



FEDERAL REGISTER

Vol. 77

Monday,

No. 48

March 12, 2012

Pages 14471–14678

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see www.ofr.gov.

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at www.fdsys.gov, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, gpo@custhelp.com.

The annual subscription price for the **Federal Register** paper edition is \$749 plus postage, or \$808, plus postage, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see bookstore.gpo.gov.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche 202-512-1800
Assistance with public subscriptions 202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

Paper or fiche 202-512-1800
Assistance with public single copies 1-866-512-1800
(Toll-Free)

FEDERAL AGENCIES

Subscriptions:

Paper or fiche 202-741-6005
Assistance with Federal agency subscriptions 202-741-6005

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, March 13, 2012
9 a.m.-12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741-6008



Contents

Federal Register

Vol. 77, No. 48

Monday, March 12, 2012

Arts and Humanities, National Foundation

See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention

NOTICES

Statement of Organization, Functions, and Delegations of Authority, 14525–14527

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14527–14528

Coast Guard

RULES

Safety Zones:

Festival of States 2012 Night Parade Fireworks Display, Tampa Bay, St. Petersburg, FL, 14471–14473

Commerce Department

See Foreign-Trade Zones Board

See International Trade Administration

See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14507

Privacy Act; Systems of Records, 14507

Council on Environmental Quality

RULES

Final Guidance on Improving Process for Preparing Efficient and Timely Environmental Reviews, etc., 14473–14480

NOTICES

Guidance on Federal Greenhouse Gas Accounting and Reporting; Revision, 14507–14508

Defense Acquisition Regulations System

RULES

Defense Federal Acquisition Regulation Supplements: Commercial Determination Approval, 14480–14481

PROPOSED RULES

Defense Federal Acquisition Regulation Supplements: Alleged Crimes By or Against Contractor Personnel, 14490–14492

Defense Department

See Defense Acquisition Regulations System

See Navy Department

Energy Department

See Federal Energy Regulatory Commission

PROPOSED RULES

Petroleum Reduction and Alternative Fuel Consumption Requirements for Federal Fleets, 14482–14490

NOTICES

State Energy Program and Energy Efficiency and Conservation Block Grant Program, 14509–14510

Environmental Protection Agency

RULES

Approvals and Promulgations of Implementation Plans: Arkansas; Regional Haze State Implementation Plan, etc., 14604–14677

NOTICES

Meetings:

Children's Health Protection Advisory Committee, 14519

Environmental Quality Council

See Council on Environmental Quality

Executive Office of the President

See Council on Environmental Quality

Federal Aviation Administration

NOTICES

Manufacturers of Alternative Fuel Vans; Request for Information, 14583–14584

Meetings:

RTCA Special Committee 217, EUROCAE Working Group 44, Terrain and Airport Mapping Databases, 14584

Passenger Facility Charge Approvals and Disapprovals, 14584–14586

Federal Communications Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14519–14522

Federal Election Commission

NOTICES

Procurement Division FY 2011 Service Contract Inventory; Availability, 14522

Federal Energy Regulatory Commission

NOTICES

Combined Filings, 14510–14514

Complaints and Petitions for Declaratory Orders:

TGP Granada, LLC v. Public Service Co. of New Mexico, Tortoise Capital Resources Corp., 14514

Filings:

Bay Gas Storage, LLC, 14514

Mahannah, Randy, 14515

Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorization:

Camden County Energy Recovery Associates, LP, 14515

Petitions for Rate Approvals:

New Mexico Gas Co., Inc., 14515–14516

Preliminary Permit Applications:

Lock+ Hydro Friends Fund VII, 14516

Proposed Revised Restricted Service List:

Alabama Power Co., Martin Dam Hydroelectric Project, 14516–14517

Requests under Blanket Authorization:

Southern Star Central Gas Pipeline, Inc., 14517

Staff Attendances:

MISO Meetings, 14517–14519

Federal Highway Administration

NOTICES

Environmental Impact Statements; Availability, etc.: Kittitas County, WA, 14586–14587

Federal Trade Commission**NOTICES**

Analysis of Agreements Containing Consent Orders:
Western Digital Corp., 14523–14525

Federal Transit Administration**NOTICES**

FY 2012 Discretionary Livability Funding Opportunity:
Alternatives Analysis Program, 14587–14590

Fish and Wildlife Service**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Alaska Guide Service Evaluation, 14565–14566
Approval Procedures for Nontoxic Shot and Shot
Coatings, 14564–14565
Horseshoe Crab Tagging Program, 14562–14564

Food and Drug Administration**NOTICES**

Meetings:
Arthritis Advisory Committee, 14529–14530
Preparation for International Conference on
Harmonization Steering Committee and Expert
Working Group Meetings in Fukuoka, Japan, 14528–
14529

Foreign Assets Control Office**NOTICES**

Blocked Persons and Property:
Additional Designations, Foreign Narcotics Kingpin
Designation Act, 14592–14593
Additional Identifying Information for Individual,
Foreign Narcotics Kingpin Designation Act, 14594–
14596
Designation of One Individual Pursuant to Executive
Order 13224, 14597–14598
Identification of Entity Pursuant to Syria Executive Order
13582, 14592
Supplemental Identification Information for Thirteen
Individuals and One Entity Designated Pursuant to
Executive Order 13224, 14596–14597
Unblocking of Specially Designated Nationals and
Blocked Persons Pursuant to Executive Order 12978,
14593–14594

Foreign-Trade Zones Board**NOTICES**

Reorganizations and Expansions Under Alternative Site
Framework:
Foreign-Trade Zone 77; Memphis, TN Area, 14493

Geological Survey**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 14566–14567

Health and Human Services Department

See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department

See Coast Guard
See U.S. Citizenship and Immigration Services
See U.S. Customs and Border Protection

Housing and Urban Development Department**NOTICES**

Funding Awards:
Family Unification Program Fiscal Year 2010, 14538–
14540
Fiscal Year 2009 Rental Assistance for Non-Elderly
Persons with Disabilities, 14536–14538
Fiscal Year 2011 Housing Choice Voucher Family Self-
Sufficiency Program, 14546–14558
Fiscal Year 2011 Public and Indian Housing Resident
Opportunity and Self-Sufficiency Service
Coordinators Program, 14558–14561
Public and Indian Housing Family Self-Sufficiency
Program. Fiscal Year 2011, 14540–14546

Interior Department

See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau
See National Park Service

NOTICES

Meetings:
21st Century Conservation Service Corps Advisory
Committee, 14561
Tribal Consultation Sessions:
Administrative Organizational Assessment Draft Report,
Organizational Streamlining of BIA and BIE, 14561–
14562

Internal Revenue Service**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 14598–14600

International Trade Administration**NOTICES**

Antidumping Duty Administrative Reviews; Results,
Extensions, Amendments, etc.:
Certain Corrosion-Resistant Carbon Steel Flat Products
from the Republic of Korea, 14501–14504
Certain New Pneumatic Off-the-Road Tires from the
People's Republic of China, 14495–14499
Floor-Standing, Metal-Top Ironing Tables and Certain
Parts Thereof from the People's Republic of China,
14499–14500
Polyethylene Terephthalate Film, Sheet, and Strip from
India, 14501
Polyethylene Terephthalate Film, Sheet, and Strip from
the People's Republic of China, 14493–14495
Consolidated Decisions on Applications for Duty-Free
Entries of Electron Microscopes:
Max Planck Florida Institute, et al., 14504
Decision on Applications for Duty-Free Entry of Scientific
Instruments:
University of California, Davis, et al., 14504–14505

International Trade Commission**NOTICES**

Earned Import Allowance Program:
Evaluation of the Effectiveness of the Program for Certain
Apparel from the Dominican Republic, 14568–14569

Land Management Bureau**NOTICES**

Meetings:
Grand Staircase-Escalante National Monument Advisory
Committee, 14567

National Aeronautics and Space Administration**NOTICES**

Intent to Grant Exclusive Licenses, 14569–14570

National Credit Union Administration**NOTICES**

Meetings; Sunshine Act, 14570

National Foundation on the Arts and the Humanities**NOTICES**

National Endowment for the Humanities FY 2011 Service Contract Inventory; Availability, 14570

National Highway Traffic Safety Administration**NOTICES**

Meetings:

National Emergency Medical Services Advisory Council; Correction, 14590–14591

National Institutes of Health**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Environmental Science Formative Research Methodology Studies for National Children's Study, 14530–14531
Web-Based Assessment of the NHLBI Clinical Studies Support Center, 14531–14533

Meetings:

Center for Scientific Review, 14533–14534
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 14533
National Heart, Lung, and Blood Institute, 14533
National Institute of Mental Health, 14534
National Institute of Neurological Disorders and Stroke, 14534

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Northeastern United States:
Summer Flounder Fishery; Quota Transfer, 14481

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Gear-Marking Requirement for Atlantic Large Whale Take Reduction Plan, 14505

Environmental Impact Statements; Availability, etc.:

New England Fishery Management Council, 14505–14506

Meetings:

Marine Recreational Fisheries of U.S.; Southeast Data, Assessment, and Review, 14506

Taking and Importing of Marine Mammals, 14506–14507

National Park Service**NOTICES**

Environmental Impact Statements; Availability, etc.:

Ice Age Complex at Cross Plains, Cross Plains, WI, 14567–14568

Pinnacles National Monument, San Benito and Monterey Counties, CA, 14568

National Science Foundation**NOTICES**

Meetings:

Advisory Panel for Integrative Activities, #1373, 14570–14571

Waste Regulation; Correction, 14571

Navy Department**NOTICES**

Government-Owned Inventions; Available for Licensing, 14508

Granting of Exclusive Patent Licenses:

MHM Technologies, LLC, 14508–14509

Overseas Private Investment Corporation**NOTICES**

Meetings; Sunshine Act, 14571

Securities and Exchange Commission**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14571–14572

Self-Regulatory Organizations; Proposed Rule Changes:

Chicago Board Options Exchange, Inc., 14576–14578

ICE Clear Credit LLC, 14578–14579

Municipal Securities Rulemaking Board, 14572–14576

NYSE Amex LLC, 14579–14580

Temporary Exemptions from Conflict of Interest Prohibition of the Securities Exchange Act:

Morningstar Credit Ratings, LLC, 14580–14581

State Department**NOTICES**

Meetings:

Cultural Property Advisory Committee, 14581–14582

Proposal to Extend Agreement with Republic of Mali:

Import Restrictions on Archaeological Material from the Paleolithic Era to Mid-Eighteenth Century, 14583

Proposal to Extend Memorandum of Understanding with

Republic of Guatemala:

Import Restrictions on Archaeological Objects and Materials from Pre-Columbian Cultures, 14583

Surface Transportation Board**NOTICES**

Abandonment Exemptions:

BNSF Railway Co. in Page and Fremont Counties, IA, 14591

Transportation Department

See Federal Aviation Administration

See Federal Highway Administration

See Federal Transit Administration

See National Highway Traffic Safety Administration

See Surface Transportation Board

Treasury Department

See Foreign Assets Control Office

See Internal Revenue Service

See United States Mint

NOTICES

Meetings:

Federal Advisory Committee on Insurance, 14591–14592

U.S. Citizenship and Immigration Services**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14535

U.S. Customs and Border Protection**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Application to Use the Automated Commercial Environment, 14535–14536

United States Mint**NOTICES**

Pricing for 2012 Kennedy Half-Dollar Bags and Rolls, Bronze Medals, the First Spouse Bronze Medal Set and the Birth Set, 14600

Veterans Affairs Department**NOTICES**

Fiscal Year 2011 Service Contract Inventory; Availability, 14600–14601

Separate Parts In This Issue**Part II**

Environmental Protection Agency, 14604–14677

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

10 CFR**Proposed Rules:**

438.....14482

33 CFR

165.....14471

40 CFR

52.....14604

1500.....14473

1501.....14473

1502.....14473

1503.....14473

1505.....14473

1506.....14473

1507.....14473

1508.....14473

48 CFR

212.....14480

Proposed Rules:

252.....14490

50 CFR

648.....14481

Rules and Regulations

Federal Register

Vol. 77, No. 48

Monday, March 12, 2012

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0110]

RIN 1625–AA00

Safety Zone; Festival of States 2012 Night Parade Fireworks Display, Tampa Bay, St. Petersburg, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Tampa Bay in St. Petersburg, Florida during Festival of States 2012 Night Parade Fireworks Display on Thursday, March 22, 2012. The safety zone is necessary to protect the public from the hazards associated with launching fireworks over navigable waters of the United States. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative.

DATES: This rule is effective from 8 p.m. until 10 p.m. on March 22, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0110 and are available online by going to <http://www.regulations.gov>, inserting USCG–2012–0110 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Marine Science Technician Second Class Chad R. Griffiths, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191, email D07-SMB-Tampa-WWM@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive notice of the fireworks display with sufficient time to publish an NPRM and to receive public comments prior to the fireworks display. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to the public during the fireworks display.

For the same reason discussed above, under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Basis and Purpose

The legal basis for the rule is the Coast Guard’s authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to protect the public from the hazards associated with launching fireworks over navigable waters of the United States.

Discussion of Rule

On Thursday, March 22, 2012, the Festival of States 2012 Night Parade Fireworks Display is scheduled to take place in St. Petersburg, Florida. The fireworks will be launched from Spa Beach, and the fireworks will explode over Tampa Bay. The fireworks display is scheduled to commence at 8:45 p.m. and conclude at approximately 9:45 p.m.

The temporary safety zone encompasses certain waters of Tampa Bay in St. Petersburg, Florida. The safety zone will be enforced from 8 p.m. on March 22, 2012, 45 minutes prior to the scheduled commencement of the fireworks display at approximately 8:45 p.m., to ensure the safety zone is clear of persons and vessels.

Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port St. Petersburg by telephone at (727) 824–7524, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is

necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation under Executive Order 12866.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will be enforced for only two hours; (2) vessel traffic in the area will be minimal during the enforcement period; (3) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port St. Petersburg or a designated representative, they may operate in the surrounding area during the enforcement period; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port St. Petersburg or a designated representative; and (5) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Tampa Bay encompassed within the safety zone from 8 p.m. until 10 p.m. on March 22, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant

economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone that will be enforced for only two hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

ADDRESSES.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add a temporary § 165.T07-0110 to read as follows:

§ 165.T07-0110 Safety Zone; Festival of States 2012 Night Parade Fireworks Display, Tampa Bay, St. Petersburg, FL.

(a) *Regulated Area.* The following regulated area is a safety zone: All waters of Tampa Bay within a 375 yard radius of position 27°46'31" N, 82°37'38" W. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the

Captain of the Port St. Petersburg in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port St. Petersburg by telephone at (727) 824-7524, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 8 p.m. until 10 p.m. on March 22, 2012.

Dated: February 21, 2012.

S.L. Dickinson,

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

[FR Doc. 2012-5858 Filed 3-9-12; 8:45 am]

BILLING CODE 9110-04-P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508

Final Guidance on Improving the Process for Preparing Efficient and Timely Environmental Reviews Under the National Environmental Policy Act

AGENCY: Council on Environmental Quality.

ACTION: Notice of availability, final guidance.

SUMMARY: The Council on Environmental Quality (CEQ) is issuing its final guidance on Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act. The National Environmental Policy Act (NEPA) and CEQ Regulations implementing NEPA provide numerous techniques for preparing efficient and timely environmental reviews. CEQ is issuing this guidance for Federal

departments and agencies to emphasize and clarify that these techniques are available for all NEPA Environmental Assessments and Environmental Impact Statements. These techniques are consistent with a thorough and meaningful environmental review and agencies using these techniques should keep in mind the following basic principles: NEPA encourages straightforward and concise reviews and documentation that are proportionate to potential impacts and effectively convey the relevant considerations in a timely manner to the public and decision makers, while rigorously addressing the issues presented; NEPA shall be integrated into project planning to ensure planning and decisions reflect environmental considerations, avoid delays later in the process, and anticipate and attempt to resolve issues, rather than be an after-the-fact process that justifies decisions already made; NEPA reviews should coordinate and take appropriate advantage of existing documents and studies, including through adoption and incorporation by reference; early and well-defined scoping can assist in focusing environmental reviews on appropriate issues that would be meaningful to a decision on the proposed action; agencies are encouraged to develop meaningful, predictable, and expeditious timelines for environmental reviews; and agencies should respond to comments in proportion to the scope and scale of the environmental issues raised. This guidance applies equally to the preparation of an Environmental Assessment or an Environmental Impact Statement consistent with legal precedent and agency NEPA experience and practice. This guidance does not change or substitute for any law, regulations, or any other legally binding requirement. It does provide CEQ's interpretation of existing regulations promulgated under NEPA.

DATES: The guidance is effective March 12, 2012.

FOR FURTHER INFORMATION CONTACT: The Council on Environmental Quality (ATTN: Horst Greczmiel, Associate Director for National Environmental Policy Act Oversight), 722 Jackson Place NW., Washington, DC 20503. Telephone: (202) 395-5750.

SUPPLEMENTARY INFORMATION: Enacted in 1970, the National Environmental Policy Act (NEPA), 42 U.S.C. 4321-4346b, is a fundamental tool used to harmonize our environmental, economic, and social aspirations and is a cornerstone of our Nation's efforts to protect the environment. NEPA recognizes that many Federal activities

affect the environment and mandates that Federal agencies consider the environmental impacts of their proposed actions before deciding to adopt proposals or take action.¹ Our ongoing review of the CEQ Regulations implementing NEPA at 40 Code of Federal Regulations Parts 1500–1508 confirms the benefits of integrating planning and environmental reviews, coordinating multi-agency or multi-governmental reviews and approvals, and setting clear schedules for preparing EAs and EISs. This guidance promotes a sufficient and effective process that is tailored to avoid excessive burden. This guidance also reflects CEQ's continuing commitment to implement its Plan for Retrospective Review of Existing Regulations (Plan) in accordance with Executive Order 13563.²

The guidance addresses numerous individual issues associated with the NEPA review process in a manner that meets the CEQ goals of promoting techniques that will modernize the use of NEPA, enabling agencies to more effectively and efficiently make use of the NEPA. The individual issues addressed include the use of concise NEPA documents focused on particular environmental issues, the integration of NEPA into preliminary parts of the planning process, and a more prevalent role of scoping in the development of NEPA reviews. The guidance also advises agencies to collaborate with other Federal, State, local, or Tribal agencies and representatives as well as to coordinate reviews and documents with other laws to allow for greater efficiency. It further explains the procedures to adopt other Federal agency reviews and to incorporate by reference information and analyses contained in other documents, and emphasizes the need for reasonable and proportionate responses to comments within the NEPA process. Finally, the guidance recommends agencies use appropriate time limits to promote efficiency. Thus, this guidance offers concrete tools for NEPA reviews to facilitate a more targeted, efficient, and informative analysis of environmental issues and impacts.

This guidance provides CEQ's interpretation of existing regulations promulgated under NEPA, and does not change agencies' obligations with regard

to NEPA and the CEQ Regulations implementing NEPA.

The **Federal Register** notice announcing the draft Guidance on Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act was published on December 13, 2011.³ CEQ appreciates the thoughtful responses to its request for comments on the draft guidance. Commenters included private citizens, corporations, environmental organizations, trade associations, Federal agencies, and state agencies. CEQ received 61 comments, which are available online at www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/comments. The comments that suggested editorial revisions and requested clarification of terms are addressed in the text of the final guidance. Comments that raised policy or substantive concerns are grouped into thematic issues and addressed in the following sections of this notice.

What's New in This Guidance

Many commenters felt that the draft guidance was merely a rehash of previous guidance issued by the CEQ, with no new insights or procedures for making the NEPA process more efficient. This guidance highlights and focuses on the existing provisions under the CEQ Regulations implementing NEPA and clarifies that they are available for the preparation of Environmental Assessments, as well as Environmental Impact Statements, so that Federal agencies can focus on specific techniques that provide the best use of agency resources in ensuring a timely, effective, and efficient NEPA review. This guidance applies equally to the preparation of Environmental Assessments and Environmental Impact Statements consistent with legal precedent and agencies' NEPA experience and practice. It does not create or endorse any new requirements or obligations that would lengthen the process.

Strength of Guidance

Comments on the strength of the draft guidance varied widely, with some commenters finding that the guidance did not do enough to force agencies to expedite review and other commenters feared the guidance weakened the importance of NEPA for agency decision making. The guidance reinforces and

clarifies what Federal agencies should do, and are already allowed to do, under NEPA and the CEQ's NEPA implementing regulations. For example, the second principle on integrating NEPA with planning now states that agencies "shall" integrate NEPA into project planning which reflects the direction provided in current regulations. When Congress enacted NEPA, it charged CEQ with interpreting the statute. Pursuant to its authority, over the years CEQ has issued guidance on a variety of topics. Today's guidance provides CEQ's interpretation of its already established regulations promulgated for NEPA implementation and does not change agencies' obligations with regard to those regulations.

Public Participation

Some comments desired further emphasis on the public participation component of NEPA as a part of this guidance, or felt that the lack of public participation guidance in this document suggested that public participation is not viewed by the CEQ to be an integral part of the NEPA process. The CEQ believes that public participation is a crucial and integral part of NEPA, and the portions of this guidance which address public participation do nothing to change or deemphasize this fact. The focus of much of this guidance is on the review and implementation procedures of agencies, especially the physical writing of NEPA documents and internal agency review procedures which do not have a direct interaction with the public. Earlier CEQ guidance has emphasized the importance of public participation; see, for example the guidance for developing and using categorical exclusions available at http://ceq.hss.doe.gov/ceq_regulations/NEPA_CE_Guidance_Nov232010.pdf.

The Final Guidance

For reasons stated in the preamble, above, CEQ issues the following guidance on Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act. The final guidance is provided here and is available on the National Environmental Policy Act Web site (<http://www.nepa.gov>) at http://ceq.hss.doe.gov/ceq_regulations/guidance.html and on the CEQ Web site at <http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa>.

¹ A discussion of NEPA applicability is beyond the scope of this guidance. For more information see CEQ, *The Citizen's Guide to the National Environmental Policy Act*, available at ceq.hss.doe.gov/nepa/Citizens_Guide_Dec07.pdf.

² "Improving Regulation and Regulatory Review," E.O. 13,563, 76 FR 3821 (January 21, 2011), available at www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf.

³ National Environmental Policy Act (NEPA) Draft Guidance, *Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act*, 76 FR 77,492, Dec. 11, 2011.

Memorandum for Heads of Federal Departments and Agencies

FROM: NANCY H. SUTLEY, Chair,
Council on Environmental Quality
SUBJECT: *Improving the Process for
Preparing Efficient and Timely
Environmental Reviews Under the
National Environmental Policy Act*

A wide array of tools is available to meet the goal of high quality, efficient, and timely environmental reviews under the National Environmental Policy Act (NEPA). The Council on Environmental Quality (CEQ) Regulations implementing NEPA contain a number of opportunities for achieving this goal. CEQ is issuing this guidance for Federal departments and agencies to emphasize and clarify those opportunities, fully consistent with a thorough and meaningful environmental review. The guidance also makes it clear that many of the provisions of the CEQ Regulations which specifically refer to an Environmental Impact Statement (EIS) provide efficiencies that can also be used to prepare an Environmental Assessment (EA). This guidance applies equally to the preparation of an EA or an EIS consistent with legal precedent and agency NEPA experience and practice.

