iii) of this section, then a single deviation is determined to have occurred for the control device for that operating day.

(i) A deviation occurs when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit) established for the operating parameter in accordance with the requirements of paragraph (e)(3) of this section.

(ii) A deviation occurs when the period of control device operation is 4 hours or greater in an operating day and the monitoring data are insufficient to constitute a valid hour of data for at least 75 percent of the operating hours. Monitoring data are insufficient to constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour.

(iii) A deviation occurs when the period of control device operation is less than 4 hours in an operating day and more than 1 of the hours during the period does not constitute a valid hour of data due to insufficient monitoring data. Monitoring data are insufficient to constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour.

(5) For each deviation, except when the deviation occurs during periods of non-operation of the unit or the process that is vented to the control device (resulting in cessation of HAP emissions to which the monitoring applies), the owner or operator shall be deemed to have failed to have applied control in a manner that achieves the required operating parameter limits. Failure to achieve the required operating

parameter limits is a violation of this standard.

* * * * *

■ 15. Section 63.696 is amended by revising paragraph (h) and adding paragraphs (i) and (j) to read as follows:

§ 63.696 Recordkeeping requirements.

* * * * *

(h) An owner or operator shall record the malfunction information specified in paragraphs (h)(1) through (3) of this section.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure, record the date, time and duration of the failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.683(e) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(i) For pressure relief devices in off-site material service, keep records of the information specified in paragraphs (i)(1) through (5) of this section, as applicable.

(1) A list of identification numbers for pressure relief devices that the owner or operator elects to route emissions through a closed-vent system to a control device, process or drain system under the provisions in § 63.691(c)(4).

(2) A list of identification numbers for pressure relief devices that do not consist of or include a rupture disk, subject to the provisions in § 63.691(c)(2)(i).

(3) A list of identification numbers for pressure relief devices equipped with rupture disks, subject to the provisions in § 63.691(c)(2)(ii).

(4) The dates and results of the Method 21 of 40 CFR part 60, appendix A, monitoring following a pressure release for each pressure relief device subject to the provisions in § 63.691(c)(2)(i). The results of each monitoring event shall include:

(i) The measured background level.

(ii) The maximum instrument reading measured at each pressure relief device.

(5) For pressure relief devices in off-site material service subject to § 63.691(c)(3), keep records of each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release and the calculations used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

(j) (1) For pressure tank closure devices, as specified in § 63.685(h)(2), keep records of each release to the atmosphere, including the information specified in paragraphs (j)(3) though (7) of this section.

(2) For each closed vent system that includes bypass devices that could divert a stream away from the control device and into the atmosphere, as specified in § 63.693(c)(2), and each open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in § 63.167(d) or 40 CFR 61.242–6(d), keep records of each release to the atmosphere, including the information specified in paragraphs (j)(3) though (9) of this section.

(3) The source, nature, and cause of the release.

(4) The date, time, and duration of the release.

(5) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the calculations used for determining this quantity.

(6) The actions taken to prevent this release.

(7) The measures adopted to prevent future such release.

(8) Hourly records of whether the bypass flow indicator specified under § 63.693(c)(2) was operating and whether a diversion was detected at any time during the hour, as well as records of the times of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(9) Where a seal mechanism is used to comply with § 63.693(c)(2), hourly records of flow are not required. In such cases, the owner or operator shall record that the monthly visual inspection of the seals or closure mechanism has been done, and shall record the duration of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

■ 16. Section 63.697 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Adding paragraphs (a)(1)(i) and (ii) and (a)(3);

■ c. Revising paragraph (b)(3) and (4); and

■ d. Adding paragraphs (b)(5) and (6).

The revisions and additions read as follows:

§ 63.697 Reporting requirements.

(a) Each owner or operator of an affected source subject to this subpart must comply with the notification requirements specified in paragraph (a)(1) of this section and the reporting requirements specified in paragraphs (a)(2) and (3) of this section.

(1) * * *

(i) For pressure relief devices in off-site material service subject to the requirements of § 63.691(c), the owner or operator must submit the information listed in paragraph (a)(1)(ii) of this section in the notification of compliance status required under § 63.9(h) within 150 days after the first applicable compliance date for pressure relief device monitoring.