In conducting all environmental reviews pursuant to NEPA, agencies should use the methods set out in the CEQ Regulations and in their own agency NEPA implementing procedures in a way that is mindful of the following basic principles:

- NEPA encourages straightforward and concise reviews and documentation that are proportionate to potential impacts and effectively convey the relevant considerations to the public and decisionmakers in a timely manner while rigorously addressing the issues presented;

- NEPA shall be integrated into project planning to ensure planning and decisions reflect environmental considerations, avoid delays later in the process, and anticipate and attempt to resolve potential issues rather than be an after-the-fact process that justifies a decision already made;

- NEPA reviews should coordinate and take appropriate advantage of existing documents and studies, including through adoption and incorporation by reference;

- Early and well-defined scoping can assist in focusing environmental reviews on appropriate issues that would be meaningful to a decision;

- Agencies are encouraged to develop meaningful and expeditious timelines for environmental reviews; and

- Agencies should respond to comments in proportion to the scope and scale of the environmental issues raised.

This guidance also reflects CEQ's continuing commitment to implement its Plan for Retrospective Review of Existing Regulations ("Plan") in accordance with Executive Order 13563.⁴ Our ongoing review of the CEQ Regulations confirms the benefits of integrating environmental reviews into the decisionmaking process, coordinating multi-agency or multi-governmental reviews and approvals, and setting clear schedules for preparing EAs and EISs. This guidance promotes a sufficient and effective process that is tailored to avoid excessive burden. This guidance provides CEQ's interpretation of existing regulations promulgated under NEPA, and does not change agencies' obligations with regard to NEPA and the CEQ Regulations.⁵

Introduction and Steps to Date

CEQ was created by NEPA in 1970 and is charged with overseeing NEPA implementation by Federal agencies. In 1978, CEQ issued the CEQ Regulations implementing NEPA.⁶ From time to time, CEQ issues guidance for the Federal agencies, to clarify the requirements and applicability of various provisions of NEPA and the CEQ Regulations, and to ensure that those requirements can be met in a timely and effective fashion.⁷ These guidance documents represent CEQ's interpretation of NEPA, which the U.S. Supreme Court has said is "entitled to substantial deference."⁸

NEPA requires Federal agencies to consider the potential environmental consequences of their proposed action,

⁴ Improving Regulation and Regulatory Review, E.O. No. 13,563, 76 Fed. Reg. 3,821 (Jan. 21, 2011), available at www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf.

⁵ This guidance is not a rule or regulation, and the recommendations it contains may not apply to a particular situation based upon the individual facts and circumstances. This guidance does not change or substitute for any law, regulations, or any other legally binding requirement and is not legally enforceable. The use of non-mandatory terminology such as "guidance," "recommend," "may," "should," and "can," is intended to describe CEQ policies and recommendations. The use of mandatory terminology such as "shall," "must," and "required" is intended to describe controlling requirements under NEPA and the CEQ Regulations, but this document does not establish legally binding requirements in and of itself.

⁶ The Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR parts 1500–1508 (2011) [hereinafter CEQ Regulations], available on www.nepa.gov/ceq.hss.doe.gov/ceq_regulations/regulations.html.

⁷ These guidance documents are available online at ceq.hss.doe.gov/ceq_regulations/guidance.

⁸ *Andrus v. Sierra Club*, 442 U.S. 347, 358 (1979).

and any reasonable alternatives, before deciding whether and in what form to take an action. Environmental reviews prepared under NEPA should provide a decisionmaker and the public with relevant and timely information, and the CEQ Regulations make it clear that "NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action."⁹

NEPA compliance can take three forms, a Categorical Exclusion, an EA, or an EIS:

- Categorical Exclusion (CE): A CE describes a category of actions that are expected not to have individually or cumulatively significant environmental impacts.¹⁰ Each agency's procedures for implementing NEPA sets out that agency's CEs, which are established after CEQ and public review. A proposed action within such a category does not require further analysis and documentation in an EA or an EIS.¹¹ A CE can be used after determining that a proposed action falls within the categories of actions described in the CE and that there are no extraordinary circumstances indicating further environmental review is warranted.

- Environmental Assessment (EA): When a CE is not appropriate and the agency has not determined whether the proposed action will cause significant environmental effects, then an EA is prepared. If, as a result of the EA, a Finding of No Significant Impact (FONSI) is made, then the NEPA review process is completed with the FONSI, including documentation of its basis in the EA; otherwise an EIS is prepared.¹²

- Environmental Impact Statement (EIS): The most intensive level of analysis is the EIS, which is typically reserved for the analysis of proposed actions that are expected to result in significant environmental impacts. When an EIS is prepared, the NEPA review process is concluded when a record of decision (ROD) is issued.¹³

CEQ has been working with agencies to modernize and reinvigorate NEPA implementation in several ways. CEQ issued guidance on the development and use of Categorical Exclusions in November 2010.¹⁴ Properly developed and applied, CEs provide an efficient

⁹ 40 CFR 1500.1(c).

¹⁰ Categorical exclusions can also be created through legislation.

¹¹ 40 CFR 1508.4, 1500.5(k).

¹² 40 CFR 1508.9.

¹³ 40 CFR 1505.2.

¹⁴ CEQ, "Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act" (Nov. 23, 2010), available at ceq.hss.doe.gov/ceq_regulations/NEPA_CE_Guidance_Nov232010.pdf.

tool to complete the NEPA environmental review process for proposals that normally do not require more resource-intensive EAs or EISs. The use of CEs can reduce paperwork and delay for proposed actions that do not raise the potential for significant environmental effects.¹⁵ In January 2011, CEQ provided guidance that specifically addressed the appropriate use of a FONSI or mitigated FONSI to conclude a NEPA review process relying on an EA. A mitigated FONSI is appropriate when mitigation is used to avoid or lessen potentially significant environmental effects of proposed actions that would otherwise need to be analyzed in an EIS.¹⁶ In addition, in May 2010, CEQ issued guidance on ensuring efficient and expeditious compliance with NEPA when agencies must take exigent action to protect human health or safety and valued resources in a timeframe that does not allow sufficient time for the normal NEPA process.¹⁷

In August 2011 the President called for further steps to enhance the efficient and effective permitting and environmental review of infrastructure development “through such strategies as integrating planning and environmental reviews; coordinating multi-agency or multi-governmental reviews and approvals to run concurrently; setting clear schedules for completing steps in the environmental review and permitting process; and utilizing information technologies to inform the public about the progress of environmental reviews as well as the progress of Federal permitting and review processes.”¹⁸ This guidance sets forth straightforward means by which the CEQ Regulations support these strategies.

1. Concise NEPA Documents

Agencies are encouraged to concentrate on relevant environmental

¹⁵ See 40 CFR 1500.4(p) (recommending categorical exclusions as a tool to reduce paperwork) and 1500.5(k) (recommending categorical exclusions as a tool to reduce delay).

¹⁶ CEQ, “Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact” (Jan. 14, 2011), available at ceq.hss.doe.gov/current_developments/docs/Mitigation_and_Monitoring_Guidance_14Jan2011.pdf.

¹⁷ CEQ, “Emergencies and the National Environmental Policy Act,” (May 12, 2010), available at ceq.hss.doe.gov/ceq_regulations/Emergencies_and_NEPA_Memorandum_12May2010.pdf.

¹⁸ Presidential Memorandum, “Speeding Infrastructure Development Through More Efficient and Effective Permitting and Environmental Review” (Aug. 31, 2011), available at www.whitehouse.gov/the-press-office/2011/08/31/presidential-memorandum-speeding-infrastructure-development-through-more.

analysis in their EAs and EISs, not to produce an encyclopedia of all applicable information.¹⁹ Environmental analysis should focus on significant issues, discussing insignificant issues only briefly.²⁰ Impacts should be discussed in proportion to their significance, and if the impacts are not deemed significant there should be only enough discussion to show why more study is not warranted.²¹ Scoping,²² incorporation by reference,²³ and integration of other environmental analyses²⁴ are additional methods that may be used to avoid redundant or repetitive discussion of issues.²⁵

All NEPA environmental documents, not just EISs, shall be written in plain language,²⁶ follow a clear format, and emphasize important impact analyses and information necessary for those analyses rather than providing extensive background material. Clarity and consistency ensure that the substance of the agency’s analysis is understood, avoiding unnecessary confusion or risk of litigation that could result from an ambiguous or opaque analysis. The CEQ Regulations indicate that the text of a final EIS that addresses the purpose and need, alternatives, affected environment, and environmental consequences should normally be less than 150 pages and a final EIS for proposals of unusual scope or complexity should normally be less than 300 pages.²⁷

In light of the growth of environmental requirements since the publication of the CEQ Regulations, and the desire to use the EIS to address, via integration, those requirements, it is recognized that there will be a range of appropriate lengths of EISs. Nevertheless, agencies should keep EISs as concise as possible (continuing to relegate to appendices the relevant studies and technical analyses used to support the determinations and conclusions reached in the EIS) and no longer than necessary to comply with NEPA and the other legal and regulatory requirements being addressed in the EIS, and to provide decision makers and the public with the information they

¹⁹ 40 CFR 1500.4(b), 1502.2(b).

²⁰ 40 CFR 1502.2(c); see also 40 CFR 1502.2(a) (“Environmental impact statements shall be analytic rather than encyclopedic.”).

²¹ 40 CFR 1502.2(b).

²² 40 CFR 1500.4(g).

²³ 40 CFR 1500.4(j).

²⁴ 40 CFR 1500.4(k).

²⁵ See generally 40 CFR 1502.1 (EISs should be written in clear language so that decisionmakers and the public can understand them).

²⁶ 40 CFR 1502.8; see also www.plainlanguage.gov.

²⁷ 40 CFR 1502.7.

need to assess the significant environmental effects of the action under review. Length should vary with the number, complexity and significance of potential environmental problems.²⁸

Similarly, the CEQ guidance issued in 1981 indicated that 10–15 pages is generally appropriate for EAs.²⁹ This guidance must be balanced with the requirement to take a hard look at the impacts of the proposed action. As with EISs, an EA’s length should vary with the scope and scale of potential environmental problems as well as the extent to which the determination of no significant impact relies on mitigation, rather than just with the scope and scale of the proposed action.³⁰ The EA should be no more detailed than necessary to fulfill the functions and goals set out in the CEQ Regulations: (1) Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS; (2) aid an agency’s compliance with NEPA when no EIS is necessary, i.e., the EA helps to identify and analyze better alternatives and mitigation measures; and (3) facilitate preparation of an EIS when one is necessary.³¹

2. Early NEPA Integration in Planning

An agency should first consider integrating the NEPA process into planning when it structures its internal process for developing a proposed policy, program, management plan, or project. Agencies must integrate the NEPA process into their planning at the earliest possible time to ensure that planning and decisions reflect environmental values, avoid delays later in the process, and anticipate and

²⁸ 40 CFR 1502.2(c) (EISs “shall be kept concise and * * * [l]ength should vary first with potential environmental problems and then with project size”).

²⁹ See CEQ, “Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations” (Mar. 16, 1981), available at ceq.hss.doe.gov/nepa/regs/40/30-40.HTM#36 (Question 36a and Answer). Note that at the time of Forty-Questions memorandum CEQ was of the opinion that mitigated Findings of No Significant Impact were only appropriate if the mitigation measures were imposed by statute or regulation, or submitted by an applicant or agency as part of the original proposal. See *Id.* (Question 40 and Answer). CEQ has since published guidance accepting mitigated FONSIs as another means of efficiently concluding the NEPA process without producing an EIS. CEQ, “Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact” (Jan. 14, 2011), available at ceq.hss.doe.gov/current_developments/docs/Mitigation_and_Monitoring_Guidance_14Jan2011.pdf.

³⁰ See 40 CFR 1508.9 (stating the EA is “a concise public document”) and 40 CFR 1502.2(c) (interpreting the conciseness requirement for an EIS to mean that “[l]ength should vary first with potential environmental problems and then with project size”).

³¹ 40 CFR 1508.9(a).

attempt to resolve potential issues.³² NEPA should not become an after-the-fact process that justifies decisions that have already been made.³³

The CEQ Regulations emphasize early NEPA planning in the context of an EIS. The scoping process can be used before an agency issues a notice of intent to seek useful information on a proposal from agencies and the public.³⁴ For example, agencies can commence the process to prepare an EIS during the early stages of development of a proposal, to ensure that the environmental analysis can be completed in time for the agency to consider the final EIS before making a decision on the proposal.³⁵ Further, an agency shall prepare an EIS so that it can inform the decisionmaking process in a timely manner “and will not be used to rationalize or justify decisions already made.”³⁶

To prepare efficient EAs, agencies should adhere to these same principles and ensure that the EA is prepared in conjunction with the development of the proposed action in time to inform the public and the decisionmaker. Agencies should review their NEPA implementing procedures as well as their NEPA practices to ensure that NEPA is integrated into overall project planning and management to the fullest extent possible.

The CEQ Regulations call upon agencies to provide for situations where the initial planning process is in the hands of an applicant or other non-Federal entity.³⁷ The Regulations require Federal agencies to address these situations in their NEPA implementing procedures.³⁸

Consequently, agencies that have a reasonably foreseeable role in actions that are initially developed by private applicants or other non-Federal entities must plan for those situations. The NEPA implementing procedures for such agencies must provide access to designated staff or the policies that can inform applicants and other non-Federal entities of studies or other information foreseeably required for later Federal action.³⁹

Advanced planning prior to Federal involvement in an action must also ensure that the Federal agency is able to initiate early consultation with appropriate Tribes, States, local agencies, and interested private persons and organizations when Federal involvement is reasonably foreseeable.⁴⁰ For actions initiated at the request of a non-Federal entity, Federal agencies should begin the NEPA process for preparing their EA or EIS as early as possible but no later than upon receipt of a complete application.⁴¹ Federal agencies should, whenever possible, guide applicants to gather and develop the appropriate level of information and analyses in advance of submitting an application or other request for Federal agency action. For example, several agencies require an applicant to prepare and submit an environmental report to help prepare the NEPA analyses and documentation and facilitate the lead agency's independent environmental review of the proposal.

3. Scoping

To effectuate integrated decision making, avoid duplication, and focus the NEPA review, the CEQ Regulations

should therefore provide Federal personnel with the direction they need to implement NEPA on a day-to-day basis. The procedures must also provide a clear and uncomplicated picture of what those outside the Federal government may do to become involved in the environmental review process under NEPA. See CEQ, “Agency Implementing Procedures Under CEQ's NEPA Regulations” (Jan. 19, 1979), available at ceq.hss.doe.gov/nepa/regs/exec11979.html. Some examples of agency NEPA implementing procedures are the Department of the Interior, “Department Manual: Managing the NEPA Process—National Park Service” (May 27, 2004), available at http://206.131.241.18/app_dm/act_getfiles.cfm?relnum=3622 and the Department of the Interior, “Departmental Manual: Managing the NEPA Process—Bureau of Land Management” (May 8, 2008), available at http://elips.doi.gov/app_dm/act_getfiles.cfm?relnum=3799.

³⁹ 40 CFR 1501.2(d)(1).

⁴⁰ 40 CFR 1501.2(d)(2). Agencies should be cognizant of their obligations under current Executive Orders 13175 (Consultation and Coordination with Indian Tribal Governments, Nov. 6, 2000) and 112898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Feb. 11, 1994), available at ceq.hss.doe.gov/laws_and_executive_orders/executive_orders.html.

⁴¹ 40 CFR 1501.2(d)(3).

provide for “scoping.”⁴² In scoping, the lead agency determines the issues that the EA or EIS will address and identifies the significant impacts related to the proposed action that will be considered in the analysis.⁴³ To increase efficiency, the lead agency can solicit cooperation at the earliest possible time from other agencies that have jurisdiction by law or special expertise on any environmental issue that should be considered.

Cooperating agencies with jurisdiction by law or special expertise can work with the lead agency to ensure that, whenever possible, one NEPA review process informs all the decisions needed to determine whether and, if so, how a proposed action will proceed.⁴⁴

The CEQ Regulations explicitly address the role of scoping in preparation of an EIS. Agencies can also choose to take advantage of scoping whenever preparing an EA. Scoping can be particularly useful when an EA deals with uncertainty or controversy regarding potential conflicts over the use of resources or the environmental effects of the proposed action, or where mitigation measures are likely to play a large role in determining whether the impacts will be reduced to a level where a Finding of No Significant Impact can be made. A lead agency preparing an EA may use scoping to identify and eliminate from detailed study the issues that are not significant or that have been covered by prior environmental review.⁴⁵ The scoping process provides a transparent way to identify significant environmental issues and to deemphasize insignificant issues,⁴⁶ thereby focusing the analysis on the most pertinent issues and impacts.⁴⁷ We recommend that agencies review their NEPA implementing procedures, as well

⁴² See 40 CFR 1501.7 (“There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping.”).

⁴³ 40 CFR 1500.4(b), (g) and 1501.7.

⁴⁴ See 40 CFR 1501.6, 1508.5 (responsibilities of the lead agency include the requirement to request the participation of any other Federal agency which has jurisdiction by law). CEQ has released previous guidance on engaging other agencies with jurisdiction over permits and other approvals required for a proposal to proceed. CEQ, “Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act” (Jan. 30, 2002), available at ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html; CEQ, “Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations” (Mar. 16, 1981), available at ceq.hss.doe.gov/nepa/regs/40/11-19.HTM#14 (Question and Answer 14).

⁴⁵ 40 CFR 1501.7(a)(3).

⁴⁶ 40 CFR 1500.4(g).

⁴⁷ See generally 40 CFR 1501.4(b) (agencies are to involve the public in the preparation of EAs; the manner in which they do so is left to the agency).

³² 40 CFR 1501.2.

³³ 40 CFR 1502.2(g).

³⁴ See CEQ Memorandum to Agencies, “Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations” (Mar. 16, 1981), available at ceq.hss.doe.gov/nepa/regs/40/11-19.HTM#13 (Question 13 and Answer).

³⁵ See 40 CFR 1508.23 (explaining that a proposal exists as soon as an agency “has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated”).

³⁶ 40 CFR 1502.5. For guidelines specific to different agency activities, see 40 CFR 1502.5(a)–(d). Misuse of the NEPA process to justify decisions already made is counterproductive and can result in litigation that could delay and ultimately prevent a proposed action from proceeding.

³⁷ See 40 CFR 1501.2(d) (non-Federal entities plan activities prior to Federal involvement that trigger NEPA requirements).

³⁸ 40 CFR 1507.3(b)(1). All agencies are required to adopt procedures that supplement the CEQ Regulations and provide NEPA implementing guidance that both provides agency personnel with additional, more specific direction for implementing the procedural provisions of NEPA and informs the public and State and local officials of how the CEQ Regulations will be implemented in agency decisionmaking. Agency procedures

as their NEPA practices, to ensure they have the option of scoping for EAs.

The scoping process can be particularly helpful in identifying opportunities to coordinate reviews and related surveys and studies required by other laws or by executive orders. Scoping can also be used to begin inter- and intra-governmental coordination if it is not already ongoing. To accomplish these goals, the lead agency preparing an EA or an EIS can choose to invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and "other interested persons (including those who might not be in accord with the action on environmental grounds)." ⁴⁸ In addition to facilitating coordination and the development of required environmental reviews, scoping will help to identify the universe of matters that need to be addressed with particular care and flag issues for thorough consideration, thereby defusing potential conflict that, absent early attention, could arise later and potentially delay the timely completion of the relevant NEPA review and agency decision. ⁴⁹

In sum, the scoping process provides an early opportunity to plan collaboration with other governments, ⁵⁰ assign responsibilities, ⁵¹ and develop

the planning and decisionmaking schedule. ⁵² It also affords lead agencies the option of setting page limits for environmental documents and setting time limits for the steps in the NEPA process. ⁵³ Agencies may choose to use scoping whenever any of these techniques can provide for the more effective and efficient preparation of an EA.

4. Inter-Governmental Coordination (State, Local, or Tribal Environmental Reviews)

CEQ encourages Federal agencies to collaborate with Tribal, State, and local governments to the fullest extent possible to reduce duplication, unless the agencies are specifically barred from doing so by some other law. ⁵⁴ The CEQ Regulations explicitly provide for agencies to conduct joint planning processes, joint environmental research and studies, joint public hearings (except where otherwise precluded by statute), and joint environmental assessments. ⁵⁵ Federal agencies should explore every reasonable opportunity to integrate the requirements of NEPA with the external planning and environmental reviews required on the Federal as well as the State, Tribal, and local levels of government so that those reviews can run concurrently rather than consecutively. ⁵⁶

Where State law or local ordinances contain environmental impact analysis and documentation requirements in addition to, but not in conflict with, those in NEPA, the CEQ Regulations provide authority for producing joint EISs. ⁵⁷ In such cases, Federal agencies shall cooperate with the State, Tribal, and local governments to integrate environmental impact analysis and documentation requirements so that one document will suffice for complying with as many applicable environmental laws and requirements as practicable. Agencies should adhere to these same principles when preparing an EA. Federal agencies should seek efficiencies and avoid delay by attempting to meet applicable non-Federal NEPA-like requirements in

analysis among cooperating agencies during scoping).

⁵² 40 CFR 1501.7(a)(7).

⁵³ 40 CFR 1501.7(b)(1)–(2), 1501.8.

⁵⁴ 40 CFR 1506.2(b) (calling for collaboration "to the fullest extent possible").

⁵⁵ 40 CFR 1506.2(b); *see also* 40 CFR 1500.4(n) (encouraging Federal agencies to eliminate duplication with State and local procedures through joint preparation of documents).

⁵⁶ 40 CFR 1500.2(c). This point is reiterated throughout the CEQ Regulations.

⁵⁷ 40 CFR 1506.2(c).

conjunction with either an EA or an EIS wherever possible. ⁵⁸

The CEQ Regulations also require that a Federal agency preparing an EIS better integrate the EIS into non-Federal planning processes by discussing and explaining any inconsistency of a proposed Federal action with any approved State or local plans and laws. ⁵⁹ When preparing an EA or EIS, if an inconsistency with any approved Tribal, State, or local plan or law exists, the Federal agency should describe the extent to which it will reconcile its proposed action with the non-Federal plan or law. ⁶⁰

5. Coordinating Reviews and Documents Under Other Applicable Laws

Agencies must integrate, to the fullest extent possible, their draft EIS with environmental impact analyses and related surveys and studies required by other statutes or Executive Orders. ⁶¹ Coordinated and concurrent environmental reviews are appropriate whenever other analyses, surveys, and studies will consider the same issues and information as a NEPA analysis. Such coordination should be considered when preparing an EA as well as when preparing an EIS. Techniques available to agencies when coordinating a combined or a concurrent process include combining the scoping, requests for public comment, and preparation and display of responses to public comments.

The goal should be to conduct concurrent rather than sequential processes whenever appropriate. In situations where one aspect of a project is within the particular expertise or jurisdiction of another agency an agency should consider whether adoption or incorporation by reference of materials prepared by the other agency would be more efficient.

A coordinated or concurrent process may provide a better basis for informed decision making, or at least achieve the same result as separate or consecutive processes more quickly and with less potential for unnecessary duplication of effort. In addition to integrating the reviews and analyses, the CEQ Regulations allow an environmental document that complies with NEPA to

⁵⁸ Although joint processes usually lead to greater efficiency and better decisionmaking, a joint process may become unwieldy and the result is that, for some projects, combining a State and Federal process is not practical.

⁵⁹ 40 CFR 1506.2(d).

⁶⁰ 40 CFR 1506.2(d).

⁶¹ 40 CFR 1502.25(a). Examples provided in the Regulation are: The Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act (16 U.S.C. 470 *et seq.*); and the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

⁴⁸ 40 CFR 1501.7(a)(1), 1501.4(b), 1506.6.

Establishing cooperating agency status is discussed in greater detail in a CEQ memorandum addressed to the heads of Federal agencies, entitled "Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act." CEQ, "Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act" (Jan. 30, 2002), available at ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html.

⁴⁹ In cases where a Federal agency uses scoping for an EA and subsequently determines it is necessary to conduct an EIS, the agency should refer to the guidance previously published by the CEQ. *See* CEQ, "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations" (Mar. 16, 1981), available at ceq.hss.doe.gov/nepa/regs/40/30-40.HTM#13 (Question 13 and the following answer state that scoping done before the assessment, and in aid of its preparation, cannot substitute for the normal scoping process after publication of the notice of intent, unless the earlier public notice stated clearly that this possibility was under consideration, and the notice of intent expressly provides that written comments on the scope of alternatives and impacts will still be considered).

⁵⁰ 40 CFR 1501.6, 1508.5. CEQ has published guidance encouraging lead agencies to establish a formal cooperating agency relationship with other Federal agencies as well as State, Tribal, and local governmental entities. CEQ, "Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act" (Jan. 30, 2002), available at ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html.

⁵¹ *See, e.g.*, 40 CFR 1501.7(a)(4) (a lead agency may allocate assignments for EIS preparation and

be combined with a subsequent agency document to reduce duplication and paperwork.⁶²

6. Adoption

The adoption of one Federal agency's EIS, or a portion of that EIS, by another Federal agency is an efficiency that the CEQ Regulations provide.⁶³ An agency preparing an EA should similarly consider adopting another agency's EA or EIS when the EA or EIS, or a portion thereof, addresses the proposed action and meets the standards for an adequate analysis under NEPA, the CEQ's Regulations, and the adopting agency's NEPA implementing procedures.

The CEQ Regulations require agencies to involve agencies, applicants, and the public when preparing an EA; however, they do not require agencies to do so by preparing a draft or final EA for public review or comment.⁶⁴ If an agency's implementing NEPA procedures establish requirements for public review and comment when preparing an EA, then the agency must provide a similar process when it adopts another agency's EA, but may use the same efficiencies that are available when adopting another agency's EIS.

If the actions covered by the original EIS and the proposed action are substantially the same, the agency adopting the EIS is not required to recirculate the EIS as a draft for public review and comment. The same is true for the adoption of another agency's EA when the original and proposed actions are substantially the same. In addition, in cases where the adopting agency is also a cooperating agency in the preparation of an EIS, it may adopt the lead agency's EIS without recirculating the EIS as a draft or as a final EIS when, after an independent review, it concludes that the lead agency has adequately addressed the adopting agency's comments and suggestions.⁶⁵ Similarly, when the adopting agency was a cooperating agency in the preparation of an EA, it may adopt the EA without recirculating the EA.

7. Incorporation by Reference⁶⁶

Incorporation by reference is another method that provides efficiency and timesaving when preparing either an EA

or an EIS. The CEQ Regulations direct agencies to incorporate by reference material into an EIS to reduce the size of the EIS and avoid duplicative effort.⁶⁷ An agency must provide a citation that clearly identifies the incorporated material in an EIS and briefly describe the content.⁶⁸ The brief description should identify the referenced materials and the entity (Federal or non-Federal) that prepared the materials, inform the reader of the purpose and value of those materials (e.g., explain how the information or analyses are relevant to the issues associated with the proposal under review), and synopsise the basis provided in those materials that support any conclusions being incorporated. An agency may not incorporate any material by reference in an EIS unless the material is reasonably available for inspection by potentially interested persons within the time allowed for comment.⁶⁹ There are many techniques available to make the referenced material readily available such as: Placing the relevant materials in an appendix; providing a hyperlink that provides Internet access to the materials; and placing materials in local libraries or facilities accessible to the public. Agencies can, consistent with NEPA and the CEQ Regulations, incorporate by reference analyses and information from existing documents into an EA provided the material has been appropriately cited and described, and the materials are reasonably available for review by interested parties.

8. Expediting Responses to Comments

Agencies should provide a reasonable and proportionate response to comments on a draft EIS by focusing on the environmental issues and information conveyed by the comments. When preparing a final EIS, if the draft EIS complies with NEPA, CEQ regulations, and agency implementing procedures, the agency may use the draft EIS as the final EIS under certain conditions. If changes in response to comments are minor and are limited to factual corrections and/or explanations of why the comments do not warrant further agency response, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement.⁷⁰ In such cases, the agency must circulate and make available for public review as the

final EIS only the comments, the responses and the changes.⁷¹ The comments, responses, and changes, as well as the draft document and a new cover sheet need to be filed to make the EIS final, under those circumstances.⁷²

Similarly, if an agency issues an EA for comment and the changes in response to comments are minor and limited to factual corrections and/or explanations of why the comments do not warrant further agency response, then the agency may prepare a similar cover and errata sheet and use its draft EA as the final EA. When circulating draft EAs or EISs for public review and comment, we recommend agencies facilitate public review and comment by also publishing the EISs and EAs, and subsequently the comments received, on agency Web sites.

9. Clear Time Lines for NEPA Reviews

Establishing appropriate and predictable time limits promotes the efficiency of the NEPA process.⁷³ The CEQ Regulations recommend that agencies designate a person (such as a project manager or a person in the agency's office with NEPA responsibilities) to lead and shepherd the NEPA review to expedite the process.⁷⁴ The CEQ Regulations do not prescribe universal time limits for the entire NEPA process; instead they set certain minimum time limits for the various portions of the NEPA process.⁷⁵ The CEQ Regulations do encourage Federal agencies to set appropriate time limits for individual actions, however, and provide a list of factors to consider in establishing timelines.⁷⁶ Those factors include: The potential for environmental harm; the size of the proposed action; other time limits imposed on the action by other statutes, regulations, or Executive Orders; the degree of public need for the proposed action and the consequences of delay; and the need for a reasonable opportunity for public review.

The CEQ Regulations refer to the EIS process when describing the "constituent parts of the NEPA process" to which time limits may apply, require agencies to set time limits at the request

⁷¹ 40 CFR 1503.4(c).

⁷² 40 CFR 1503.4(c).

⁷³ 40 CFR 1500.5(e).

⁷⁴ 40 CFR 1501.8(b)(3).

⁷⁵ See 40 CFR 1506.10 (setting 90 day time period between EPA publication of the notice of availability of a draft EIS and the Record of Decision, 30 day time period between EPA publication of the notice of availability of a final EIS and the Record of Decision, and 45 days for comment on a draft EIS).

⁷⁶ CEQ encourages Federal agencies to set time limits consistent with the time intervals required by § 1506.10. 40 CFR 1501.8.

⁶² 40 CFR 1506.4, 1500.4(k), 1500.4(n).

⁶³ 40 CFR 1506.3.

⁶⁴ See generally 40 CFR 1501.4(b), 1506.6 (both regulations direct agencies to involve the public in the preparation of EAs; however, the manner in which they do so is left to the agency).

⁶⁵ 40 CFR 1506.3(c).

⁶⁶ This guidance does not address tiering. Further guidance will be developed to address the use of broad, programmatic, analyses to focus future reviews and the subsequent, tiered, review of site- or project- specific proposed actions.

⁶⁷ 40 CFR 1502.21.

⁶⁸ 40 CFR 1502.21.

⁶⁹ 40 CFR 1502.21 (material based on proprietary data which is itself not available for review and comment cannot be incorporated by reference).

⁷⁰ 40 CFR 1503.4(c), 1500.4(m).

of an applicant, and allow agencies to set time limits at the request of other interested parties.⁷⁷ It is entirely consistent with the purposes and goals of NEPA and with the CEQ Regulations for agencies to consider the same factors and determine appropriate time limits for the various phases of the EA process when requested by applicants, Tribes, States, local agencies, or members of the public.

Conclusion

This guidance highlights for agencies preparing either an EA or an EIS the ability to employ all the methods provided in the CEQ regulations to prepare concise and timely NEPA reviews. Using methods such as integrating planning and environmental reviews and permitting, coordinating multi-agency or multi-governmental reviews and approvals, and setting schedules for completing the environmental review will assist agencies in preparing efficient and timely EAs and EISs consistent with legal precedent and agency NEPA experience and practice.

Nancy H. Sutley,

Chair, Council on Environmental Quality.

[FR Doc. 2012-5812 Filed 3-9-12; 8:45 am]

BILLING CODE 3225-F2-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 212

RIN 0750-AH61

Defense Federal Acquisition Regulation Supplement: Commercial Determination Approval (DFARS Case 2011-D041)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement to require higher-level approval for commercial item determinations for acquisitions exceeding \$1 million when the determination is based on “of a type” or “offered for sale” language contained in the definition of commercial item. The rule also clarifies approval requirements for determinations for acquisitions of services exceeding \$1 million using part

12 procedures but which do not meet the definition of commercial item.

DATES: March 12, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Dustin Pitsch, telephone 703-602-0289.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is revising the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a recommendation made by the Panel on Contracting Integrity and included in its 2009 Report to Congress concerning compliance with the DFARS documentation requirements for commercial item determinations. The Panel on Contracting Integrity working group concluded, after reviewing a sampling of commercial contract awards, that contracting officer determinations are not always sufficiently documented in accordance with DFARS 212.102.

DoD is issuing a final rule because this rule does not have a significant effect beyond the internal operating procedures of DoD and does not have a significant cost or administrative impact on contractors or offerors. This rule addresses DoD’s internal approval process for contracting officer determinations made pursuant to DFARS part 12 for actions in excess of \$1 million.

II. Discussion and Analysis

The DFARS changes are as follows:

- DFARS 212.102(a)(i) is revised to add “except for acquisitions made pursuant to Federal Acquisition Regulation (FAR) 12.102(f)(1).” This language clarifies that no additional contracting officer determination is required for acquisitions made pursuant to FAR 12.102(f)(1).
- DFARS 212.102(a)(i)(A) is revised to add “or meets the criteria at FAR 12.102(g)(1).” This language addresses the inconsistency between the existing DFARS language at 212.102(a)(i)(A) that all FAR part 12 acquisitions exceeding \$1 million must meet the commercial item definition, and the exception at FAR 12.102(g)(1) that allows for the use of part 12 procedures for services that do not meet the definition of commercial item in FAR 2.101, as long as it meets specific criteria listed in FAR 12.102(g)(1). The change clarifies that the contracting officer must determine that an acquisition exceeding \$1 million and using part 12 procedures either meets the commercial item definition in part FAR 2.101 or the criteria set out at FAR 12.102(g)(1).
- Adds DFARS 212.102(a)(i)(C) to require approval at one level above the

contracting officer when the commercial item determination relies on subsections (1)(ii), (3), (4), or (6) of the “commercial item” definition at FAR 2.101. The higher-level approval is required for commercial item determinations for actions that exceed \$1 million that are based on “of a type” commercial procurements or items “offered for sale” but not yet sold to the general public.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

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

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 212

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 212 is amended as follows:

- 1. The authority citation for 48 CFR part 212 is revised to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

- 2. Revise section 212.102 to read as follows:

⁷⁷ 40 CFR 1501.8(b), (c).

212.102 Applicability.

(a)(i) When using FAR part 12 procedures for acquisitions exceeding \$1 million in value, except for acquisitions made pursuant to FAR 12.102(f)(1), the contracting officer shall—

(A) Determine in writing that the acquisition meets the commercial item definition in FAR 2.101 or meets the criteria at FAR 12.102(g)(1);

(B) Include the written determination in the contract file; and

(C) Obtain approval at one level above the contracting officer when a commercial item determination relies on subsections (1)(ii), (3), (4), or (6) of the “commercial item” definition at FAR 2.101.

[FR Doc. 2012-5761 Filed 3-9-12; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 648

[Docket No. 111220786-1781-01]

RIN 0648-XB026

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2012 commercial summer flounder quota to the Commonwealth of Virginia. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective March 7, 2012, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, 978-281-9224.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine

summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i) to evaluate requests for quota transfers or combinations.

North Carolina has agreed to transfer 879,118 lb (398,761 kg) of its 2012 commercial quota to Virginia. This transfer was prompted by summer flounder landings of a number of North Carolina vessels that were granted safe harbor in Virginia due to hazardous shoaling in Oregon Inlet, North Carolina, between January 1, 2012, and January 31, 2012, thereby requiring a quota transfer to account for an increase in Virginia’s landings that would have otherwise accrued against the North Carolina quota. The Regional Administrator has determined that the criteria set forth in § 648.102(c)(2)(i) have been met. The revised summer flounder quotas for calendar year 2012 are: North Carolina, 2,614,661 lb (1,185,990 kg); and Virginia, 3,592,683 lb (1,629,614 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: March 7, 2012.

Carrie Selberg,

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

[FR Doc. 2012-5921 Filed 3-7-12; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 77, No. 48

Monday, March 12, 2012

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

DEPARTMENT OF ENERGY

10 CFR Part 438

RIN 1904-AB98

Petroleum Reduction and Alternative Fuel Consumption Requirements for Federal Fleets

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) today publishes a proposed rule to implement section 142 of the Energy Independence and Security Act of 2007, which amended the Energy Policy and Conservation Act and directed the Secretary of Energy to issue implementing regulations for a statutorily-required reduction in petroleum consumption and increase in alternative fuel consumption for Federal fleets.

DATES: Public comment on this proposed rule will be accepted until April 11, 2012.

ADDRESSES: You may submit comments, identified by RIN 1904-AB98, by any of the following methods:

1. *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

2. Email to EISA_142_Comments@ee.doe.gov. Include RIN 1904-AB98 in the subject line of the email. Please include the full body of your comments in the text of the message or as an attachment.

3. *Mail:* Address written comments to Cyrus Nasser, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program (EE-2L), 1000 Independence Avenue SW., Washington, DC 20585-0121.

Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

This notice of proposed rulemaking and any comments that DOE receives will be made available on the Federal Energy Management Program's Federal Fleet Management Web site at http://www1.eere.energy.gov/femp/about/fleet_mgmt.html.

FOR FURTHER INFORMATION CONTACT:

Cyrus Nasser, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program (EE-2L), 1000 Independence Avenue SW., Washington, DC 20585-0121; cyrus.nasser@ee.doe.gov. For legal issues, contact: Michael Jensen, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC-71, 1000 Independence Avenue SW., Washington, DC 20585; michael.jensen@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

- I. Introduction and Background
- II. Applicability
- III. Discussion
- IV. Public Comment Procedures
- V. Regulatory Review

I. Introduction and Background

The Energy Independence and Security Act of 2007 (EISA, Pub. L. 110-140) was signed into law on December 19, 2007. Section 142 of EISA modified Part J of title III of the Energy Policy and Conservation Act (EPCA, Pub. L. 94-163) by adding a new section 400FF entitled "Federal Fleet Conservation Requirements." Section 400FF establishes mandatory reductions in annual petroleum consumption and mandatory increases in annual alternative fuel consumption for Federal fleets and directs the Secretary of Energy (Secretary) to issue implementing regulations. The purpose of this notice is to present the U.S. Department of Energy's (DOE) proposed regulations pursuant to this statutory directive.

New section 400FF(a)(1) provides that the Secretary shall issue regulations for Federal fleets subject to the alternative fueled vehicle (AFV) acquisition requirements of section 400AA of EPCA to require that, beginning in fiscal year (FY) 2010, Federal fleets "shall reduce petroleum consumption and increase alternative fuel consumption each year by an amount necessary to meet the goals described in paragraph (2)." Section 400FF(a)(2) provides, pursuant to paragraph (1), not later than October

1, 2015, and for each year thereafter, Federal fleets "shall achieve at least a 20 percent reduction in annual petroleum consumption and a 10 percent increase in annual alternative fuel consumption, as calculated from the baseline established by the Secretary for [FY] 2005." Section 400FF(a)(3) requires the regulations to include "interim numeric milestones" to assess annual progress towards accomplishing the goals described in section 400FF(a)(2) and an annual Federal fleet reporting requirement "on progress towards meeting each of the milestones and the 2015 goals." Section 400FF(b) sets forth requirements for the development and implementation of Federal fleet plans "to meet the required petroleum reduction levels and the alternative fuel consumption increases, including the milestones specified by the Secretary."

Section 142 of EISA addresses similar matters as the fleet provisions in Executive Order (E.O.) 13423, "Strengthening Federal Environmental, Energy, and Transportation Management," 72 FR 3919 (Jan. 26, 2007), and E.O. 13514, "Federal Leadership in Environmental, Energy, and Economic Performance," 74 FR 52117 (Oct. 8, 2009). However, there are notable differences between both Executive Orders and EISA section 142. Section 2(g) of E.O. 13423 provides, in part, that if a fleet consists of at least 20 motor vehicles, the fleet must reduce its "total consumption of petroleum products by 2 percent annually through the end of [FY] 2015," relative to a baseline of FY 2005. Section 2(a)(iii)(C) of E.O. 13514 extends the petroleum reduction requirements set forth in E.O. 13423 through the end of FY 2020. Section 2(g) of E.O. 13423 also provides, in part, that if a fleet consists of at least 20 motor vehicles, the fleet must increase "the total fuel consumption that is non-petroleum-based by 10 percent annually"¹ relative to its FY 2005 baseline level.

The language set forth in E.O. 13423 and E.O. 13514 regarding requirements

¹ The Council on Environmental Quality (CEQ) has issued "Instructions for Implementing Executive Order 13423" (CEQ Instructions). See 72 FR 33504 (June 18, 2007) (also available at <http://www.fedcenter.gov/programs/eo13423/>). Among other things, the CEQ Instructions make clear that the definition of the term "non-petroleum-based fuel" is consistent with the definition of the term "alternative fuel," as presented in section 301 of the Energy Policy Act of 1992.

for fleet petroleum reductions and alternative fuel increases is not identical to the language contained in EISA section 142. Regarding annual fleet alternative fuel consumption, the Council on Environmental Quality's "Instructions for Implementing Executive Order 13423" (CEQ Instructions) provides that the requirement in E.O. 13423 to increase "the total fuel consumption that is non-petroleum-based by 10 percent annually" "is measured relative to the prior year's alternative fuel usage levels." The language in EISA, however, requires at least a 10 percent increase in annual alternative fuel consumption as measured relative to a FY 2005 baseline. Accordingly, pursuant to this proposed rule, for each FY after FY 2015, each Federal fleet would be required to achieve an increase in its annual alternative fuel consumption that is at least 10 percent greater than its FY 2005 alternative fuel consumption level. Regarding annual Federal fleet petroleum consumption reductions, the proposed regulations are complementary and consistent with those of E.O. 13514. DOE's positions on these matters are discussed in detail in section III of the **SUPPLEMENTARY INFORMATION** to this proposed rule.

On May 24, 2011, the President issued a memorandum to provide guidance to Federal agencies to help achieve the Administration's Federal fleet performance goals and to ensure that agencies are in compliance with Executive Order 13514. See Presidential Memorandum, Federal Fleet Performance, available at <http://www.whitehouse.gov/the-press-office/2011/05/24/presidential-memorandum-federal-fleet-performance>. The Presidential Memorandum directs that by December 31, 2015, all new light duty vehicles leased or purchased by agencies must be alternative fueled vehicles, as that term is defined in the memorandum. The Presidential Memorandum also directs the U.S. General Services Administration (GSA) to develop a methodology to determine optimal fleet size and composition and instructs agencies to use this methodology to determine fleet inventory targets and to prepare fleet management plans to achieve these targets no later than December 31, 2015. Furthermore, the Presidential Memorandum recognizes the need to acquire advanced vehicles and to decrease Federal fleet petroleum consumption in a cost-effective manner. Regarding Federal fleet petroleum consumption reductions, the proposed regulations are complementary and

consistent with the requirements set forth in the May 2011 Presidential Memorandum. As with Executive Order 13514, the Presidential Memorandum complements the statutory requirements established in section 142 of EISA and the implementing regulations proposed in this document.

Today's proposed rule would establish regulations implementing the requirements for Federal fleet reductions in petroleum and increases in alternative fuel. In addition to section 2(g) of E.O. 13423, section 2(a)(iii)(C) of E.O. 13514, and the May 2011 Presidential Memorandum, fleets also would be subject to section 303 of the Energy Policy Act of 1992 (Pub. L. 102-486), as amended by section 141 of EISA, section 400AA(a) of EPCA, as amended by section 701 of the Energy Policy Act of 2005 (Pub. L. 109-58), and sections 246 and 526 of EISA, which impose certain requirements related to Federal fleet vehicle emissions, Federal fleet fueling centers, the procurement and acquisition of AFVs, and the use of alternative fuels by dual fueled vehicles.

II. Applicability

As specified in section 400FF of EPCA, today's proposed rule would apply to those "Federal fleets subject to section 400AA" of EPCA. 42 U.S.C. 6374e(a). However, neither section 400AA nor section 400FF of EPCA contains a definition of the term "Federal fleet." Accordingly, DOE proposes to define the term "Federal fleet" to reconcile the applicability of the requirements of section 400AA of EPCA, E.O. 13423, E.O. 13514, and the May 2011 Presidential Memorandum.

Both E.O. 13423 and E.O. 13514 establish requirements for agency fleets, defining the term "agency" to mean "an executive agency as defined in section 105 of title 5, United States Code, excluding the Government Accountability Office." 72 FR at 3922; 74 FR at 52125. The May 2011 Presidential Memorandum also defines the term "agency" consistent with both Executive Orders. Moreover, both E.O. 13423 and E.O. 13514 apply to agencies operating fleets "of at least 20 motor vehicles." 72 FR at 3919; 74 FR at 52118. Section 400AA of EPCA establishes AFV acquisition requirements for "vehicles acquired annually for use by the Federal Government." 42 U.S.C. 6374(a)(1). The AFV acquisition requirements under section 400AA of EPCA apply both to vehicles acquired by "agencies" and to certain vehicles acquired by the U.S. Postal Service. See 42 U.S.C. 6374(a)(3)(B)).

Upon consideration of the requirements of section 400AA of EPCA, E.O. 13423, E.O. 13514, and the May 2011 Presidential Memorandum, DOE proposes to define the term "Federal fleet" to mean 20 or more Federally-operated motor vehicles operated within the United States. The term "Federally-operated" would include motor vehicles that are operated by an "Executive agency" as that term is defined in section 105 of title 5, United States Code; however, for consistency with the requirements of 400AA of EPCA, E.O. 13423, E.O. 13514, and the May 2011 Presidential Memorandum, the term "Federally-operated" would exclude the Government Accountability Office and would include the U.S. Postal Service. DOE further proposes that the term "Federal fleet" would include Federally-operated motor vehicles and motor vehicles operated by contractors or sub-contractors to the Federal Government. However, the term "Federal fleet" would not include those motor vehicles defined under proposed 10 CFR 438.2(j) as "exempt vehicles" and certain motor vehicles that are both contractor- or sub-contractor-owned and operating under Federal contract.