(ii) For pressure relief devices in off-site material service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), a description of the alarms or other methods by which operators will be notified of a pressure release, and a description of how the owner or operator will determine the information to be recorded under § 63.696(i)(5)(ii) through (iii) (*i.e.,* the duration of the pressure release and the methodology and calculations for determining the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release).

* * * * *

(3) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, the owner or operator must submit the results of the performance test according to the manner specified by either paragraph (a)(3)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), the owner or operator must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI) accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Owners or operators who claim that some of the performance test information being submitted is confidential business information (CBI) must submit a

complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Road, Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (a)(3)(i).

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in 40 CFR 60.4.

(b) * * *

(3) *Reports of malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(4) A summary report specified in § 63.10(e)(3) shall be submitted on a semiannual basis (*i.e.,* once every 6-month period). The summary report must include a description of all deviations as defined in §§ 63.683(f) and 63.695(e) that have occurred during the 6-month reporting period. For each deviation caused when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit), the report must include the daily average values of the monitored parameter, the applicable operating parameter limit, and the date and duration of the period that the deviation occurred. For each deviation caused by lack of monitoring data, the report must include the date and duration of period when the monitoring data were not collected and the reason why the data were not collected.

(5) For pressure relief devices in off-site material service subject to § 63.691(c), Periodic Reports must include the information specified in paragraphs (b)(5)(i) through (iii) of this section.

(i) For pressure relief devices in off-site material service subject to § 63.691(c), report the results of all monitoring conducted within the reporting period.

(ii) For pressure relief devices in gas/vapor service subject to § 63.691(c)(2)(i), report any instrument reading of 500 ppm above background or greater, if detected more than 5 days after the pressure release.

(iii) For pressure relief devices in off-site material service subject to § 63.691(c)(3), report each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release and the method used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(6) *Pressure tank closure device or bypass deviation report.* The owner or operator must submit to the Administrator the information specified in paragraph (b)(6)(iv) of this section when any of the conditions in paragraphs (b)(6)(i) through (iii) of this section are met.

(i) Any pressure tank closure device, as specified in § 63.685(h)(2), has released to the atmosphere.

(ii) Any closed vent system that includes bypass devices that could divert a vent a stream away from the control device and into the atmosphere, as specified in § 63.693(c)(2), has released directly to the atmosphere.

(iii) Any open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in § 63.167(d) or 40 CFR 61.242–6(d), has released directly to the atmosphere.

(iv) The pressure tank closure device or bypass deviation report must include the information specified in paragraphs (b)(6)(iv)(A) through (E) of this section.

(A) The source, nature and cause of the release.

(B) The date, time and duration of the discharge.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the method used for determining this quantity.

(D) The actions taken to prevent this release.

(E) The measures adopted to prevent future such releases.

* * * * *

■ 17. Section 63.698 is amended by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:

§ 63.698 Implementation and enforcement.

* * * * *

(c) The authorities that cannot be delegated to State, local, or Tribal agencies are as specified in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) Approval of alternatives to the electronic reporting requirements in § 63.697(a)(3).

■ 18. Table 2 to subpart DD of part 63 is amended by:

■ a. Removing entries 63.1(a)(13) and 63.1(a)(14);

■ b. Revising entries 63.1(b)(2), 63.1(c)(3), and 63.1(c)(4);

■ c. Removing entry 63.4(a)(1)–63.4(a)(3);

■ d. Adding entries 63.4(a)(1)–63.4(a)(2) and 63.4(a)(3);

■ e. Revising entries 63.4(a)(5), 63.5(a)(1), 63.5(b)(5), 63.6(b)(3), and 63.6(b)(4);

■ f. Removing entry 63.6(e);

■ g. Adding entries 63.6(e)(1)(i), 63.6(e)(1)(ii), 63.6(e)(1)(iii), 63.6(e)(2), and 63.6(e)(3);

■ h. Revising entry 63.6(f)(1);

■ i. Adding entry 63.7(a)(4);