Under the proposed rule, a determination of annual petroleum and alternative fuel consumption levels would be required for all Federal fleet motor vehicles. The term "alternative fuel consumption," as defined in proposed 10 CFR 438.2(d), also would include the alternative fuel used in exempt vehicles as well as the alternative fuel used in low-speed electric vehicles (LSEVs)² regardless of whether the LSEV is intended for use as an on-road or non-road vehicle.

The inclusion in the definition of the term "alternative fuel consumption" of alternative fuel used in LSEVs and exempt vehicles is consistent with the existing approach under E.O. 13423, and DOE believes such a definition would provide a strong incentive for Federal fleets to use alternative fuel to the maximum extent possible. Similarly, including in this definition the alternative fuel used in LSEVs would encourage the replacement of petroleum with alternative fuel. Under the proposed definition of "petroleum consumption" in 10 CFR 438.2(v), though, petroleum used in exempt vehicles and LSEVs would not be included as part of a Federal fleet's "petroleum consumption." Once again,

² The definition of the term "low-speed electric vehicle," as used throughout this proposed rule, is synonymous with the definition of the term "neighborhood electric vehicles" referenced in section 142 of EISA.

this approach is consistent with the extant approach under E.O. 13423.

Under proposed 10 CFR 438.1(j)(2), law enforcement motor vehicles would be exempt from the proposed requirements on Federal fleets. Proposed 10 CFR 438.1(o) defines the term “law enforcement motor vehicle” as “any motor vehicle that engages in, or is equipped to engage in, protective, high-speed, or law enforcement activities.” However, in accordance with the May 2011 Presidential Memorandum on Federal fleet performance, GSA has been directed to

issue guidance on the applicability and implementation of AFV requirements on law enforcement vehicles. DOE will consider all future GSA guidance in development and preparation of the final rule.

While certain vehicles would be exempt from inclusion as part of a Federal fleet, it is important to recognize that the statutory requirements would not apply to individual vehicles. Instead, the petroleum reduction and alternative fuel use requirements are fleet-level requirements.

Under proposed 10 CFR 438.1(b), Federal motor vehicles not subject to

Part 438 because they do not meet the definition of the term “Federal fleet” under proposed 10 CFR 438.2(l) nevertheless would be encouraged to comply voluntarily with the regulations.

III. Discussion

Pursuant to Table III.1 and the discussion contained in this section, each Federal fleet subject to this proposed rule would be subject to a statutorily-required reduction in petroleum consumption and increase in alternative fuel consumption.

TABLE III.1—FEDERAL FLEET PETROLEUM REDUCTION AND ALTERNATIVE FUEL CONSUMPTION REQUIREMENTS ³

Agency	Petroleum		Alternative fuel	
	FY 2005 petroleum consumption baseline (GGE) ^a	FY 2015 petroleum consumption requirement (GGE)	FY 2005 alternative fuel consumption baseline (GGE)	FY 2015 alternative fuel consumption requirement (GGE)
U.S. Postal Service	144,801,193	115,840,954	^b 1,051,106	1,156,217
Department of Defense	79,898,347	63,918,678	^b 2,323,322	2,555,654
Department of the Interior	18,734,809	14,987,847	^d 500,000	550,000
Department of Agriculture	18,473,766	14,779,013	^d 500,000	550,000
Department of Veterans Affairs	8,729,032	6,983,226	^c 438,282	482,111
Department of Energy	7,401,460	5,921,168	^b 624,704	687,174
U.S. Army Corps of Engineers	4,933,502	3,946,802	^c 246,944	271,639
Department of Homeland Security	3,801,408	3,041,126	^b 222,648	244,913
Department of Transportation	3,660,906	2,928,725	^c 186,458	205,104
Department of Labor	3,318,384	2,654,707	^c 168,628	185,491
Tennessee Valley Authority	2,929,403	2,343,522	^c 146,474	161,121
Department of Health and Human Services	2,043,622	1,634,898	^c 103,463	113,809
National Aeronautics and Space Administration	1,277,165	1,021,732	^b 148,723	163,595
Department of Commerce	1,211,082	968,866	^c 60,609	66,669
Department of Justice	599,643	479,714	^b 113,462	124,808
General Services Administration	573,245	458,596	^c 30,171	33,188

^a GGE is a gasoline gallon equivalent, or the volume of fuel having the same energy content as a gallon of gasoline.
^b FY 2005 alternative fuel consumption baseline established per 10 CFR 438.102(b)(1); Actual FY 2005 alternative fuel consumption.
^c FY 2005 alternative fuel consumption baseline established per 10 CFR 438.102(b)(2)(a); 5% of FY 2005 total fuel consumption.
^d FY 2005 alternative fuel consumption baseline established per 10 CFR 438.102(b)(2)(b); 500,000 GGE.

Petroleum Reduction Requirement

Consistent with section 142 of EISA, beginning in FY 2010, each Federal fleet would be required to achieve a reduction in its annual petroleum consumption by an amount necessary to meet the October 1, 2015, requirement of at least a 20 percent lower annual petroleum consumption as relative to its FY 2005 baseline level. For FYs 2010 through 2014, proposed 10 CFR 438.103(a) sets forth non-mandatory interim milestones to assess Federal fleet progress in meeting the FY 2015 annual petroleum reduction requirements. Although these interim milestones are non-mandatory, the milestones are consistent with the

petroleum reduction requirements set forth in E.O. 13514.

As required under section 142 of EISA and as set forth under proposed 10 CFR 438.101(a), Federal fleets must achieve at least a 20 percent reduction in annual petroleum consumption “not later than October 1, 2015, and for each year thereafter”; i.e., by October 1, 2015, each Federal fleet must achieve at least a 20 percent reduction in its annual petroleum consumption as calculated from the applicable FY 2005 baseline. That is, by the end of FY 2015 and for each year thereafter, annual Federal fleet petroleum consumption must be equal to or less than 80 percent of the amount that Federal fleet consumed in FY 2005. This interpretation is

complementary of the requirement set forth in E.O. 13514 that each Federal fleet reduce its “total consumption of petroleum products by a minimum or 2 percent annually through the end of [FY] 2020, relative to a baseline of [FY] 2005.” Accordingly, compliance with E.O. 13514 would result in full compliance with the petroleum reduction requirements set forth in EISA.

Alternative Fuel Use Requirement

As required under section 142 of EISA, beginning in FY 2010, each Federal fleet would be required to achieve an increase in its annual alternative fuel consumption by an amount necessary to meet the October 1,

³ Table III.1 does not contain an exhaustive list of petroleum consumption and alternative fuel

consumption requirements for all Federal fleets. Rather, Table III.1 includes those Federal fleets that

comprised 99% of the Federal Government’s petroleum consumption in FY 2005.

2015, requirement established by Congress in EISA of at least a 10 percent increase in annual alternative fuel consumption relative to FY 2005 baseline levels. For FYs 2010 through 2014, proposed 10 CFR 438.103(b) sets forth non-mandatory interim milestones to assess Federal fleet progress in meeting the FY 2015 annual alternative fuel consumption requirements.

As noted above, the language set forth in E.O. 13423 and E.O. 13514 regarding requirements for Federal fleet petroleum consumption reductions and alternative fuel consumption increases is not identical to the language contained in EISA section 142. EISA provides that each Federal fleet shall achieve at least “a 10 percent increase in annual alternative fuel consumption” whereas E.O. 13423 provides that each fleet must increase “the total fuel consumption that is non-petroleum-based by 10 percent annually.” The CEQ Instructions provide that the requirement in E.O. 13423 that fleets increase alternative fuel usage “by 10 percent annually” is “measured relative to the prior year’s alternative fuel usage levels.” As required under section 142 of EISA and as set forth in proposed 10 CFR 438.101(b), however, each Federal fleet by October 1, 2015, would be required to achieve at least a 10 percent increase in its annual alternative fuel consumption as calculated from the applicable FY 2005 baseline. Therefore, by the end of FY 2015 and for each year thereafter, annual Federal fleet alternative fuel consumption would be required to be equal to or greater than 110 percent of the amount that Federal fleet consumed in FY 2005. Accordingly, consistent with the approach for calculating reductions in annual petroleum consumption under proposed 10 CFR 438.101(a), increases in annual Federal fleet alternative fuel consumption under proposed 10 CFR 438.101(b) would be calculated as measured relative to its FY 2005 baseline.

For purposes of the proposed rule, DOE believes that requiring increases in annual alternative fuel consumption levels potentially would lead to required levels of alternative fuel consumption that far exceed the current total of fuel use without regard to actual demand levels. Therefore, DOE proposes that “not later than October 1, 2015, and for each year thereafter,” each Federal fleet would be required to ensure that its annual alternative fuel consumption is at least 10 percent greater than its FY 2005 alternative fuel consumption level. DOE notes that the EISA section 142 alternative fuel consumption requirement and the

proposed non-mandatory interim milestones are not as stringent as the annual alternative fuel usage requirements set forth in E.O. 13423; however, compliance with E.O. 13423 would result in full compliance with the alternative fuel requirements set forth in EISA.

Milestones and Annual Reporting

EISA section 142 requires that DOE establish interim numeric milestones to assess annual progress towards accomplishing Federal fleet requirements for petroleum reduction and alternative fuel use. EISA further requires the submission of annual Federal fleet reports in order to measure progress towards meeting each of the milestones and the FY 2015 requirements.

Under proposed 10 CFR 438.101, not later than October 1, 2015, the annual petroleum consumption for each Federal fleet must be equal to or less than 80 percent of the Federal fleet’s FY 2005 baseline level, and the annual alternative fuel consumption for each Federal fleet must be equal to or greater than 110 percent of the Federal fleet’s FY 2005 baseline level. As explained above, proposed 10 CFR 438.103(a) and (b) set forth non-mandatory interim milestones for each Federal fleet to reduce its annual petroleum consumption and to increase its annual alternative fuel consumption between FYs 2010 and 2014.

Progress towards meeting these interim milestones would be required to be reported annually pursuant to proposed 10 CFR 438.104. Under this section, DOE would require submission of annual reports to DOE containing information on the petroleum and alternative fuel used in Federal fleet motor vehicles. This report also would include the alternative fuel used in exempt vehicles and LSEVs. All reports under this section would be required to be submitted through the Federal Automotive Statistical Tool Web-based reporting system (FAST) (<https://fastweb.inel.gov/>) no later than December 15 of each calendar year.

Written Plan

Consistent with section 142 of EISA, proposed 10 CFR 438.201 requires the development and submission of a written plan, including implementation dates, to meet the required Federal fleet petroleum reduction and alternative fuel increase levels under the proposed rule. This written plan would contain similar information as the fleet management plan that agencies are directed to submit to GSA under the May 2011 Presidential Memorandum. Accordingly, DOE has

attempted to identify areas in which compliance with the proposed requirements under 10 CFR 438.201 also would be useful in satisfying the requirements of the Presidential Memorandum. Under proposed 10 CFR 438.201, the written plan would be required to:

1. *Identify the specific measures the Federal fleet would use to meet the petroleum reduction and alternative fuel consumption requirements and interim milestones set forth in proposed 10 CFR 438.101 and 438.103.* The plan would include some or all of the following petroleum reduction measures: the Federal fleet’s use of alternative fuels; the acquisition of dual fueled vehicles; the acquisition of vehicles with higher fuel economy, including but not limited to hybrid electric vehicles, LSEVs, electric vehicles, and plug-in hybrid electric vehicles if such vehicles are commercially available; the substitution of light trucks with cars; an increase in vehicle load factors; a decrease in vehicle miles traveled; a decrease in fleet size; and other measures.

2. *Quantify the reductions in petroleum consumption and increases in alternative fuel consumption projected to be achieved by each measure for each FY.* For each specific measure identified above, the plan would be required to contain estimates, for each FY, of the reduction in petroleum consumption or increase in alternative fuel consumption in both gasoline gallon equivalents (GGEs) and percentage increases or decreases from the Federal fleet’s FY 2005 baseline level.

3. *Specify the date by which each measure in the plan will be implemented.* For each measure identified above, the plan would be required to contain the estimated date when the measure would be fully implemented.

4. *Projecting the size and composition of the fleet by vehicle class and fuel type that corresponds with mission requirements.* Similar to the direction under the Presidential Memorandum for agencies to determine their optimal fleet inventory, the plan would be required to contain an evaluation of minimum vehicle requirements needed to support mission needs at each fleet location and identify opportunities to eliminate vehicles that exceed requirements. In order to meet this requirement, Federal fleets could develop a vehicle acquisition and management plan to: (1) Acquire AFVs where alternative fuel is available; (2) increase overall Federal fleet fuel economy through the acquisition of smaller-sized vehicles

and/or hybrid, electric, or other advanced technology vehicles; and (3) ensure that the most fuel efficient vehicle is used for the required task. Federal fleets would be encouraged to use the GSA Vehicle Allocation Methodology for determining optimum fleet inventory in developing the written plan under proposed 10 CFR 438.201.

5. *Specify actions to ensure that AFVs are acquired and located where the appropriate alternative fuel is available.* The plan would identify the specific actions Federal fleets would implement to ensure that AFVs are acquired and located where alternative fuel is available, including the identification of areas for future improvement of infrastructure to support AFVs in the Federal fleet.

6. *Projecting the use of alternative fuel by AFVs and LSEVs in each FY.* The plan would be required to contain projections on the use of alternative fuel and existing fuel infrastructure by AFVs and LSEVs and plans for the installation of new alternative fuel infrastructure to support those alternative fuel use projections. The plan also would be required to address actions to reduce or eliminate the deployment of AFVs in locations where the appropriate alternative fuel is not available.

Each written plan would require senior management approval, clearly assign responsibility for implementation, put forth assumptions made in developing projections, and address resource requirements necessary for success.

Petroleum and Alternative Fuel Consumption FY 2005 Baseline Values

EISA section 142 directs the Secretary to establish FY 2005 Federal fleet petroleum consumption and alternative fuel consumption baseline values. As discussed above, beginning on October 1, 2015, the annual petroleum consumption for each Federal fleet would be equal to or less than 80 percent of that Federal fleet's FY 2005 baseline level, and the annual alternative fuel consumption for each Federal fleet would be equal to or greater than 110 percent of that Federal fleet's FY 2005 baseline level. In the event that a Federal fleet was not in existence in FY 2005, DOE would take steps to establish reasonable baselines and would prorate the requirements based on the date that the Federal fleet was established.

DOE initially has determined under the proposed rule that the petroleum consumption and alternative fuel consumption baseline values should be those reported for Federal fleets through FAST for FY 2005. DOE would

encourage that this information be reviewed and, if it is found that any value is incorrect, contact DOE to request a correction. For example, a correction might be requested in the event that the Federal fleet's alternative fuel use value for FY 2005 submitted through FAST did not include the electricity used in the Federal fleet's LSEVs.

Federal fleets with extremely low alternative fuel use would be subject to a proposed minimum alternative fuel baseline. The minimum baseline would be the greater of (1) the amount of alternative fuel consumed by that Federal fleet in FY 2005, expressed in GGEs, as reflected in FY 2005 FAST data, or (2) the lesser of (a) five percent of total Federal fleet vehicle fuel (petroleum and alternative fuel) consumption and (b) 500,000 GGEs. For example, if a Federal fleet reported using 1,400,000 gallons of petroleum and 600,000 GGEs of alternative fuel in its FY 2005 FAST data, that Federal fleet's FY 2005 alternative fuel baseline level would be 600,000 GGEs, as 600,000 GGEs is the greater of (1) the amount of alternative fuel consumed by that Federal fleet in 2005 (600,000 GGEs) and (2) five percent of total vehicle consumption in FY 2005 (100,000 gallons, which is less than 500,000 GGEs). However, if a Federal fleet reported using 1,950,000 gallons of petroleum and 50,000 GGEs of alternative fuel in its FY 2005 FAST data, that Federal fleet's FY 2005 baseline level would be 100,000 GGEs, as 100,000 GGEs is the greater of (1) the amount of alternative fuel consumed by that Federal fleet in 2005 (50,000 GGEs) and (2) five percent of total vehicle consumption in FY 2005 (100,000 gallons, which is less than 500,000 GGEs).

Using only actual FY 2005 levels as the baseline would require limited (in volume) increases in alternative fuel for Federal fleets with low FY 2005 alternative fuel usage and large (in volume) increases in alternative fuel for Federal fleets with high FY 2005 alternative fuel usage, thereby requiring less alternative fuel use by those Federal fleets with historically low alternative fuel usage. This approach is being taken to encourage those Federal fleets that have not been aggressive in substituting alternative fuel for petroleum to begin doing so and to bring these Federal fleets up to levels similar to other Federal fleets.

IV. Public Comment Procedures

Interested persons are invited to participate in this proceeding by submitting data, views, or arguments.

Written comments should be submitted to the address, and in the form, indicated in the **ADDRESSES** section of this notice of proposed rulemaking. To help DOE review the comments, interested persons are asked to refer to specific proposed rule provisions, if possible.

If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of Information Act regulations at 10 CFR 1004.11.

V. Regulatory Review

A. Executive Order 12866

Today's proposed rule has been determined to be a "significant regulatory action" under section 3(f) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. National Environmental Policy Act

DOE has determined that this proposed rule is covered by the categorical exclusion (CX) found in DOE's National Environmental Policy Act (NEPA) regulations at paragraph A7 of Appendix A to subpart D, 10 CFR part 1021. The categorical exclusion in paragraph A7 (CX A7) encompasses the "transfer, lease, disposition or acquisition of interests in personal property (e.g., equipment and materials) * * * if property use is to remain unchanged; i.e., the type and magnitude of impacts would remain essentially the same." DOE's proposed action in this rulemaking is limited to reflecting statutory standards and deadlines, establishing voluntary milestones, and collecting reports. These actions have almost no impact on the human environment. However, to the extent that DOE might be deemed to have some role in the agencies' proposals to change the composition of their federal fleets, DOE's proposed action would comprise the transfer, lease, disposition or acquisition of personal property (i.e., vehicles and related infrastructure) without changing vehicle use to an extent that results in significant impacts to the environment.

DOE has experience with determining that CX A7 encompasses changes to the composition of fleets that are not under DOE's control. For example, DOE determined that a grant to the Texas Railroad Commission for the installation of propane refueling infrastructure and vehicle purchases was categorically excluded from further NEPA review under CX A7. See <http://cxnepa.energy.gov/docs/002488.PDF>. DOE made more than twenty additional CX determinations under CX A7 for Clean Cities grants to State and local governments for reducing petroleum consumption associated with their fleets. This past practice supports DOE's determination that the proposed rule is categorically excluded under CX A7.

C. Regulatory Flexibility Act

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

DOE has reviewed today's proposed rule under the provisions of the RFA and the procedures and policies published on February 19, 2003. The proposed rule would apply only to Federal agencies, which are not small entities under the RFA. For this reason, DOE certifies that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared an initial regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

D. Paperwork Reduction Act

This rulemaking does not include any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

E. Unfunded Mandates Reform Act of 1995

DOE reviewed this regulatory action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4), which requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For proposed regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement assessing the resulting costs, benefits and other effects of the rule on the national economy (2 U.S.C. 1532(a) and (b)). Section 204 of UMRA requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local and Tribal governments on a proposed "significant intergovernmental mandate" (2 U.S.C. 1534). Section 203 of UMRA requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments that may be affected before establishing any requirements that might significantly or uniquely affect small governments (2 U.S.C. 1533). On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at: <http://www.gc.doe.gov>). Today's proposed rule, which would apply only to Federal fleets, contains neither an intergovernmental mandate nor a mandate that may result in the expenditure by State, local or Tribal governments in the aggregate, or by the private sector, of \$100 million or more in any year. Accordingly, no assessment or analysis is required under UMRA.

F. Treasury and General Government Appropriations Act, 1999

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

G. Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999), imposes

certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this proposed rule and initially has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by Executive Order 13132.

H. Executive Order 12988

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

I. Treasury and General Government Appropriations Act, 2001

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

J. Executive Order 13211

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

As discussed in Part V.A above, this proposed rule has been determined to be a "significant regulatory action" under Executive Order 12866. Today's action, however, is not likely to have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Nor has this action been designated by OIRA as a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

List of Subjects in 10 CFR Part 438

Energy, Energy conservation, Fuel, Motor vehicles, Petroleum, and Recordkeeping and reporting requirements.

Issued in Washington, DC, on January 20, 2012.

Henry Kelly,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, the Department of Energy is proposing to amend title 10 of the Code of Federal Regulations by adding a new Part 438 as set forth below:

PART 438—PETROLEUM REDUCTION AND ALTERNATIVE FUEL USE REQUIREMENTS FOR FEDERAL FLEETS

Subpart A—General Provisions

Sec.

438.1 Purpose and scope.

438.2 Definitions.

Subpart B—Petroleum Reduction and Alternative Fuel Consumption Requirements

Sec.

438.100 Purpose and scope.

438.101 Consumption requirements.

438.102 FY 2005 baseline.

438.103 Interim milestones.

438.104 Annual reporting.

Subpart C—Plans

Sec.

438.200 Purpose and scope.

438.201 Written plan.

438.202 Requisite elements.

438.203 Revision.

Authority: 42 U.S.C. 6374e; 42 U.S.C. 7101 *et seq.*

Subpart A—General Provisions

§ 438.1 Purpose and scope.

(a) The provisions of this part implement section 142 of the Energy Independence and Security Act of 2007 (Pub. L. 110–140).

(b) This part applies to each Federal fleet, as that term is defined in section 438.2(l). Federal motor vehicles not subject to this part because they do not meet the definition of the term "Federal fleet" under 438.2(l) are encouraged to comply voluntarily with the requirements of this part.

§ 438.2 Definitions.

The following definitions apply to this part:

(a) "*Acquire*" means to take into possession or control.

(b) "*Act*" means the Energy Independence and Security Act of 2007 (Pub. L. 110–140).

(c) "*Alternative fuel*" means the same as the definition of "alternative fuel" set forth at section 490.2 of this chapter.

(d) "*Alternative fuel consumption*" means alternative fuel consumed in all motor vehicles, including light duty, medium duty, and heavy duty motor vehicles, in a Federal fleet. The term

also includes alternative fuel consumed in exempt vehicles and the alternative fuel consumed in low-speed electric vehicles.

(e) "*Alternative fueled vehicle*" means a dedicated vehicle or a dual fueled vehicle, and includes a "new qualified fuel cell motor vehicle" as defined in 26 U.S.C. 30B(b)(3), a "new advanced lean burn technology motor vehicle" as defined in 26 U.S.C. 30B(c)(3), a "new qualified hybrid motor vehicle" as defined in 26 U.S.C. 30B(d)(3), and any other type of vehicle that the Administrator of the Environmental Protection Agency demonstrates to the Secretary would achieve a significant reduction in petroleum consumption.

(f) "*Dedicated vehicle*" means—

(1) a motor vehicle that operates solely on alternative fuel; or

(2) a low-speed electric vehicle.

(g) "*DOE*" means the U.S. Department of Energy.

(h) "*Dual fueled vehicle*" means a motor vehicle that meets the criteria for a dual fueled automobile as that term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act, 49 U.S.C. 32901(a)(9);

(i) "*Emergency motor vehicle*" means any motor vehicle that is used in an emergency capacity at least 75 percent of the time.

(j) "*Exempt vehicle*" means—

(1) A motor vehicle used for motor vehicle manufacturer product evaluations or tests;

(2) A law enforcement motor vehicle;

(3) An emergency motor vehicle;

(4) A military tactical vehicle;

(5) A motor vehicle owned and operated by the Central Intelligence Agency;

(6) A motor vehicle that is not licensed for use on roads and highways; or

(7) A Federally-owned motor vehicle that is operated solely by an Indian nation or a State-run Fish and Wildlife service.

(k) "*FAST*" means the Federal Automotive Statistical Tool developed by DOE.

(l) "*Federal fleet*" means 20 or more Federally-operated motor vehicles operated within the United States or motor vehicles operated within the United States by any contractor or sub-contractor to the Federal Government, except that the term does not include—

(1) Exempt vehicles as defined in section 438.2(j);

(2) Motor vehicles owned by a contractor or sub-contractor that qualifies as a small business under 13 CFR part 121;

(3) Motor vehicles owned by a contractor or sub-contractor when the

relevant contract, including options and renewals, is for a period of less than 12 months; and

(4) Motor vehicles owned by a contractor or sub-contractor when a central purpose of the relevant contract is neither the provision of motor vehicles nor the provision of transportation services for people or materials on site.

(m) “*Federally-operated*” means operated by an executive agency as defined in section 105 of title 5, United States Code, excluding the Government Accountability Office, and including the U.S. Postal Service.

(n) “*Fiscal year*” means, for a given year, the 12-month period running from October 1 of the prior calendar year through September 30 of the given calendar year. For example, Fiscal Year (FY) 2010 means October 1, 2009, through September 30, 2010.

(o) “*Heavy duty motor vehicle*” means a motor vehicle with a gross vehicle weight rating of at least 16,000 pounds before any after-market conversion to alternative fuel operation.

(p) “*Law enforcement motor vehicle*” means any motor vehicle that engages in, or is equipped to engage in, protective, high-speed, or law enforcement activities.

(q) “*Light duty motor vehicle*” means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. 7550(7)), having a gross vehicle weight rating of 8,500 pounds or less before any after-market conversion to alternative fuel operation.

(r) “*Low-speed electric vehicle*” means a 4-wheeled on-road or non-road vehicle that

(1) Has a top attainable speed in 1 mile of more than 20 mph and not more than 25 mph on a paved level surface; and

(2) Is propelled by an electric motor and an on-board, rechargeable energy storage system that is rechargeable using an off-board source of electricity.

(s) “*Medium duty motor vehicle*” means a motor vehicle with a gross vehicle weight rating of greater than 8,500 pounds but less than 16,000 pounds before any after-market conversion to alternative fuel operation.

(t) “*Military tactical vehicle*” means a motor vehicle designed or modified to military specification and used for the purpose of providing direct transportation support of combat or tactical operations or the protection of nuclear weapons, and which is not used for any other purpose.

(u) “*Motor vehicle*” means a self-propelled vehicle designed for transporting persons or property on a

street or highway. The term includes light duty, medium duty, and heavy duty motor vehicles.

(v) “*Petroleum consumption*” means petroleum consumed in all Federal fleet motor vehicles, including light duty, medium duty, and heavy duty motor vehicles. The term excludes both petroleum consumed in exempt vehicles and petroleum consumed in low-speed electric vehicles.

(w) “*Secretary*” means the Secretary of Energy.

Subpart B—Petroleum Reduction and Alternative Fuel Consumption Requirements

§ 438.100 Purpose and scope.

This subpart sets forth requirements and interim milestones for reductions in Federal fleet petroleum consumption and increases in Federal fleet alternative fuel consumption.

§ 438.101 Consumption requirements.

Not later than October 1, 2015, and for each year thereafter:

(a) The annual petroleum consumption of each Federal fleet must be equal to or less than 80 percent of that Federal fleet’s FY 2005 baseline level, as determined in accordance with section 438.102(a); and

(b) The annual alternative fuel consumption of each Federal fleet plus the annual alternative fuel consumption by each low-speed electric vehicle and exempt vehicle must be equal to or greater than 110 percent of the Federal fleet’s FY 2005 baseline level, as determined in accordance with section 438.102(b).

In the event that a Federal fleet was not in existence in FY 2005, DOE will prorate the requirements set forth in this section based on the date that the Federal fleet was established.

§ 438.102 FY 2005 baseline.

The applicable FY 2005 baseline under section 438.101 for each Federal fleet is:

(a) With respect to annual petroleum consumption, the amount of petroleum consumed by that Federal fleet in FY 2005 expressed in gasoline gallon equivalents, as reflected in the FAST data submitted to DOE for that Federal fleet for FY 2005; and

(b) With respect to annual alternative fuel consumption, the greater of:

(1) The amount of alternative fuel consumed by that Federal fleet in FY 2005 expressed in gasoline gallon equivalents, as reflected in the FAST data submitted to DOE for that Federal fleet for FY 2005, or

(2) The lesser of:

a. Five percent of the Federal fleet’s total vehicle fuel (petroleum plus alternative fuel) consumption in FY 2005, and

b. 500,000 gasoline gallon equivalents.

In the event that a Federal fleet was not in existence in FY 2005, DOE will establish reasonable baselines for that Federal fleet.

§ 438.103 Interim milestones.

The following non-mandatory interim milestones are to be used by each Federal fleet to assess its annual progress towards meeting the consumption requirements in section 438.101, as calculated from the applicable FY 2005 baseline:

(a) Petroleum consumption

(1) By September 30, 2010—10 percent reduction;

(2) By September 30, 2011—12 percent reduction;

(3) By September 30, 2012—14 percent reduction;

(4) By September 30, 2013—16 percent reduction; and

(5) By September 30, 2014—18 percent reduction.

(b) Alternative fuel consumption

(1) By September 30, 2010—5 percent increase;

(2) By September 30, 2011—6 percent increase;

(3) By September 30, 2012—7 percent increase;

(4) By September 30, 2013—8 percent increase; and

(5) By September 30, 2014—9 percent increase.

§ 438.104 Annual reporting.

Beginning in FY 2010, the status of each Federal fleet must be reported annually in order to measure Federal fleet progress towards meeting the interim milestones set forth in section 438.103 and the consumption requirements set forth in section 438.101. Reports under this section must be submitted to DOE through the FAST system no later than December 15 of each calendar year. Each report must include the petroleum and alternative fuel used in all Federal fleet motor vehicles. Each report also must include the alternative fuel used in exempt vehicles and the alternative fuel used in low-speed electric vehicles.

Subpart C—Plans

§ 438.200 Purpose and scope.

This subpart sets forth provisions concerning Federal fleet plans for meeting the petroleum consumption reductions and alternative fuel consumption increases set forth in subpart B.

§ 438.201 Written plan.

No later than December 31, 2012, a written plan must be submitted to DOE that specifies each Federal fleet's strategy for meeting the consumption requirements set forth in section 438.101, including the interim milestones provided in section 438.103. Plans must be sent to the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program (EE-2L), 1000 Independence Avenue SW., Washington, DC 20585, or such other address as DOE may provide by notice in the **Federal Register**.

§ 438.202 Requisite elements.

The written plan must:

(a) Identify the specific measures that the Federal fleet will rely upon to meet the consumption requirements and interim milestones, such as plans for right-sizing the Federal fleet and strategies for reducing vehicle miles traveled;

(b) Quantify (in percentage and in gasoline gallon equivalents), for each measure set forth in the plan, the reduction in petroleum consumption, and the increase in alternative fuel consumption projected to be achieved by the measure in each FY;

(c) Specify the date by which each measure set forth in the plan will be implemented;

(d) Quantify the composition of the Federal fleet by vehicle class and fuel type, ensuring that it is correctly sized to support mission requirements in each FY;

(e) Specify actions to ensure that alternative fueled vehicles are acquired and located where the appropriate alternative fuel is available; and

(f) Quantify (in percentage) the use of alternative fuel by alternative fueled vehicles and low-speed electric vehicles in each FY.

§ 438.203 Revision.

Whenever an annual report under section 438.104 indicates that the Federal fleet failed to meet an interim milestone under section 438.103, the plan previously developed and submitted under this subpart must be revised and resubmitted to the DOE Federal Energy Management Program within 180 days of submission of the annual report.

[FR Doc. 2012-5876 Filed 3-9-12; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 252**

RIN 0750-AH57

Defense Federal Acquisition Regulation Supplement: Alleged Crimes By or Against Contractor Personnel (DFARS Case 2012-D006)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to expand coverage on contractor requirements and responsibilities relating to alleged crimes by or against contractor personnel.

DATES: *Comment Date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before May 11, 2012, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2012-D006, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2012-D006" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2012-D006." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2012-D006" on your attached document.

- *Email:* dfars@osd.mil. Include DFARS Case 2012-D006 in the subject line of the message.

- *Fax:* 571-372-6094.

- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Meredith Murphy, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT:

Meredith Murphy, telephone 571-372-6098.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD is proposing to revise the DFARS clause at 252.225-7040, Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States, to expand coverage on contractor requirements and responsibilities regarding alleged crimes by or against contractor personnel. The expanded coverage is proposed to apply to contingency operations, humanitarian or peacekeeping operations, or other military operations when the latter are designated by the combatant commander. These requirements currently apply only to DoD contracts performed in Iraq and Afghanistan. Expanding the coverage worldwide will provide contractors the guidance they need to take actions if such alleged offenses occur.

Currently, the clause at 252.225-7040 is prescribed at 225.7402-5(a). The clause prescription requires insertion of the clause in solicitations and contracts that authorize contractor personnel to accompany U.S. Armed Forces deployed outside the United States in (1) contingency operations; (2) humanitarian or peacekeeping operations; or (3) other military operations or military exercises, when designated by the combatant commander. The expanded DFARS clause will require the contractor to provide information to contractor personnel who perform work on a contract in those countries about how and where to report an alleged crime and, for contractor personnel seeking whistleblower protection, where to seek assistance. The crimes referred to are alleged offenses under the Uniform Code of Military Justice (10 U.S.C. 47) or the Military Extraterritorial Jurisdiction Act (18 U.S.C. 212). The clause also provides a list of the appropriate investigative authorities to which suspected offenses can be reported, *e.g.*, "U.S. Army Criminal Investigations Division at <http://www.cid.army.mil/reportacrime.html>," and contact information for contractor personnel seeking whistleblower protection. This information is required by the terms of the clause to be provided to contractor personnel before they begin work on a contract in a deployed area.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits

(including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the requirement is only to provide information to contractor personnel regarding the appropriate investigative authorities to which suspected offenses can be reported and contact information for contractor personnel seeking whistleblower protection. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The two key requirements being proposed are for the contractor to (a) report any alleged offenses against the Uniform Code of Military Justice (UCMJ) and the Military Extraterritorial Jurisdiction Act (MEJA) to appropriate investigative authorities and (b) give contractor personnel who work in covered areas information on how and where to report an alleged UCMJ or MEJA offense. The clause also would provide contact information for the three Service Criminal Investigative Agencies and the DoD Inspector General.

In FY 2010, DoD awarded 788 contracts for performance in Iraq and 1,051 contracts for performance in Afghanistan. Twenty percent of these contracts were awarded to small businesses. As DoD exits the areas of current contingency operations, *e.g.*, Iraq and Afghanistan, the total number of DoD contracts awarded for performance in the subject areas is expected to decrease by at least 50 percent. However, the proportion of these contracts that are awarded to small businesses is anticipated to remain the same. Therefore, this estimate is that there may be as many as 919 contracts awarded annually and approximately 184 of these contracts will be awarded to small businesses.

There are no projected reporting, recordkeeping, or other compliance requirements associated with the

proposed rule. The rule will apply equally to all contractors, large and small, performing in deployed areas. The rule does not duplicate, overlap, or conflict with any other Federal rules. The points of contact for reporting criminal acts and/or seeking whistleblower protection are listed in the clause. Contractor compliance requirements have been limited to passing this clear, available information to their personnel. No alternatives to the rule have been identified that could accomplish the objectives of the rule or minimize further its economic impact on small entities.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2012–D006), in correspondence.

IV. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 252

Government procurement.

Ynette R. Shelkin

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR part 252 as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 252 continues to read as follows:

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

2. Section 252.225–7040 is amended by removing the clause date “(JUN 2011)” and adding “(DATE)” in its place and revising paragraph (d) to read as follows:

252.225–7040 Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States.

* * * * *

(d) *Compliance with laws and regulations.*

(1) The Contractor shall comply with, and shall ensure that its personnel authorized to accompany U.S. Armed

Forces deployed outside the United States as specified in paragraph (b)(1) of this clause are familiar with and comply with, all applicable—

(i) United States, host country, and third country national laws;

(ii) Provisions of the law of war, as well as any other applicable treaties and international agreements;

(iii) United States regulations, directives, instructions, policies, and procedures; and

(iv) Orders, directives, and instructions issued by the Combatant Commander, including those relating to force protection, security, health, safety, or relations and interaction with local nationals.

(2) The Contractor shall institute and implement an effective program to prevent violations of the law of war by its employees and subcontractors, including law of war training in accordance with paragraph (e)(1)(vii) of this clause.

(3) The Contractor shall ensure that contractor employees accompanying U.S. Armed Forces are aware—

(i) Of the DoD definition of “sexual assault” in DoDD 6495.01, Sexual Assault Prevention and Response Program;

(ii) That the offenses addressed by the definition are covered under the Uniform Code of Military Justice (see paragraph (e)(2)(iv) of this clause); and

(iii) That other sexual misconduct may constitute offenses under the Uniform Code of Military Justice, Federal law, such as the Military Extraterritorial Jurisdiction Act, or host nation laws, and that the offenses not covered by the Uniform Code of Military Justice may nevertheless have consequences to the contractor employees (see paragraph (h)(1) of this clause).

(4) The Contractor shall report to the appropriate investigative authorities, identified in paragraph (d)(6) of this clause, any alleged offenses under—

(i) The Uniform Code of Military Justice (10 U.S.C. 47) (applicable to contractors serving with or accompanying an armed force in the field during a declared war or contingency operation); or

(ii) The Military Extraterritorial Jurisdiction Act (18 U.S.C. 212).

(5) The Contractor shall provide to all contractor personnel who will perform work on a contract in the deployed area, before beginning such work, information on the following:

(i) How and where to report an alleged offense described in paragraph (d)(4) of this clause.

(ii) Where to seek victim and witness protection and assistance available to

contractor personnel in connection with an alleged offense described in paragraph (d)(4) of this clause.

(6) The appropriate investigative authorities to which suspected crimes shall be reported include the following officials:

(i) U.S. Army Criminal Investigations Division at <http://www.cid.army.mil/reportcrime.html>.

(ii) Air Force Office of Special Investigations at <http://>

www.osi.andrews.af.mil/library/factsheets/factsheet.asp?id=14522.

(iii) Navy Criminal Investigative Service at <http://www.ncis.navy.mil/Pages/publicdefault.aspx>.

(iv) Any command of any supported military element or the command of any base.

(7) Personnel seeking whistleblower protection from reprisals for reporting criminal acts shall seek guidance through the DoD Inspector General

hotline at 800-424-9098 or www.dodig.mil/HOTLINE/index.html. Personnel seeking other forms of victim or witness protections should contact the nearest military law enforcement office.

* * * * *

[FR Doc. 2012-5759 Filed 3-9-12; 8:45 am]

BILLING CODE 5001-06-P

Notices

Federal Register

Vol. 77, No. 48

Monday, March 12, 2012

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 COMMERCE

Foreign-Trade Zones Board

[Order No. 1817]

Reorganization/Expansion of Foreign-Trade Zone 77 Under Alternative Site Framework Memphis, Tennessee Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (74 FR 1170, 01/12/2009; correction 74 FR 3987, 01/22/2009; 75 FR 71069–71070, 11/22/2010) as an option for the establishment or reorganization of general-purpose zones;

Whereas, the City of Memphis, grantee of Foreign-Trade Zone 77, submitted an application to the Board (FTZ Docket 51–2011, filed 08/03/11) for authority to reorganize and expand under the ASF with a service area of Shelby County, Tennessee, within the Memphis U.S. Customs and Border Protection port of entry, and FTZ 77's existing Site 4 and proposed Site 10 would be categorized as magnet sites, while Sites 1, 2, 3, 5, 6, 7, 8, 9, 11 and 12 would be categorized as usage-driven sites;

Whereas, notice inviting public comment was given in the **Federal Register** (76 FR 48121, 08/08/2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize and expand FTZ 77 under the alternative

site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, to a five-year ASF sunset provision for magnet sites that would terminate authority for Site 4 if not activated by February 28, 2017, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 1, 2, 3, 5, 6, 7, 8, 9, 11 and 12 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by February 28, 2015.

Signed at Washington, DC, this 29th day of February 2012.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2012–5914 Filed 3–9–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–924]

Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of the 2009–2010 Antidumping Duty Administrative Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 3, 2011, the Department of Commerce (“the Department”) published the preliminary results in the 2009–2010 antidumping duty administrative review of polyethylene terephthalate film, sheet, and strip (“PET film”) from the People's Republic of China (“PRC”).¹ The period of review (“POR”) is November 1, 2009, through October 31, 2010. We have determined that sales have been made below normal value (“NV”) by certain companies subject to this review. We invited interested parties to comment on our *Preliminary Results*. Based on our analysis of the comments received, we made changes to our margin

¹ See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Preliminary Results of the 2009–2010 Antidumping Duty Administrative Review, 76 FR 68140 (November 3, 2011) (“Preliminary Results”).

calculations for Tianjin Wanhua Co., Ltd. (“Wanhua”) and Sichuan Dongfang Insulating Material Co., Ltd.

(“Dongfang”) (collectively, “Respondents”). The final dumping margins for this review are listed in the “Final Results Margins” section below.

DATES: *Effective Date:* March 12, 2012.

FOR FURTHER INFORMATION CONTACT:

Thomas Martin and Jonathan Hill, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3936, and (202) 482–3518, respectively.

Background

On November 3, 2011, the Department published its *Preliminary Results* in the antidumping duty administrative review of PET film from the People's Republic of China.² On November 28, 2011, DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc. (collectively, “Petitioners”), Wanhua, and Fuwei Films (Shandong) Co., Ltd. (“Fuwei Films”) submitted publicly available surrogate value (“SV”) data. On December 8, 2011, Petitioners³, Wanhua, Fuwei Films and Dongfang submitted rebuttal comments regarding the November 28, 2011, submissions. We received case briefs from Petitioners, Wanhua, Fuwei Films and Shaoxing Xiangyu Green Packing Co., Ltd. (jointly “Wanhua et al”), Dongfang, and Bemis Company, Inc. (“Bemis”) on December 14, 2011, and rebuttal briefs on December 21, 2011. On January 12, 2012 the Department held a public hearing.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, “Polyethylene Terephthalate Film, Sheet, and Strip from the People's

² See *Preliminary Results*.

³ The Department rejected the Petitioners' December 8, 2011, surrogate value rebuttal comments because it contained new surrogate value information. Petitioners removed the material and resubmitted the rebuttal comments on December 16, 2011.

Republic of China: Issues and Decision Memorandum for the Final Results of the 2009–2010 Administrative Review,” dated March 2, 2012 (“Issues and Decision Memorandum”), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). Access to IA ACCESS is available in the Central Records Unit, Main Commerce Building, Room 7046. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia>. The paper copy and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Review

The POR is November 1, 2009, through October 31, 2010.

Scope of the Order

The products covered by the order are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded. Excluded are metalized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET film is classifiable under subheading 3920.62.00.90 of the HTSUS. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Changes Since the Preliminary Results

Based on an analysis of the comments received, the Department has made certain changes in the margin calculation. For the final results, the Department has made the following changes:

- We revised the calculated surrogate overhead, selling, general and administrative expenses, and profit applicable to Respondents using information from the financial statements of JBF Industries Limited, a manufacturer in India of merchandise comparable to the subject merchandise.

- We revised the surrogate valuation of PET scrap sold, applying Indian HTS subheading 3907.60.

Final Results Margin

We determine the weighted-average dumping margins for the period November 1, 2009, through October 31, 2010, to be:

POLYETHYLENE TEREPHTHALATE FILM, SHEET, AND STRIP FROM THE PRC

Exporter	Weighted-average margin (percentage)
Tianjin Wanhua Co., Ltd	8.42
Sichuan Dongfang Insulating Material Co., Ltd	10.87
Fuwei Films (Shandong) Co., Ltd	8.48
Shaoxing Xiangyu Green Packing Co., Ltd	8.48
PRC-wide Entity ⁴	76.72

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer (or customer)-specific assessment rate is *de minimis* (i.e., less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer’s)

⁴ Shanghai Xishu Electric Material Co., Ltd. and Shanghai Uchem Co., Ltd. are part of the PRC-wide entity.

entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Wanhua, Dongfang, Fuwei Films and Shaoxing Xiangyu Green Packing Co., Ltd. (“Green Packing”), the cash deposit rate will be the rate identified in the Final Results Margin section, as listed above; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will continue to be the PRC-wide rate of 76.72 percent;⁵ and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. The deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective orders (“APOs”) of their responsibility concerning the return or

⁵ This rate was established in the final results of the original investigation. See Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (September 24, 2008).

destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

We are issuing and publishing the final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 2, 2012.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

Issues for the Final Results

Surrogate Country Selection and Surrogate Financial Ratios

Issue 1: Whether the Department should have selected India or Thailand as the Surrogate Country.

Issue 2: Whether the Department should have selected the financial statement of JBF Industries Ltd. to calculate financial ratios.

Issue 3: Whether the Department should have rejected financial statements submitted in its surrogate value rebuttal comments.

Surrogate Values

Issue 4: Whether the Department should have selected the six-digit subheading 3907.60 to value the Respondents' PET chips.

Issue 5: Whether the Department should require company certifications for surrogate value submissions.

Issue 6: Whether the Department should have selected HTS 3915.10 to value Respondents' scrap offset.

Respondent Selection

Issue 7: Whether the Department improperly failed to select Fuwei Films and Green Packing as mandatory respondents, and improperly failed to consider the voluntary responses of Fuwei Films and Green Packing.

Separate Rate

Issue 8: Whether the separate rate assigned to Fuwei Films and Green Packing in the *Preliminary Results* inaccurately overstates the antidumping margin that should be applied to these companies.

Reclaimed PET Chips

Issue 9: Whether the Department should recalculate the consumption of raw material inputs for Wanhua and Dongfang with respect to reclaimed PET chips.

Wanhua

Issue 10: Whether the Department should have calculated the consumption of material inputs of Wanhua based on an application of adverse facts available.

Dongfang

Issue 11: Whether the Department should have adjusted Dongfang's reported electricity and water FOPs.

Zeroing

Issue 12: Whether the Department should engage in the practice of zeroing.

[FR Doc. 2012-5936 Filed 3-9-12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-912]

Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review and Final Rescission, in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 7, 2011, the Department of Commerce ("Department") published the preliminary results of the 2009-2010 administrative review of the antidumping duty order on certain new pneumatic off-the-road tires ("OTR tires") from the People's Republic of China ("PRC").¹ The period of review ("POR") is September 1, 2009, through August 31, 2010. This review covers one exporter: Tianjin United Tire & Rubber International Co., Ltd. ("TUTRIC").

We invited interested parties to comment on our *Preliminary Results*. Based on our analysis of the comments received, we made certain changes to our margin calculations for TUTRIC. The final dumping margins for this review are listed in the "Final Results Margins" section below.

DATES: *Effective Date:* March 12, 2012.