■ j. Revising entries 63.7(b), 63.7(c), 63.7(e)(1), 63.7(f), 63.8(c)(1)(iii), 63.9(e), 63.9(g), 63.10(b)(2)(i), 63.10(b)(2)(ii), 63.10(b)(2)(iii), 63.10(b)(2)(iv), and 63.10(b)(2)(v);

■ k. Removing entry 63.10(c);

■ l. Adding entries 63.10(c)(1)–(6), 63.10(c)(7)–(8), and 63.10(c)(9)–(15);

■ m. Removing entries 63.10(d)(5)(i) and 63.10(d)(5)(ii);

■ n. Adding entry 63.10(d)(5);

■ o. Removing entry 63.10(e);

■ p. Adding entries 63.10(e)(1)–63.10(e)(2), 63.10(e)(3), and 63.10(e)(4); and

■ q. Adding entry 63.16.

The revisions and additions read as follows:

TABLE 2 TO SUBPART DD OF PART 63—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD

Subpart A reference	Applies to Subpart DD	Explanation
* * * * * * *		
63.1(b)(2)	No	Reserved.
* * * * * * *		
63.1(c)(3)	No	Reserved.
63.1(c)(4)	No	Reserved.
* * * * * * *		
63.4(a)(1)–63.4(a)(2)	Yes	
63.4(a)(3)	No	Reserved.
* * * * * * *		
63.4(a)(5)	No	Reserved.
* * * * * * *		
63.5(a)(1)	Yes	
* * * * * * *		
63.5(b)(5)	No	Reserved.
* * * * * * *		
63.6(b)(3)	No	
63.6(b)(4)	No	
* * * * * * *		
63.6(e)(1)(i)	No	See § 63.683(e) for general duty requirement.
63.6(e)(1)(ii)	No	
63.6(e)(1)(iii)	Yes	
63.6(e)(2)	No	Reserved.
63.6(e)(3)	No	
63.6(f)(1)	No	
* * * * * * *		
63.7(a)(4)	Yes	
63.7(b)	Yes	
63.7(c)	Yes	
* * * * * * *		
63.7(e)(1)	No	See § 63.694(l).
* * * * * * *		
63.7(f)	Yes	
* * * * * * *		
63.8(c)(1)(iii)	No	

TABLE 2 TO SUBPART DD OF PART 63—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD—Continued

Subpart A reference	Applies to Subpart DD	Explanation
* * *	* * *	* * *
63.9(e)	Yes	
* * *	* * *	* * *
63.9(g)	Yes	
* * *	* * *	* * *
63.10(b)(2)(i)	No	
63.10(b)(2)(ii)	No	See § 63.696(h) for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the volume of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
63.10(b)(2)(iii)	Yes	
63.10(b)(2)(iv)	No	
63.10(b)(2)(v)	No	
* * *	* * *	* * *
63.10(c)(1)–(6)	No	
63.10(c)(7)–(8)	Yes	
63.10(c)(9)–(15)	No	
* * *	* * *	* * *
63.10(d)(5)	No	See § 63.697(b)(3) for reporting of malfunctions.
63.10(e)(1)–63.10(e)(2)	No	
63.10(e)(3)	Yes	
63.10(e)(4)	No	
* * *	* * *	* * *
63.16	No	

* * * * *

■ 19. Table 3 to subpart DD of part 63 is revised to read as follows:

TABLE 3 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT EXISTING AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(1)(i)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 75 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 75 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) shall not be used.
Design capacity equal to or greater than 75 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 27.6 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 27.6 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 5.2 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 5.2 kPa.	Level 2.

■ 20. Table 4 to subpart DD of part 63 is revised to read as follows:

TABLE 4 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT EXISTING AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(1)(ii)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 75 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 75 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) shall not be used.
Design capacity equal to or greater than 75 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 13.1 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 13.1 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 5.2 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 5.2 kPa.	Level 2.

■ 21. Table 5 is added to subpart DD of part 63 to read as follows:

TABLE 5 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT NEW AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(2)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 38 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 38 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) shall not be used.
Design capacity equal to or greater than 38 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 13.1 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 13.1 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 0.7 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 0.7 kPa.	Level 2.