FOR FURTHER INFORMATION CONTACT: Raquel Silva or Wendy Frankel, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-6475 and (202) 482-5849, respectively.

¹ See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of the 2009-2010 Antidumping Duty Administrative Review and Intent To Rescind, in Part*, 76 FR 62356 (October 7, 2011) ("*Preliminary Results*").

Background

On October 7, 2011, the Department published its *Preliminary Results* of the antidumping duty administrative review of OTR tires from the PRC. On October 21, 2011, TUTRIC submitted its response to the Department's October 17, 2011, post-preliminary supplemental questionnaire.

Titan Tire Corporation ("Titan"), the petitioner; and TUTRIC each submitted publicly available information regarding surrogate values on October 27, 2011; Bridgestone Americas, Inc. and Bridgestone Americas Tire Operations, LLC (collectively, "Bridgestone"), domestic interested parties, did so on October 28, 2011. On November 7, 2011, TUTRIC submitted rebuttal surrogate value information.

Titan and Bridgestone submitted their case briefs on November 17, and November 18, 2011, respectively. On November 30, 2011, TUTRIC submitted its rebuttal brief.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, titled, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2009-2010 Second Administrative Review of the Antidumping Duty Order," dated February 21, 2012 ("Issues and Decision Memorandum"), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Period of Review

The POR is September 1, 2009, through August 31, 2010.

Scope of the Order

The products covered by the order are new pneumatic tires designed for off-the-road and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) agricultural and forestry vehicles and equipment, including agricultural tractors,² combine harvesters,³ agricultural high clearance sprayers,⁴ industrial tractors,⁵ log-skidders,⁶ agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;⁷ (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,⁸ front end loaders,⁹ dozers,¹⁰ lift trucks, straddle carriers,¹¹

² Agricultural tractors are dual-axle vehicles that typically are designed to pull farming equipment in the field and that may have front tires of a different size than the rear tires.

³ Combine harvesters are used to harvest crops such as corn or wheat.

⁴ Agricultural sprayers are used to irrigate agricultural fields.

⁵ Industrial tractors are dual-axle vehicles that typically are designed to pull industrial equipment and that may have front tires of a different size than the rear tires.

⁶ A log-skidder has a grappling lift arm that is used to grasp, lift and move trees that have been cut down to a truck or trailer for transport to a mill or other destination.

⁷ Skid-steer loaders are four-wheel drive vehicles with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver's shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.

⁸ Haul trucks, which may be either rigid frame or articulated (*i.e.*, able to bend in the middle) are typically used in mines, quarries and construction sites to haul soil, aggregate, mined ore, or debris.

⁹ Front loaders have lift arms in front of the vehicle. They can scrape material from one location to another, carry material in their buckets, or load material into a truck or trailer.

¹⁰ A dozer is a large four-wheeled vehicle with a dozer blade that is used to push large quantities of soil, sand, rubble, etc., typically around construction sites. They can also be used to perform "rough grading" in road construction.

¹¹ A straddle carrier is a rigid frame, engine-powered machine that is used to load and offload containers from container vessels and load them onto (or off of) tractor trailers.

graders,¹² mobile cranes,¹³ compactors; and (3) industrial vehicles and equipment, including smooth floor, industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth floor off-the-road counterbalanced lift trucks. The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions contained in the footnotes are illustrative of the types of vehicles and equipment that use certain OTR tires, but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (*e.g.*, tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the order range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type¹⁴ or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00. While HTSUS subheadings are provided for convenience and customs purposes, our

¹² A grader is a vehicle with a large blade used to create a flat surface. Graders are typically used to perform "finish grading." Graders are commonly used in maintenance of unpaved roads and road construction to prepare the base course on to which asphalt or other paving material will be laid.

¹³ A counterbalanced lift truck is a rigid framed, engine-powered machine with lift arms that has additional weight incorporated into the back of the machine to offset or counterbalance the weight of loads that it lifts so as to prevent the vehicle from overturning. An example of a counterbalanced lift truck is a counterbalanced fork lift truck. Counterbalanced lift trucks may be designed for use on smooth floor surfaces, such as a factory or warehouse, or other surfaces, such as construction sites, mines, etc.

¹⁴ While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (*e.g.*, sold with or separately from subject merchandise).

written description of the scope is dispositive.

Specifically excluded from the scope are new pneumatic tires designed, manufactured and offered for sale primarily for on-highway or on-road use, including passenger cars, race cars, station wagons, sport utility vehicles, minivans, mobile homes, motorcycles, bicycles, on-road or on-highway trailers, light trucks, and trucks and buses. Such tires generally have in common that the symbol "DOT" must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following designations that are used by the Tire and Rim Association:

Prefix letter designations:

- P—Identifies a tire intended primarily for service on passenger cars;
- LT—Identifies a tire intended primarily for service on light trucks; and
- ST—Identifies a special tire for trailers in highway service.

Suffix letter designations:

- TR—Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156" or plus 0.250";
- MH—Identifies tires for Mobile Homes;
- HC—Identifies a heavy duty tire designated for use on "HC" 15" tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.
- Example: 8R17.5 LT, 8R17.5 HC;
- LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service; and
- MC—Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; tires of a kind designed for use on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications. Also excluded from the scope are radial and bias tires of a kind designed for use in mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

Final Rescission, in Part, of the Administrative Review

In the *Preliminary Results*, the Department stated its intent to rescind the review with respect to Weihai because the Department preliminarily determined that Weihai had no shipments of subject merchandise to the United States during the POR. See *Preliminary Results*, 76 FR at 62358. The Department did not receive any comments from interested parties with respect to rescinding the review for Weihai. Thus, we continue to find that Weihai had no shipments of subject merchandise to the United States during the POR. As such, we are rescinding this review with respect to Weihai in accordance with 19 CFR 351.213(d)(3).

Separate Rates

In proceedings involving non-market economy (“NME”) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.¹⁵

In the *Preliminary Results*, we found that TUTRIC demonstrated its eligibility for separate-rate status. See *Preliminary Results*, 76 FR at 62358–59. No party has placed any evidence on the record of this review to contradict that finding. Therefore, we continue to find that TUTRIC is eligible for separate-rate status.

Changes Since the Preliminary Results

Based on an analysis of the comments received, for the final results, the Department has made the following changes to TUTRIC’s Margin Calculation:

- *Steam*: We have calculated the surrogate value for steam using a rupees-per-metric-ton unit of measure. Additionally, we applied partial adverse facts available (“AFA”) under sections 776(a)(2)(A) and (B) and 776(b) of the Tariff Act of 1930, as amended (the “Act”), to value TUTRIC’s steam consumption.¹⁶

¹⁵ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People’s Republic of China*, 59 FR 22585 (May 2, 1994) and 19 CFR 351.107(d).

¹⁶ See Memorandum titled, “Final Results of the 2009–2010 Administrative Review of the

- *NYCHFR and HCLOTH*: We have changed the HTS categories used to value Tyre cord B fabric (“NYCHFR”) and harness cloth (“HCLOTH”).¹⁷

- *Surrogate Financial Ratios*: We have corrected the classification of three line items in the surrogate financial ratio calculation.¹⁸

- *Domestic Brokerage and Handling*: We have revised the calculation of TUTRIC’s surrogate brokerage and handling value using a revised container weight.¹⁹

- *Labor*: We have changed the source of data used to value labor costs and are using a source that contains data more specific to the product at issue here. Additionally, we have applied a monthly inflation methodology to inflate the value of labor.²⁰

Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available” if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the

Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Surrogate Value Memorandum,” dated February 6, 2012 (“Surrogate Value Memorandum”); see also Memorandum titled, “Analysis Memorandum for the Final Results: Tianjin United Tire & Rubber International Co., Ltd.,” dated February 6, 2012 (“TUTRIC Final Analysis Memorandum”); see also “Adverse Facts Available” section below and Comment 6 of the Issues and Decision Memorandum.

¹⁷ See Surrogate Value Memorandum and TUTRIC Final Analysis Memorandum.

¹⁸ See Surrogate Value Memorandum and TUTRIC Final Analysis Memorandum; see also Comment 7 of the Issues and Decision Memorandum.

¹⁹ See Surrogate Value Memorandum and TUTRIC Final Analysis Memorandum; see also Comment 10 of the Issues and Decision Memorandum.

²⁰ See Surrogate Value Memorandum and TUTRIC Final Analysis Memorandum; see also Comment 11 of the Issues and Decision Memorandum.

deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department “shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority” if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as AFA information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

For the reasons discussed below, we determine that, in accordance with sections 776(a)(2) and 776(b) of the Act, the use of partial AFA is appropriate for the final results with respect to TUTRIC’s consumption of steam.

Pursuant to section 776(e)(2)(A) and (B) of the Act, we find that TUTRIC failed to provide requested information, and failed to provide information in the form and manner requested by the Department by the established deadlines on three separate occasions. In the original questionnaire issued on January 19, 2011, the Department requested that TUTRIC provide a discussion of how the company calculated its reported energy (steam) usage, and to also provide supporting worksheets. In its March 11, 2011, response, TUTRIC attached a worksheet demonstrating its final allocation of steam consumption to production-related activities and non-production related activities. However, TUTRIC did not provide a narrative explanation to support its calculations methodology or the calculation details as requested.

On June 9, 2011, the Department issued a supplemental questionnaire requesting that TUTRIC specifically provide a detailed narrative explanation of its steam consumption calculation. In its July 15, 2011, response, TUTRIC attached a revised worksheet that

provided a worksheet detailing a series of generic formulas. However, in its supplemental questionnaire response, TUTRIC did not provide the calculations demonstrating how it applied these formulas or a narrative explanation of the calculation.

On August 16, 2011, in an additional supplemental questionnaire, the Department again specifically asked that TUTRIC provide a worksheet and a narrative explanation to demonstrate the calculation used to derive its allocation ratio. In a response dated September 2, 2011, TUTRIC referred the Department to its July 15, 2011, response. The Department notes that while the July 15, 2011, worksheet demonstrated TUTRIC's general allocation of factors of production ("FOP"), TUTRIC again did not provide the underlying calculation demonstrating how it derived the allocations or a narrative explanation.

Pursuant to section 776(a)(2)(A) of the Act, the Department finds that TUTRIC failed to provide essential information to support its reported steam consumption. Specifically, it failed to provide a narrative explanation of its calculation methodology and failed to provide the actual calculations used in allocating steam consumption between production and non-production use as requested by the Department. Additionally, pursuant to section 776(a)(2)(B) of the Act, the Department finds that TUTRIC additionally failed to provide clarifying information in the manner requested by the Department. Consequently, the Department finds it necessary to apply partial facts available, as the necessary information is not available to determine the propriety of TUTRIC's derived allocation for steam consumption. Additionally, because TUTRIC had multiple opportunities but never provided the requisite information, we find that TUTRIC failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information concerning TUTRIC's steam consumption. For that reason, we determine that the application of an adverse inference pursuant to section 776(b) of the Act is warranted. Therefore, as partial AFA for these final results, the Department has applied TUTRIC's total consumption of the steam consumed during the POR as TUTRIC's production consumption quantity. See TUTRIC Final Analysis Memorandum.

Final Results Margins

We determine that the following weighted-average dumping margin exists for the period September 1, 2009, through August 31, 2010:

OTR TIRES FROM THE PRC

Exporter	Weighted-average margin (percent)
Tianjin United Tire & Rubber International Co., Ltd	11.07

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer (or customer)-specific assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2). We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate of 210.48 percent. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section

751(a)(2)(C) of the Act: (1) For TUTRIC, the cash deposit rate will be the margin listed above; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 210.48 percent determined in the less-than-fair-value investigation; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

We are issuing and publishing the final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 5, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

- Comment 1: Valuation of Technically Specific Natural Rubber
- Comment 2: Whether to Use Certain MEP Prices
- Comment 3: Whether to Value Curing Bladders as FOPs or Overhead
- Comment 4: Which Coal Grades to Use in Valuing Steam Coal
- Comment 5: What Source to Use for Valuing Steam
- Comment 6: Whether to Modify TUTRIC's Steam Allocation Methodology
- Comment 7: Corrections to the Calculation of the Surrogate Financial Ratios
- Comment 8: How to Treat TUTRIC's Non-production Labor and Energy Costs
- Comment 9: Whether the Department Should Use a Different Source to Calculate Domestic Inland Truck Freight
- Comment 10: Whether to Revise the Calculation of Domestic Brokerage and Handling Expenses
- Comment 11: Whether the Department Should Use a Different Source and Inflation Period to Value Labor
- Comment 12: Whether to Deduct VAT from Export Price
- Comment 13: Whether to Use AFA to Value FOPs for "Similar" Models
- Comment 14: How to Treat Claims for Failed Tires
- Comment 15: Whether to Apply a "Targeting" Analysis if the Department Changes Its Zeroing Position

[FR Doc. 2012-5939 Filed 3-9-12; 8:45 am]

BILLING CODE:P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-888]

Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 7, 2011, the U.S. Department of Commerce (the Department) published the preliminary results of the 2009–2010 administrative review of the antidumping duty order on floor-standing, metal-top ironing

tables from the People's Republic of China (PRC).¹ On January 10, 2012, we extended the final results of this administrative review by 60 days.² This review covers one exporter, Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd. (Foshan Shunde). The period of review (POR) is August 1, 2009, through July 31, 2010. We invited interested parties to comment on the *Preliminary Results*.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the Final Results differ from the *Preliminary Results*. The weighted average dumping margins are listed below in the section entitled "Final Results of Review".

DATES: *Effective Date:* March 12, 2012.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2011, the Department published the preliminary results of this administrative review. See *Preliminary Results*. The merchandise covered by the order is floor-standing, metal-top ironing tables and certain parts thereof from the PRC, as described in the "Scope of the Order" section of this notice. The period of review (POR) is August 1, 2009, through July 31, 2010. This administrative review covers Foshan Shunde.

In the *Preliminary Results*, we invited parties to comment. October 7, 2011, the Department received a timely case brief from Foshan Shunde. On October 12, 2011, Home Products International (the Petitioner in this case) submitted a rebuttal brief.

Scope of the Order

For purposes of the order, the product covered consists of floor-standing, metal-top ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. The subject tables are designed and used principally

for the hand ironing or pressing of garments or other articles of fabric. The subject tables have full-height leg assemblies that support the ironing surface at an appropriate (often adjustable) height above the floor. The subject tables are produced in a variety of leg finishes, such as painted, plated, or matte, and they are available with various features, including iron rests, linen racks, and others. The subject ironing tables may be sold with or without a pad and/or cover. All types and configurations of floor-standing, metal-top ironing tables are covered by this review.

Furthermore, the order specifically covers imports of ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. For purposes of the order, the term "unassembled" ironing table means a product requiring the attachment of the leg assembly to the top or the attachment of an included feature such as an iron rest or linen rack. The term "complete" ironing table means product sold as a ready-to-use ensemble consisting of the metal-top table and a pad and cover, with or without additional features, e.g., iron rest or linen rack. The term "incomplete" ironing table means product shipped or sold as a "bare board"—i.e., a metal-top table only, without the pad and cover—with or without additional features, e.g., iron rest or linen rack. The major parts or components of ironing tables that are intended to be covered by the order under the term "certain parts thereof" consist of the metal top component (with or without assembled supports and slides) and/or the leg components, whether or not attached together as a leg assembly. The order covers separately shipped metal top components and leg components, without regard to whether the respective quantities would yield an exact quantity of assembled ironing tables.

Ironing tables without legs (such as models that mount on walls or over doors) are not floor-standing and are specifically excluded. Additionally, tabletop or countertop models with short legs that do not exceed 12 inches in length (and which may or may not collapse or retract) are specifically excluded.

The subject ironing tables were previously classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.20.0010. Effective July 1, 2003, the subject ironing tables are classified under new HTSUS subheading 9403.20.0011. The subject metal top and leg components are classified under HTSUS subheading 9403.90.8040. Although the HTSUS

¹ See *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 55357 (September 7, 2011) (*Preliminary Results*).

² See *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Extension of Time Limit for Final Results of Administrative Review*, 77 FR 1455 (January 10, 2012).

subheadings are provided for convenience and for Customs and Border Protection (CBP) purposes, the Department's written description of the scope remains dispositive.

Separate Rates

Foshan Shunde requested a separate, company-specific antidumping duty rate. In the *Preliminary Results*, we found that Foshan Shunde had met the criteria for the application of a separate antidumping duty rate. See *Preliminary Results*, 76 FR at 55358–55359. We have not received any information since the *Preliminary Results* with respect to Foshan Shunde that would warrant reconsideration of our separate-rates determination. Therefore, we have assigned an individual dumping margin to Foshan Shunde for this review period.

Analysis of Comments Received

All issues raised in the case briefs by the parties and to which we have responded are addressed in the Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled "Issues and Decision Memorandum for the Final Results in the Administrative Review of Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China," (March 5, 2012) (Issues and Decision Memorandum), which is hereby adopted by this notice. A list of the issues raised, all of which are in the Issues and Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in the briefs and the corresponding recommendations in this public memorandum, which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System ("IA ACCESS"). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The signed Decision Memo and the electronic versions of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on the comments received from interested parties, we have made the following changes from that presented in our *Preliminary Results*:

- We have calculated all Indonesian Factors of Production to the nearest unit rather than to the nearest million units.

Final Results of Review

We determine that the following antidumping duty margins exist in these final results:

Exporter	Margin (percent)
Foshan Shunde	43.47

For details on the calculation of the antidumping duty weighted-average margin for Foshan Shunde, see Memorandum to the File from Michael J. Heaney, Senior International Trade Compliance Analyst; "Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Foshan Shunde Yongjian Housewares & Hardware Co., (Foshan Shunde) Analysis Memorandum for the Final Results," dated March 5, 2012; The public version of this memorandum is on file in the CRU.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. For assessment purposes, where possible, we calculated importer-specific assessment rates for subject ironing tables from the PRC via *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Foshan Shunde the cash deposit rate will be 43.47 percent; (2) for previously-investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject

merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 157.68 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice also serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction or conversion to a judicial protective order of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 5, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Issues in Decision Memorandum

- Comment 1: Selection of Indonesia Rather than India as Primary Surrogate Country
- Comment 2: Financial Ratios
- Comment 3: Errors in Calculation of Indonesian Surrogate Values
- Comment 4: Proper Valuation of Steel Wire
- Comment 5: Brokerage and Handling
- Comment 6: Zeroing
- Comment 7: Department Regulation Regarding Submission of Surrogate Value Information

[FR Doc. 2012-5915 Filed 3-9-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-824]

Polyethylene Terephthalate Film, Sheet and Strip From India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: March 12, 2012.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Toni Page, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0197 or (202) 482-1398, respectively.

Background

On August 26, 2011, the Department of Commerce (Department) published a notice of initiation of an administrative review under the antidumping duty (AD) order on polyethylene terephthalate film, sheet and strip from India covering the period July 1, 2010, through June 30, 2011. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 76 FR 53404 (August 26, 2011). The Department initiated the review with respect to seven companies, Ester Industries Limited, Garware Polyester Ltd., Jindal Polyfilms Limited of India (Jindal), Polypacks Industries (Polypacks), Polyplex Corporation Ltd. (Polyplex), SRF Limited (SRF), and Vacmet India, Ltd. (Vacmet). On August 23, 2011, Vacmet and Polypacks timely withdrew their requests for a review. The Department published a rescission, in part, of the AD administrative review with respect to Vacmet and Polypacks on September 20, 2011. *See Polyethylene Terephthalate Film, Sheet and Strip From India: Rescission, In Part, of Antidumping Duty Administrative Review*, 76 FR 58244 (September 20, 2011). On November 25, 2011, Petitioners¹ timely withdrew their request for AD administrative reviews of Ester and Garware, and the Department published a rescission, in part, of the AD administrative review of the aforementioned companies on January 25, 2012. *See Polyethylene Terephthalate Film, Sheet and Strip From India: Rescission, In Part, of*

¹ Petitioners are DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc.

Antidumping Duty Administrative Review, 77 FR 3730 (January 25, 2012). Jindal, Polyplex, and SRF remain subject to this review. The preliminary results of the antidumping duty administrative review are currently due April 1, 2012.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the order for which the administrative review was requested. However, if the Department determines that it is not practicable to complete the preliminary results of the review within the aforementioned time limit, section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2) allow the Department to extend the 245-day period to 365 days.

Pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we determine that it is not practicable to complete the preliminary results of this review within the original time limit. The Department needs additional time to analyze the extensive sales and cost questionnaire responses that were submitted, and we must issue additional supplemental questionnaires. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department has decided to extend the time limit for the preliminary results from 245 days to 365 days. The preliminary results will now be due no later than July 30, 2012. Unless extended, the final results continue to be due 120 days after the publication of the preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: March 6, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012-5894 Filed 3-9-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-816]

Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Final Results of the 2009-2010 Administrative Review and Revocation, in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 6, 2011, the Department of Commerce (the Department) published the preliminary results of the antidumping duty administrative review for certain corrosion-resistant carbon steel flat products (CORE) from the Republic of Korea (Korea).¹ This review covers eight manufacturers and/or exporters (collectively, the respondents) of the subject merchandise: LG Chem., Ltd. (LG Chem); Haewon MSC Co. Ltd. (Haewon); Dongbu Steel Co., Ltd., (Dongbu); Hyundai HYSCO (HYSCO); Pohang Iron & Steel Co., Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) (collectively, POSCO); Dongkuk Industries Co., Ltd. (Dongkuk); LG Hausys, Ltd. (Hausys); and Union Steel Manufacturing Co., Ltd. (Union).² The period of review (POR) is August 1, 2009, through, July 31, 2010.

As a result of our analysis of the comments received, these final results differ from the *Preliminary Results*. For our final results, we find that Union and Dongbu made sales of subject merchandise at less than normal value (NV), and POSCO and HYSCO have not made sales of subject merchandise at less than NV. In addition, based on the final results for the respondents selected for individual review, we have determined a weighted-average margin for those companies that were not selected for individual review. Further, the Department has determined to revoke this antidumping duty order, in part, with respect to entries from POSCO.

DATES: Effective Date: March 12, 2012.

¹ *See Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Preliminary Results of the Seventeenth Antidumping Duty Administrative Review*, 76 FR 55004 (September 6, 2011) (*Preliminary Results*).

² As noted in the *Preliminary Results*, the Department selected HYSCO, POSCO, Dongbu, and Union as mandatory respondents in this review. *See* Memorandum from Dennis McClure, International Trade Compliance Analyst, through James Terpstra, Program Manager, to Melissa Skinner, Director, Office 3, entitled "17th Antidumping Duty Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Selection of Respondents for Individual Review," dated October 29, 2010.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett (Union and HYSCO), Cindy Robinson (Dongbu) and Victoria Cho (the POSCO Group and non-selected companies), Office 3, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4161, (202) 482-3797, and (202) 482-5075, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 6, 2011, the Department published the *Preliminary Results*. We conducted sales and cost verifications at the POSCO Group and Dongbu from October 17, 2011, through October 21, 2011, in Seoul, Korea. On November 30, 2011, and December 1, 2011, respectively, the Department released the cost verification report and the sales verification report the POSCO Group. On December 5, 2012, and December 6, 2012, respectively, the Department released cost verification report and the sales verification report for Dongbu.

On November 9, 2011, the Department extended the time limits for the final results of this review until no later than March 4, 2012.³

Comments From Interested Parties

We invited parties to comment on our *Preliminary Results*. On January 9, 2012, United States Steel Corporation, Nucor Corporation, ArcelorMittal USA Llc (collectively, petitioners), HYSCO, POSCO, Union, LG Hausys, and Dongbu (collectively, respondents), filed case briefs. On January 17, 2012, petitioners and respondents, except LG Hausys, filed rebuttal briefs. On January 25, 2012, and January 27, 2012, respectively, POSCO and HYSCO re-submitted their rebuttal briefs redacting improperly-filed new factual information. On January 27, 2012, the Department held a public hearing regarding the instant case. On January 30, 2012, U.S. Steel re-submitted their case brief with respect to HYSCO redacting improperly-filed new factual information.

Scope of the Order

This order covers cold-rolled (cold-reduced) carbon steel flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc,

aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this order are corrosion-resistant flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been “worked after rolling”)—for example, products which have been beveled or rounded at the edges. Excluded from this order are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin-free steel), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this order are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

These HTSUS item numbers are provided for convenience and customs

purposes. The written descriptions remain dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the “Issues and Decision Memorandum for the Final Results of the 17th Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea (2009–2010),” from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, (“Issues and Decision Memorandum”), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available in the Central Records Unit, main Commerce Building, room 7046. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The signed Issues and Decision Memorandum and electronic version of the Issues and Decision Memorandum are identical in content.

Changes From the Preliminary Results

As a result of the Department’s analysis of comments received, we have made certain changes to the calculations of company-specific weight-average margins.

For Union, we changed the date of sale for certain U.S. sales as noted in Comment 7 of our Issues and Decision Memorandum. In addition, we revised the payment date and credit expense for certain sales with missing payment dates as noted at Comment 8 of our Issues and Decision Memorandum.⁴ As noted at Comment 9 of our Issues and Decision Memorandum, we have recalculated Dongbu’s dumping margin for certain billing adjustments.⁵ For

⁴ See also “Calculation Memorandum for Union Steel,” from Dennis McClure to the File, dated March 5, 2011.

⁵ See “Final Results in the 17th Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea: Calculation Memorandum for Dongbu Steel,” from Cindy Robinson to the File, dated March 5, 2012.

³ See *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review*, 76 FR 69703 (November 9, 2011).

POSCO, we re-allocated certain general and administrative, and interest expenses, for their cost of production.⁶

Notice of Revocation of the Order, In Part

On August 31, 2010, the POSCO Group requested revocation of the order on CORE from Korea as it pertains to its sales.⁷

Under section 751(d)(1) of the Act, the Department “may revoke, in whole or in part” an antidumping duty order upon completion of a review. Although Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is set forth at 19 CFR 351.222. Under 19 CFR 351.222(b)(2), the Department may revoke an antidumping duty order in part if it concludes that (A) an exporter or producer has sold the merchandise at not less than normal value for a period of at least three consecutive years, (B) the exporter or producer has agreed in writing to its immediate reinstatement in the order if the Secretary concludes that the exporter or producer, subsequent to the revocation, sold the subject merchandise at less than normal value, and (C) the continued application of the antidumping duty order is no longer necessary to offset dumping.

A request for revocation of an order in part for a company previously found dumping must address three elements. The company requesting the revocation must do so in writing and submit the following statements with the request: (1) The company’s certification that it sold the subject merchandise at not less than normal value during the current review period and that, in the future, it will not sell at less than normal value; (2) the company’s certification that, during each of the consecutive years forming the basis of the request, it sold the subject merchandise to the United States in commercial quantities; (3) the agreement to reinstatement in the order if the Department concludes that, subsequent to revocation, the company has sold the subject merchandise at less than normal value. See 19 CFR 351.222(e)(1). We find that the request dated August 31, 2010, from the POSCO Group meets all of the criteria under 19 CFR 351.222(e)(1).

⁶ See memo from Victoria Cho to the File, entitled “Final Results in the 17th Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea: Calculation Memorandum for Pohang Iron & Steel Company, Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) (collectively, the POSCO Group),” dated March 5, 2012 (POSCO Sales Calc Memo).

⁷ See Letter to the Department from POSCO, dated August 31, 2010.

With regard to the criteria of 19 CFR 351.222(b)(2), our final margin calculations show that the POSCO Group sold CORE at not less than normal value during the current review period. See “Final Results of Reviews” section below. In addition, it sold CORE at not less than normal value in the two preceding years.⁸ Based on our examination of the sales data submitted by the POSCO Group, we find that the POSCO Group sold the subject merchandise in the United States in commercial quantities in each of the consecutive years cited by the POSCO Group to support its request for revocation.⁹ Thus, we find that the POSCO Group had zero or *de minimis* dumping margins for the last three consecutive years and sold in commercial quantities all three years. Also, we find that application of the antidumping duty order to the POSCO Group is no longer warranted for the following reasons: (1) The company had zero or *de minimis* margins for a period of at least three consecutive years; (2) the company has agreed to immediate reinstatement of the order if we find that it has resumed making sales at less than fair value; (3) the continued application of the order is not otherwise necessary to offset dumping.

Therefore, we find that the POSCO Group qualifies for revocation from the order on CORE from Korea pursuant to 19 CFR 351.222(b)(2) and, thus, we will revoke the order with respect to CORE from Korea produced and exported to the United States by the POSCO Group. The revocation of the order in part with respect to merchandise produced and exported by the POSCO Group, is effective August 1, 2010.

Final Results of Review:

We determine that the following weighted-average margins exist:

Manufacturer/Exporter	Percent margin
HYSKO	0.25 (<i>de minimis</i>)
The POSCO Group	0.04 (<i>de minimis</i>)
Union	3.66
Dongbu	4.80

⁸ See *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Fifteenth Administrative Review*, 75 FR 13490 (March 22, 2010) (CORE 15 Final Results); see also *Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Final Results of the Sixteenth Administrative Review*, 76 FR 15291 (March 21, 2011) (CORE 16 Final Results).

⁹ See POSCO Sales Calc Memo.

¹⁰ This rate is based on the margins calculated for those companies that were selected for individual review, excluding *de minimis* margins or margins based entirely on adverse facts available.

Manufacturer/Exporter	Percent margin
Review-Specific Average Rate Applicable to the Following Companies: ¹⁰ LG Chem, Haewon, Hausys and Dongkuk.	4.23

Assessment

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). The Department calculated importer-specific duty assessment rates on the basis of the ratio of the total antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its “automatic assessment” regulation on May 6, 2003 (68 FR 23954). This clarification applies to POR entries of subject merchandise produced by companies examined in this review (*i.e.*, companies for which a dumping margin was calculated) where the companies did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of CORE from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a) of the Tariff Act of 1930, as amended (the Act): (1) For companies covered by this review, the cash deposit rate will be the rate listed above; (2) for previously reviewed or investigated companies other than those covered by this review, the cash deposit rate will be the

company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the producer is a firm covered in this review, a prior review, or the investigation, the cash deposit rate will be 17.70 percent, the all-others rate established in the less-than-fair-value investigation. These deposit requirements shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

Administrative Protective Order

This notice also is the only 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. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 5, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

List of Comments in the Accompanying Issues and Decision Memorandum:

A. General Issues

Comment 1: *Treatment of "Negative Dumping Margins" (Zeroing).*

Comment 2: *Collapsing Union and POSCO.*

B. Company-Specific Issues

Hyundai HYSCO

Comment 3: *Treatment of Non-temper Rolled Merchandise.*

Comment 4: *Date of Sale for U.S. Sales.*

The POSCO Group

Comment 5: *Revocation from the Order.*

Comment 6: *Date of Sale for U.S. Sales.*

Union

Comment 7: *Date of Sale for U.S. Sales.*

Comment 8: *Missing Payment Dates.*

Dongbu

Comment 9: *Treatment of Home Market Billing Adjustments.*

[FR Doc. 2012-5937 Filed 3-9-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Max Planck Florida Institute, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscope

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 11-061. *Applicant:* Max Planck Florida Institute, Jupiter, FL 33458. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 77 FR 5767, February 6, 2012.

Docket Number: 11-070. *Applicant:* University of Utah, Salt Lake City, UT 84112. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 77 FR 5767, February 6, 2012.

Docket Number: 11-071. *Applicant:* Texas Tech University, Lubbock, TX 79409-3103. *Instrument:* Electron Microscope. *Manufacturer:* Hitachi High-Technologies Corporation, Japan. *Intended Use:* See notice at 77 FR 5767, February 6, 2012.

Docket Number: 11-073. *Applicant:* Ball State University, Muncie, IN 47306. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 77 FR 5767, February 6, 2012.

Docket Number: 11-075. *Applicant:* Cleveland State University, Cleveland, OH 44115-2214. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 77 FR 5767, February 6, 2012.

Docket Number: 12-003. *Applicant:* University of California, Irvine, Irvine, CA 92697. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 77 FR 5767, February 6, 2012.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States at the time the instrument was ordered. *Reasons:* Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: March 5, 2012.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Import Administration.

[FR Doc. 2012-5934 Filed 3-9-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, Davis, et al.; Notice of Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Ave. NW., Washington, DC.

Docket Number: 11-072. *Applicant:* University of California, Davis, NEAT ORU, One Shields Avenue Davis, CA 95616. *Instrument:* Alexsys 1000 Calorimeter. *Manufacturer:* Setaram Instrumentation, France. *Intended Use:* See notice at 77 FR 5768, February 6, 2012. *Comments:* None received.

Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as

this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* This instrument is unique in that it combines the sensitivity, long life, and reproducibility of thermopile sensors with a large internal working volume capable of containing the molten oxide solvents used for calorimetry and operating in the range 700–1000 degrees Celsius where such solvents are molten. Conventional differential scanning calorimeters, made by other companies, are completely different in design and do not feature the large sample volume surrounded by a sensitive detector that is essential for solution calorimetry.

Docket Number: 12–001. *Applicant:* The Regents of the University of California, Lawrence Berkeley National Laboratory, 1 Cyclotron Road M/S 71R0259, Berkeley, CA 94720. *Instrument:* Berkeley Lab Laser Accelerator “BELLA” 1.3 petawatt laser system. *Manufacturer:* Thales Optronique S.A., France. *Intended Use:* See notice at 77 FR 5768, February 6, 2012. *Comments:* None received.

Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* Requirements of this system include that it is characterized by a short pulse, high intensity, Ti:sapphire laser able to demonstrate a 10 GeV laser-plasma accelerator module with a pulse energy of 40 Joules on target and a pulse duration of <40 femtoseconds at optimum compression with a repetition rate of 1HZ ± 5%.

Dated: March 5, 2012.

Gregory W. Campbell,
*Director, Subsidies Enforcement Office,
Import Administration.*

[FR Doc. 2012–5917 Filed 3–9–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Gear-Marking Requirement for Atlantic Large Whale Take Reduction Plan

AGENCY: National Oceanic and Atmospheric 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 11, 2012.

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 Kate Swails, (978) 282–8481 or Kate.Swails@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

The purpose of this collection of information is to enable National Marine Fisheries Service (NMFS) to reduce the serious injury and mortality of large whales, especially right whales, due to incidental entanglement in the United States (U.S.) commercial fishing gear. Any persons setting trap/pot of gillnet gear in some areas of the Atlantic Ocean are required to paint or otherwise mark their gear with one or two color codes, designating the type of gear and area where the gear is set. The surface buoys of this gear need to be marked to identify the vessel or fishery. These marking requirements apply in the various management areas under the Atlantic Large Whale Take Reduction Plan (ALWTRP), developed under the authority of the Marine Mammal Protection Act.

The goals of this collection of information are to obtain more information on where large whales are being entangled and on what type of gear is responsible for the entanglement. This information will allow NMFS to focus further risk reduction measures in certain areas or fisheries, where needed, to meet the goals of the ALWTRP. Also, fisheries observers can provide information to managers on whether regulations need to be modified to address compliance or safety issues.

II. Method of Collection

Information collected is in the form of gear marking.

III. Data

OMB Control Number: 0648–0364.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 4,270.

Estimated Time per Response: Gear marking per vessel, 2 hours and 25 minutes; trip notification to observers, 2 minutes.

Estimated Total Annual Burden Hours: 10,235.

Estimated Total Annual Cost to Public: \$6,755.

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 6, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–5800 Filed 3–9–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–BB69

New England Fishery Management Council (Council); Notice of Intent (NOI) To Prepare an Environmental Impact Statement (EIS); Reopening of Comment Period

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

ACTION: Reopening of comment period.

SUMMARY: This action reopens the comment period of a notice published on December 21, 2011. The original comment period on the notice closed at 5 p.m., E.S.T., March 1, 2012; however, the Council's Executive Committee voted to reopen the comment period an additional 60 days. This notice reopens the comment period to 5 p.m., E.S.T., April 30, 2012.

DATES: Written comments must be received on or before 5 p.m., E.S.T., on April 30, 2012.

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Management Specialist, 978-281-9233.

SUPPLEMENTARY INFORMATION: NMFS published a NOI to prepare an EIS and announced public scoping meetings for the Council's Amendment 18 to the Northeast Multispecies Fishery Management Plan on December 21, 2011 (76 FR 79153). The comment period for the subject document closed on March 1, 2012. The Council's Executive Committee voted to reopen the comment period an additional 60 days. The closing date for comments has been extended to 5 p.m., E.S.T., April 30, 2012.

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

Dated: March 6, 2012.

Emily H. Menashes,

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

[FR Doc. 2012-5919 Filed 3-9-12; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XB066

Marine Recreational Fisheries of the United States; Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

ACTION: Notice of Marine Recreational Fisheries Statistics Survey (MRFSS)/ Marine Recreational Information Program (MRIP) Calibration Workshop.

SUMMARY: SEDAR and NOAA Fisheries Service will convene a workshop to consider calibration methods for the MRFSS and MRIP estimates of marine recreational fisheries harvest.

DATES: The workshop will be held March 27-29, 2012. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The MRFSS/MRIP Calibration Workshop will be held at the Doubletree by Hilton Raleigh Brownstone—University, 1707 Hillsborough Street, Raleigh, NC 27605; telephone: (800) 331-7919 or (919) 828-0811.

FOR FURTHER INFORMATION CONTACT: John Carmichael, Science and Statistics Program Manager, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571-4366.

SUPPLEMENTARY INFORMATION: Changes in estimated recreational catch resulting from the revised estimation process developed through MRIP may have consequences to assessment and management of many fish stocks. Managers and scientists need to consider how revised marine recreational catch values will affect stock assessments and management actions, and how to best incorporate revised values into assessment and management systems. SEDAR and NOAA Fisheries are working cooperatively to address these recreational catch issues through the planned workshop. Workshop objectives are to review a range of studies that may provide insight for potential MRIP-MRFSS calibrations, develop possible calibration methods, and develop guidance for incorporating revised estimates into stock assessments.

Tuesday, March 27, 2012, 1 p.m.–6 p.m.: Review of calibration methodologies applied in other monitoring programs and MRFSS/MRIP calibration studies.

Wednesday, March 28, 2012: 8:30 a.m.–6 p.m.: Overview of catch estimates, impacts of re-estimates on stock assessments, discussion of calibration methods.

Thursday, March 29, 2012, 8:30 a.m.–12 p.m.: Discussion of calibration procedures 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 the South Atlantic Council office (4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; (843) 571-4366) at least 5 business days prior to the workshop.

Dated: March 6, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012-5810 Filed 3-9-12; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA999

Taking and Importing of Marine Mammals

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

ACTION: Notice; affirmative finding renewal.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) has granted an affirmative finding 2-year renewal to the Government of Ecuador under the Marine Mammal Protection Act (MMPA). This affirmative finding renewal will allow yellowfin tuna harvested in the eastern tropical Pacific Ocean (ETP) in compliance with the International Dolphin Conservation Program (IDCP) by Ecuadorian-flag purse seine vessels or purse seine vessels operating under Ecuadorian jurisdiction to be imported into the United States. The affirmative finding renewal was based on review of documentary evidence submitted by the Government of Ecuador and obtained from the Inter-American Tropical Tuna Commission (IATTC).

DATES: The affirmative finding renewal is effective from April 1, 2011, through March 31, 2013 (retroactive).

FOR FURTHER INFORMATION CONTACT: Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213; phone 562-980-4000; fax 562-980-4018.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State.

The affirmative finding process requires that the harvesting nation is meeting its obligations under the IDCP and obligations of membership in the IATTC. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. NMFS

reviews the affirmative finding and determine whether the harvesting nation continues to meet the requirements. A nation may provide information related to compliance with IDCP and IATTC measures directly to NMFS on an annual basis or may authorize the IATTC to release the information to NMFS to annually renew an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations, thereby diminishing the effectiveness of the IDCP.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f), the Assistant Administrator considered documentary evidence submitted by the Government of Ecuador or obtained from the IATTC and has determined that Ecuador has met the requirements under the MMPA to receive a renewal of their affirmative finding.

After consultation with the Department of State, the Assistant Administrator issued Ecuador's affirmative finding renewal, allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Ecuadorian-flag purse seine vessels or purse seine vessels operating under Ecuadorian jurisdiction through March 31, 2013.

Dated: March 7, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012-5920 Filed 3-9-12; 8:45 am]

BILLING CODE 3510-22-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Intent to Renew; Correction.

SUMMARY: This document corrects a reference in the text of the 30-day Notice of Intent to Renew an agency collection of information, Regulations Governing Bankruptcies of Commodity Brokers (OMB Control No. 3038-0021). The notice that is being corrected was

published in the **Federal Register** of March 5, 2012, 77 FR 13101.

FOR FURTHER INFORMATION CONTACT: Martin B. White, Office of the General Counsel, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5129; Fax: (202) 418-5567; email: mwhite@cftc.gov.

Correction

In the Notice of Intent to Renew, beginning on page 13101 in the issue of March 5, 2012, make the following correction. On page 13101 in the middle column in the third paragraph under **SUPPLEMENTARY INFORMATION** replace the sentence "The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 29, 2012 (73 FR 81916)." with the sentence "The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 29, 2011 (76 FR 81916)."

Dated: March 6, 2012.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2012-5807 Filed 3-9-12; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974 System of Records Notice

AGENCY: Commodity Futures Trading Commission (CFTC).

ACTION: Notice of the retirement of one Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Commodity Futures Trading Commission is providing notice that it is retiring one system of records notice, CFTC-7, Formal Employment Discrimination Complaint and Reasonable Accommodation Files, from its inventory of record systems because the relevant records are covered by existing government-wide system notices.

DATES: Effective upon publication.

FOR FURTHER INFORMATION CONTACT: Kathy Harman-Stokes, Chief Privacy Officer, kharman-stokes@cftc.gov, 202-418-6629, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, and as part of the Commodity

Futures Trading Commission effort to review and update system of records notices, the Commission is retiring one system of records notice, CFTC-7, Formal Employment Discrimination Complaint and Reasonable Accommodation Files. The Commission is retiring the system notice because the records are covered by existing government-wide notices, EEOC/GOVT-1, Equal Employment Opportunity in the Federal Government Complaint and Appeal Records, and OPM/GOVT-10, Employee Medical File System Records.

The Commission will continue to collect and maintain records regarding discrimination and sexual harassment claims, complaints and related material and will rely upon and follow the existing Federal government-wide system of records notice titled EEOC/GOVT-1, Equal Employment Opportunity in the Federal Government Complaint and Appeal Records. The Commission also will continue to collect and maintain records regarding requests for work-related accommodations, and will rely upon and follow existing government-wide system of records notice entitled OPM/GOV-10, Employee Medical File System Records (71 FR 35360 June 19, 2006). Eliminating CFTC-7 will not have an adverse impact on individuals and will promote the overall streamlining and management of CFTC Privacy Act record systems.

Accordingly, this notice formally terminates system of records notice CFTC-7 and removes it from the inventory of the Commodity Futures Trading Commission.

Issued in Washington, DC, on March 6, 2012, by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2012-5875 Filed 3-9-12; 8:45 am]

BILLING CODE P

COUNCIL ON ENVIRONMENTAL QUALITY

Revision to Guidance, "Federal Greenhouse Gas Accounting and Reporting"

AGENCY: Council On Environmental Quality.

ACTION: Notice of Availability, Draft Revised Guidance, "Federal Greenhouse Gas Accounting and Reporting".

SUMMARY: On October 5, 2009, President Obama signed Executive Order (EO) 13514, "Federal Leadership in Environmental, Energy, and Economic Performance" (74 FR 52117), in order to establish an integrated strategy toward

sustainability in the Federal government and to make reduction of greenhouse gas (GHG) emissions a priority for Federal agencies. Among other provisions, EO 13514 requires agencies to measure, report, and reduce their GHG emissions.

On October 6, 2010, The White House Council on Environmental Quality (CEQ) released Guidance on Federal Greenhouse Gas Accounting and Reporting that establishes Government-wide requirements for measuring and reporting greenhouse gas (GHG) emissions associated with Federal agency operations.

On July 18, 2011, The Department of Energy's (DOE's) Federal Energy Management Program (FEMP), Department of Defense (DoD), and Environmental Protection Agency (EPA) provided recommendations for revision to the Federal GHG reporting and accounting procedures. CEQ provides this draft revision of the guidance for public review and comment to ensure accessibility of Federal accounting and reporting requirements and to enhance the quality of public involvement in governmental decisions relating to the environment.

DATES: Comments should be submitted on or before April 11, 2012. Comments received after that date may not be considered.

ADDRESSES: The Draft Revised Guidance, "Federal Greenhouse Gas Accounting and Reporting" document is available at <http://www.whitehouse.gov/administration/eop/ceq/sustainability/fed-ghg>. Comments on the Draft Revised Guidance should be submitted electronically to GHG.guidance@ceq.eop.gov, or in writing to The Council on Environmental Quality, Attn: Keith Dennis, 722 Jackson Place NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Keith Dennis, Senior Program Manager at (202) 456-5226.

SUPPLEMENTARY INFORMATION: The Chair of the Council on Environmental Quality is required, under Section 5(a) of EO 13514, to issue guidance for greenhouse gas accounting and reporting.

Federal agencies are required, under Section 2(c) of EO 13514, to establish and report to the CEQ Chair and Office of Management and Budget (OMB) Director a comprehensive inventory of absolute GHG emissions, including scope 1, scope 2, and specified scope 3 emissions annually for each fiscal year, starting in 2010.

Section 9(c) of EO 13514 directs DOE's FEMP, in coordination with EPA,

DoD, General Services Administration (GSA), Department of the Interior (DOI), Department of Commerce (DOC), and other agencies, as appropriate, to develop and provide recommendations for revised Federal GHG reporting and accounting procedures. On July 18, 2011, the agencies submitted final recommendations for revisions to Federal GHG reporting and accounting procedures to the CEQ Chair.

The Draft Revised Guidance, "Federal Greenhouse Gas Accounting and Reporting" will, when finalized, establish updated government-wide requirements for Federal agencies in calculating and reporting GHG emissions associated with agency operations. CEQ is seeking public comment on this draft guidance for 30 days. The draft guidance document is now available at the Council on Environmental Quality Web site at <http://www.whitehouse.gov/administration/eop/ceq/sustainability/fed-ghg>.

Public comments are requested on or before April 11, 2012. Comments received after that date may not be considered.

CEQ recognizes that this guidance is vital to the Federal government's ability to achieve a clean energy economy that will increase our nation's prosperity, promote energy security, protect the interests of taxpayers, and safeguard the health of our environment. CEQ further recognizes that in order to lead by example, the Federal government must be transparent in its processes for accounting and reporting of GHG emissions.