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Part III

The President

Proclamation 9241—National Poison Prevention Week, 2015

Memorandum of March 13, 2015—Providing an Order of Succession Within the Council on Environmental Quality

Federal Register
Vol. 80, No. 52
Wednesday, March 18, 2015

Presidential Documents

Title 3—

The President

Proclamation 9241 of March 13, 2015

National Poison Prevention Week, 2015

By the President of the United States of America

A Proclamation

Household and environmental poisons pose risks to Americans of all ages. While children under age 6 account for half of all cases of poison exposure, more than 90 percent of poisoning deaths occur among people over the age of 20. Poisonings are more common and more deadly than many people realize—but they are often avoidable and treatable, and every person can take action to guard against these preventable tragedies. During National Poison Prevention Week, we raise awareness of the precautions each person can take to protect their loved ones, as well as what to do in the event of a poison emergency.

Most poisonings take place at home where cleaning products, cosmetics, and other chemicals are stored. That is why it is important for parents and caregivers to keep poisonous items out of their children's sight and reach. These items should be properly labeled and stored in their original containers—especially medicine, which is a major source of poisoning among young people and adults. Before taking medication, whether over-the-counter or prescribed, Americans should ensure they understand the instructions, including the proper dosage and how to avoid unsafe drug interactions, and discuss any questions with a doctor or pharmacist. Everyone should also be aware of local environmental poisons, including plants, insects, and berries; practice safe food preparation and handling to avoid food poisoning; and guard against carbon monoxide by installing detectors for this colorless, odorless gas.

If you suspect someone has been poisoned, fast action is essential. Do not wait for signs of poisoning. You should immediately call the toll-free Poison Help line at 1–800–222–1222. The Poison Help line can also connect you with experts to discuss questions about medication and other non-emergency situations. Last year, I was proud to sign the Poison Center Network Act, which reauthorized funding for the Poison Help line and also supported poison control centers and nationwide efforts to raise awareness about poison prevention and the resources available in local communities.

Education and awareness about poisons can save lives. I encourage all people to speak out about the importance of poison prevention and discuss these commonsense steps with their loved ones, coworkers, and neighbors. To learn more, visit *www.PoisonHelp.HRSA.gov.* Information about safe drug disposal is available at *www.DEAdiversion.USDOJ.gov.*

To encourage Americans to learn more about the dangers of accidental poisonings and to take appropriate preventative measures, the Congress, by joint resolution approved September 26, 1961, as amended (75 Stat. 681) has authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim March 15 through March 21, 2015, as National Poison Prevention Week. I call upon all Americans to observe

this week by taking actions to protect their families from hazardous household materials and misuse of prescription medicines.

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

[FR Doc. 2015–06382
Filed 3–17–15; 11:15 am]
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Presidential Documents

Memorandum of March 13, 2015

Providing an Order of Succession Within the Council on Environmental Quality

Memorandum for the Chairman of the Council on Environmental Quality

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.* (the ''Act''), it is hereby ordered that:

Section 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum and to the limitations set forth in the Act, the following officials of the Council on Environmental Quality, in the order listed, shall act as and perform the functions and duties of the office of the Chairman of the Council on Environmental Quality (Chairman), during any period in which the Chairman has died, resigned, or is otherwise unable to perform the functions and duties of that office:

(a) Managing Director;

(b) Chief of Staff;

(c) General Counsel; and

(d) Associate Directors in the order in which they have been appointed as such.

Sec. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 of this memorandum in an acting capacity, by virtue of so serving, shall act as Chairman pursuant to this memorandum.

(b) No individual listed in section 1 of this memorandum shall act as Chairman unless that individual is otherwise eligible to so serve under the Act.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Chairman.

Sec. 3. *Revocation.* The Presidential Memorandum of September 18, 2008 (Designation of Officers of the Council on Environmental Quality to Act as Chairman of the Council on Environmental Quality), is hereby revoked.

Sec. 4. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(c) You are hereby authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, March 13, 2015

[FR Doc. 2015–06383
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