The Federal government seeks to continually improve both the quality of data and methods necessary for calculating GHG emissions. In accordance with EO 13514, additional requirements, methodologies and procedures will be included in future revisions to this document and supporting documents to improve the Federal Government's overall ability to accurately account for and report GHG emissions.

February 27, 2012.

Nancy Sutley,

Chair, Council on Environmental Quality.

[FR Doc. 2012-5931 Filed 3-9-12; 8:45 am]

BILLING CODE 3225-F2-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

The following patent is available for licensing: Patent application 12/793,503: AUTO ADJUSTING RANGING DEVICE (a ranging system for use with a projectile launching device).

ADDRESSES: Written objections are to be filed with Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522-5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522-5001, telephone 812-854-4100.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: March 2, 2012.

L.M. Senay,

Lieutenant, Office of the Judge Advocate, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2012-5868 Filed 3-9-12; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; MHM Technologies, LLC

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to MHM Technologies, LLC a revocable, nonassignable, exclusive license to practice in the United States, the Government-owned invention described in U.S. Patent application 12/793,503 (Navy Case 100,000): Filed June 3, 2010, entitled "Auto Adjusting Ranging Device".

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than March 27, 2012.

ADDRESSES: Written objections are to be filed with Naval Surface Warfare Center,

Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522-5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522-5001, telephone 812-854-4100.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: March 2, 2012.

L.M. Senay,

Lieutenant, Office of the Judge Advocate, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2012-5869 Filed 3-9-12; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF ENERGY

[Docket No. EESEP0216]

State Energy Program and Energy Efficiency and Conservation Block Grant (EECBG) Program; Request for Information

AGENCY: Office of Energy Efficiency and Renewable Energy and Office of the General Counsel, Department of Energy.

ACTION: Request for Information (RFI); request for comment.

SUMMARY: The U.S. Department of Energy (DOE or the Department) is interested in continuing to promote the use of financing mechanisms by grantees of the State Energy Program (SEP) and Energy Efficiency and Conservation Block Grant (EECBG) program, in support of energy efficiency and renewable energy activities. To facilitate this process and to allow interested parties to provide suggestions, comments, and information, DOE is publishing this request for information. This request identifies several areas on which DOE is particularly interested in receiving information; however, any input and suggestions considered relevant to the topic are welcome.

DATES: Written comments and information are requested by April 11, 2012.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EESEP0216, by any of the following methods:

- **Email:** to

christine.platt@ee.doe.gov. Include EESEP0216 in the subject line of the message.

- **Mail:** Christine Platt Patrick, U.S. Department of Energy, Mailstop EE-2K,

1000 Independence Avenue SW., Washington, DC 20585-0121, Phone: (202) 287-1546. Please submit one signed paper original.

- **Hand Delivery/Courier:** Christine Platt Patrick, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585-0121, Phone: (202) 287-1546. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number for this request.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Christine Platt Patrick, Policy Advisor, U.S. Department of Energy, Weatherization and Intergovernmental Program, Mailstop EE-2K, 1000 Independence Avenue SW., Washington, DC 20585-0121, Telephone: (202) 287-1546, Email: christine.platt@ee.doe.gov. For legal issues contact Chris Calamita, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, Mailstop GC-71, 1000 Independence Ave. SW., Washington, DC 20585, Telephone: (202) 586-1777, Email: christopher.calamita@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Authority and Background

The Office of Weatherization and Intergovernmental Programs (OWIP) is seeking to promote the use of “evergreen funds” among its grantees. “Evergreen funds” describes generally a use of funds that would allow a grantee to rely on an initial amount of funding to periodically provide support to eligible projects in an on-going basis, for example through a revolving loan fund (RLF) program or a loan loss reserve (LLR) program.

SEP is authorized under the Energy Policy and Conservation Act, as amended (42 U.S.C. 6321 et seq.) Evergreen funds such as RLFs and LLRs are eligible uses of funds under SEP to the extent that the activities supported by the loans are eligible activities under the program. The implementing regulations for SEP expressly identify RLFs as an eligible use of SEP funds (10 CFR 420.18(d)).

Title V, Subtitle E of the Energy Independence and Security Act, as amended (42 U.S.C. 17151-17158) authorizes the Department to administer the EECBG program. Evergreen funds such as revolving loan funds (RLF) and loan loss reserves (LLR) are eligible uses of funds under the EECBG Program to

the extent that the activities supported by the loans are eligible activities under the program. EECBG grantees must comply with statutory law regarding RLFs. 42 U.S.C. 17155(b)(3)(B) mandates a limitation on the use of funds for the establishment (i.e., the capitalization) of RLFs by formula-eligible units of local governments and formula-eligible tribes equal to the greater of 20 percent of the grantee’s allocation or \$250,000. Funds used for administrative costs to set up a RLF are not subject to this restriction, but are subject to the general limitations established by statute on administrative costs.

For both SEP and the EECBG Program, grantee arrangements for leveraging additional public and private sector funds, including rebates, grants, and other incentives, must be arranged to ensure that Federal funds go to support eligible activities listed in 42 U.S.C. 6322(d)(5)(A) for SEP and 42 U.S.C. 17154(3)-(13) for EECBG. The leveraging of funds may be accomplished through mechanisms such as partnerships with third party lenders, co-lending, third party administration of loans, and loan loss reserves.

The Department would like to continue to promote the use of evergreen funds by grantees of the SEP and EECBG programs. The Department is issuing this initial request for information to allow interested parties an opportunity to provide information that will assist DOE in continuing to promote these mechanisms.

Public Participation

A. Submission of Information

DOE will accept comments in response to this RFI under the timeline provided in the **DATES** section above. Comments submitted to the Department through the eRulemaking Portal or by email should be provided in WordPerfect, Microsoft Word, PDF, or text file format. Those responding should avoid the use of special characters or any form of encryption, and wherever possible, comments should include the electronic signature of the author. Comments submitted to the Department by mail or hand delivery/courier should include one signed original paper copy. No telefacsimiles will be accepted.

Comments submitted in response to this notice will become a matter of public record and will be made publicly available.

The Department encourages interested parties to contact DOE if they would like to meet in person to discuss their comments. The Department’s policy

governing ex parte communications is posted on the Office of the General Counsel's Web site at: <http://www.gc.energy.gov/1309.htm>.

B. Issues on Which DOE Seeks Information

For this RFI, DOE requests comments, information, and recommendations on the following concepts for the purpose of the continued use of evergreen funds by SEP and EECBG grantees. As set forth below, we seek comment on DOE's requirements for (1) Types of Evergreen Funds; (2) Ending an Evergreen Fund After The End of the Grant Period; (3) Monitoring; and (4) Reporting. The sequence of these questions does not reflect any specific DOE preference.

(1) Types of Evergreen Funds

a. Under existing Department rules, evergreen funds such as RLFs and LLRs are eligible uses of funds under the SEP and EECBG Programs to the extent that the activities supported by the loans are eligible activities under the program. DOE would like to continue to promote the use of these types of evergreen funds. Which types of evergreen funds are being used by grantees and subgrantees in both programs? What are the costs and benefits of using these types of evergreen funds?

b. Currently, the SEP and EECBG regulations allow a grantee to elect to use a third party to administer evergreen funds. What recourse should be available for a grantee if a third party fails to follow through on properly administering the financing mechanism? Should that recourse be available if the third party fails just once to properly administer a financing mechanism? Should DOE disallow a third party with a history of poor performance from acting as a third party representative?

(2) Ending an Evergreen Fund After the End of the Grant Period

Currently, the SEP and EECBG programs allow grantees to end or reduce funding for a RLF program, LLR, or other eligible financing program at any time as long as any remaining funds are used by the grantee for an eligible purpose after submitting and finalizing an amendment through the DOE Project Officer. Alternatively, the funds may be returned to DOE.

(3) Periodic Reporting

a. DOE is considering periodic reporting by grantees that operate evergreen funds that continue beyond the grant period specified in the Recovery Act grant awards. This reporting would be separate from

reporting requirements for annual appropriated funds in both programs. DOE seeks comment on whether DOE periodic reporting according to specified conditions and criteria.

b. With regard to such periodic reporting, the Department seeks comment on the following conditions and criteria:

Information Flow

(i) Should reporting occur more frequently than on an annual basis?

(ii) DOE requests comment on the types of information that grantees can provide on evergreen funds, for example how many loans were issued in the period, what types of loans, the dollar amount of loans, what projects were completed, what loans were paid back.

(iii) DOE requests comment on when information on a loan that is defaulted upon can be provided to DOE and what other information grantees can provide in this situation.

Cost

(i) DOE requests comments regarding the cost burden placed on grantees for the above described reporting. Please provide a detailed description of the anticipated costs and supporting information.

(4) Monitoring

a. DOE is considering periodic monitoring that would be applicable to all evergreen funds that continue beyond the grant period specified in the Recovery Act grant awards. This requirement would be separate from monitoring requirements for annual appropriated funds in both programs. DOE seeks comment on whether grantees should conduct periodic monitoring according to specified conditions and criteria.

b. With regard to such periodic monitoring, the Department seeks comment on the following conditions and criteria:

Information Flow

(i) Should monitoring occur on more than an annual basis?

(ii) DOE requests comment on the types of information that grantees can provide on evergreen funds, for example how many loans were issued in the period, what types of loans, the dollar amount of loans, what projects were completed, what loans were paid back.

(iii) DOE requests comment on when information on a loan that is defaulted upon can be provided to DOE and what other information grantees can provide in this situation.

(iv) Should monitoring be performed by an independent third party, in addition to DOE monitoring?

Cost

(i) DOE requests comments regarding the anticipated cost burden placed on grantees for the above described monitoring. Please provide a detailed description of the costs and supporting information.

Docket: For direct access to the docket to read background documents, or comments received, visit the Federal eRulemaking Portal at <http://www.regulations.gov>.

Procedural Requirements: Today's regulatory action has been determined not to be a significant regulatory action under section 3(f)(1) of Executive Order 12866, "Regulatory Planning and Review", 58 FR 51735 (Oct. 4, 1993).

Statutory Authority: 42 U.S.C. 6321 *et seq.* and 42 U.S.C. 17154(14).

Issued in Washington, DC, on March 6, 2012.

AnnaMaria Garcia,

Acting Program Manager, Weatherization and Intergovernmental Program Energy Efficiency and Renewable Energy.

[FR Doc. 2012-5877 Filed 3-9-12; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12-37-000.

Applicants: Atlantic Power (Coastal Rivers) Corporation.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Atlantic Power (Coastal Rivers) Corporation.

Filed Date: 3/6/12.

Accession Number: 20120306-5146.

Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: EG12-38-000.

Applicants: Atlantic Power (Williams Lake) Ltd.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Atlantic Power (Williams Lake) Ltd.

Filed Date: 3/6/12.

Accession Number: 20120306-5147.

Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: EG12-39-000.

Applicants: Atlantic Power Preferred Equity, Ltd.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Atlantic Power Preferred Equity, Ltd.

Filed Date: 3/6/12.

Accession Number: 20120306–5164.
Comments Due: 5 p.m. ET 3/27/12.
Docket Numbers: EG12–40–000.
Applicants: Atlantic Power Limited Partnership.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Atlantic Power Limited Partnership.

Filed Date: 3/6/12.

Accession Number: 20120306–5169.
Comments Due: 5 p.m. ET 3/27/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2074–001; ER10–2097–003.

Applicants: Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company.

Description: Supplement to Change-in-Status Filing of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company.

Filed Date: 1/20/12.

Accession Number: 20120120–5080.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–669–004.

Applicants: Trans Bay Cable LLC.

Description: Transmission Owner Tariff—Compliance Filing to be effective 1/1/2012.

Filed Date: 3/6/12

Accession Number: 20120306–5128.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–839–000.

Applicants: Entergy Rhode Island State Energy, L.P.

Description: Supplemental information of Entergy Rhode Island State Energy, L.P.

Filed Date: 2/29/12.

Accession Number: 20120229–5176.
Comments Due: 5 p.m. ET 3/21/12.

Docket Numbers: ER12–1205–000.

Applicants: Pacific Gas and Electric Company.

Description: Notice of Termination of the Guernsey E&P Agreement to be effective 3/1/2012.

Filed Date: 3/6/12.

Accession Number: 20120306–5001.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1206–000.

Applicants: PJM Interconnection, L.L.C.

Description: Revisions to the PJM OA Schedule 12 to remove Grunwald Fund, LP as a PJM Member to be effective 12/22/2011.

Filed Date: 3/6/12.

Accession Number: 20120306–5050.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1207–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3236; Queue No. W4–064 to be effective 2/9/2012.

Filed Date: 3/6/12.

Accession Number: 20120306–5069.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1208–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3251; Queue Nos. W3–025 & X1–077 to be effective 2/14/2012.

Filed Date: 3/6/12.

Accession Number: 20120306–5071.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1209–000.

Applicants: New York Independent System Operator, Inc.

Description: NYISO Amendment to Correct Tariff Base FID 165 to be effective 6/23/2011.

Filed Date: 3/6/12.

Accession Number: 20120306–5072.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1210–000.

Applicants: New York Independent System Operator, Inc.

Description: NYISO Amendment to Correct Tariff Base from FID 169 to be effective 6/30/2011.

Filed Date: 3/6/12.

Accession Number: 20120306–5073.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1211–000.

Applicants: New York Independent System Operator, Inc.

Description: NYISO Amendment to Correct Tariff Base From FID 201 to be effective 12/4/2011.

Filed Date: 3/6/12.

Accession Number: 20120306–5117.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1212–000.

Applicants: PacifiCorp.

Description: Cancellation of Alpentel Blue Mountain E&P Agreement to be effective 5/6/2012.

Filed Date: 3/6/12

Accession Number: 20120306–5120.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1213–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3237; Queue No. W4–093 to be effective 2/9/2012.

Filed Date: 3/6/12.

Accession Number: 20120306–5148.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1214–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3254; Queue No. W4–065 to be effective 2/14/2012.

Filed Date: 3/6/12.

Accession Number: 20120306–5154.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1215–000.

Applicants: New York Independent System Operator, Inc.

Description: NYISO 205 Filing re: DAMAP and Request for Waiver to be effective 3/7/2012.

Filed Date: 3/6/12.

Accession Number: 20120306–5155.
Comments Due: 5 p.m. ET 3/27/12.

Docket Numbers: ER12–1216–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3255; Queue No. W4–073 to be effective 2/14/2012.

Filed Date: 3/6/12.

Accession Number: 20120306–5165.
Comments Due: 5 p.m. ET 3/27/12.

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 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 06, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5900 Filed 3–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12–36–000.

Applicants: Solano 3 Wind LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Solano 3 Wind LLC.

Filed Date: 3/5/12.

Accession Number: 20120305–5035.

Comments Due: 5 p.m. ET 3/26/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2331–001;

ER10–2343–001; ER10–2320–001;

ER10–2322–002; ER10–2326–001;

ER10–2327–002; ER10–2330–001.

Applicants: J.P. Morgan Ventures Energy Corporation, J.P. Morgan Commodities Canada Corporation, BE Allegheny LLC, BE Ironwood LLC, Cedar Brakes I, L.L.C., Cedar Brakes II, L.L.C., Utility Contract Funding, L.L.C.

Description: JPMorgan Sellers Supplement to Updated Market Power Analysis for the Northeast Region.

Filed Date: 3/5/12.

Accession Number: 20120305–5218.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER10–3082–002.

Applicants: Motiva Enterprises LLC.

Description: Notice of Change in Status of Motiva Enterprises LLC.

Filed Date: 3/5/12.

Accession Number: 20120305–5190.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER12–615–000.

Applicants: Southwestern Public Service Company.

Description: 2012–3–5_SPS–RBEC–GSEC–Refund Report_651 to be effective N/A.

Filed Date: 3/5/12.

Accession Number: 20120305–5078.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER12–1198–000.

Applicants: Solano 3 Wind LLC.

Description: Application of Solano 3 Wind LLC for Order Accepting Market-Based Rate Tariff to be effective 3/5/2012.

Filed Date: 3/5/12.

Accession Number: 20120305–5000.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER12–1199–000.

Applicants: Midwest Independent Transmission System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: METC–Beebe (2410) Cancellation to be effective 12/22/2011.

Filed Date: 3/5/12.

Accession Number: 20120305–5044.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER12–1200–000.

Applicants: PJM Interconnection, L.L.C.

Description: Queue Position V4–048/V4–049; Original Service Agreement No. 3241 to be effective 2/2/2012.

Filed Date: 3/5/12.

Accession Number: 20120305–5076.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER12–1201–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3234; Queue No. W4–060 to be effective 2/2/2012.

Filed Date: 3/5/12.

Accession Number: 20120305–5079.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER12–1202–000.

Applicants: Liberty Hill Power LLC.

Description: Liberty Hill Power LLC, FERC Electric Tariff to be effective 4/29/2012.

Filed Date: 3/5/12.

Accession Number: 20120305–5142.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER12–1203–000.

Applicants: PJM Interconnection, L.L.C.

Description: Queue Position W1–062; Original Service Agreement No. 3244 to be effective 2/3/2012.

Filed Date: 3/5/12.

Accession Number: 20120305–5177.

Comments Due: 5 p.m. ET 3/26/12.

Docket Numbers: ER12–1204–000.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance Filing per Order 755–RM11–7 re Frequency Regulation Compensation to be effective 10/1/2012.

Filed Date: 3/5/12.

Accession Number: 20120305–5185.

Comments Due: 5 p.m. ET 3/26/12.

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 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 06, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5904 Filed 3–9–12; 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: ER11–2256–003.

Applicants: California Independent System Operator Corporation.

Description: 2012–03–02 CAISO CPM OOS Filing to be effective 2/16/2012.

Filed Date: 3/2/12.

Accession Number: 20120302–5172.

Comments Due: 5 p.m. ET 3/23/12.

Docket Numbers: ER11–4055–001;

ER10–2977–001; ER11–3987–002;

ER10–1290–002; ER10–3211–002;

ER10–2814–001; ER10–3026–001.

Applicants: Copper Mountain Solar 1, LLC.

Description: Sempra Supplement to Notice of Change in Status.

Filed Date: 3/2/12.

Accession Number: 20120302–5208.

Comments Due: 5 p.m. ET 3/23/12.

Docket Numbers: ER12–458–004.

Applicants: Quantum Choctaw Power, LLC.

Description: Quantum Choctaw Power Compliance Filing to be effective 2/14/2012.

Filed Date: 3/2/12.

Accession Number: 20120302–5112.

Comments Due: 5 p.m. ET 3/23/12.

Docket Numbers: ER12–1196–000.

Applicants: Idaho Power Company.

Description: Schedule 4 & 10—Energy & Generator Imbalance Changes to be effective 3/5/2012.

Filed Date: 3/2/12.

Accession Number: 20120302–5119.

Comments Due: 5 p.m. ET 3/23/12.

Docket Numbers: ER12–1197–000.

Applicants: Vermont Yankee Nuclear Power Corporation.

Description: Vermont Yankee Notice of Cancellation of MBR Tariff to be effective 3/21/2012.

Filed Date: 3/2/12.

Accession Number: 20120302–5173.

Comments Due: 5 p.m. ET 3/23/12.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES12–25–000.

Applicants: NorthWestern Corporation.

Description: Application of NorthWestern Corporation for Authorization under Section 204 of the Federal Power Act to Issue Securities and Request for Shortened Comment Period.

Filed Date: 3/2/12.

Accession Number: 20120302–5200.

Comments Due: 5 p.m. ET 3/23/12.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–28–005.

Applicants: Avista Corporation.

Description: Avista Corporation's Informational Filing of Operational Penalty Assessments and Distributions as Required by Order Nos. 890 and 890–A.

Filed Date: 3/2/12.

Accession Number: 20120302–5203.

Comments Due: 5 p.m. ET 3/23/12.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF12-252-000.

Applicants: Elk Hills Power, LLC.

Description: Elk Hills Power, LLC submits FERC Form 556 Notice of Certification of Qualifying Facility Status for a Cogeneration Facility.

Filed Date: 3/1/12.

Accession Number: 20120301-5252.

Comment Date: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 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 5, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012-5903 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12-67-000.

Applicants: Entergy Nuclear Generation Company, Entergy Nuclear Palisades, LLC, Entergy Nuclear Power Marketing, LLC, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Fitzpatrick, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Llano Estacado Wind, LLC, Entergy Power, LLC, Northern Iowa Windpower, LLC, EAM Nelson Holding, LLC, EWO Marketing, LLC, Entergy Rhode Island State Energy, L.P.

Description: Supplemental information of EAM Nelson Holding, LLC, *et al.*

Filed Date: 03/02/2012.

Accession Number: 20120302-5110.

Comment Date: 5 p.m. Eastern Time on Friday, March 12, 2012.

Docket Numbers: EC12-77-000.

Applicants: APX, Inc.

Description: APX, Inc submits an Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action and Confidential Treatment.

Filed Date: 03/01/2012.

Accession Number: 20120302-0200.

Comment Date: 5 p.m. Eastern Time on Thursday, March 22, 2012.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-1869-002; ER10-1727-002; ER10-1726-002, ER10-1671-002.

Applicants: GenOn Energy Management, LLC, GenOn Florida, LP, GenOn Wholesale Generation, LP, RRI Energy Services, LLC.

Description: Amendment to Application of GenOn Energy Management, LLC, *et al.*

Filed Date: 02/10/2012.

Accession Number: 20120210-5146.

Comment Date: 5 p.m. Eastern Time on Friday, March 23, 2012.

Docket Numbers: ER10-2176-007.

Applicants: Constellation Energy Commodities Group, Inc.

Description: Constellation Energy Commodities Group, Inc. submits tariff filing per 35: Market-Based Rate Tariff Compliance Under Docket ER10-2176 to be effective 3/3/2012.

Filed Date: 03/02/2012.

Accession Number: 20120302-5035.

Comment Date: 5 p.m. Eastern Time on Friday, March 23, 2012.

Docket Numbers: ER12-1195-000.

Applicants: Camden County Energy Recovery Associates, L.P.

Description: Camden County Energy Recovery Associates, L.P. submits tariff filing per 35.12: 20120302 baseline to be effective 3/30/2012.

Filed Date: 03/02/2012.

Accession Number: 20120302-5055.

Comment Date: 5 p.m. Eastern Time on Friday, March 23, 2012.

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 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 2, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012-5902 Filed 3-9-12; 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: ER11-4320-002.

Applicants: Arizona Public Service Company.

Description: Amendment to Service Agreement 174; Gila River and Sundevil IOA to be effective 2/6/2012.

Filed Date: 3/1/12.

Accession Number: 20120301-5221.

Comments Due: 5 p.m. ET 3/22/12.

Docket Numbers: ER12-1193-000.

Applicants: PacifiCorp.

Description: Wolverine Creek Goshen Phase 2 Amended and Restated LGIA to be effective 9/22/2010.

Filed Date: 3/1/12.

Accession Number: 20120301-5240.

Comments Due: 5 p.m. ET 3/22/12.

Docket Numbers: ER12-1194-000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: 03-01-2012 MVP ARR Compliance to be effective 9/1/2012.

Filed Date: 3/1/12.

Accession Number: 20120301-5242.

Comments Due: 5 p.m. ET 3/22/12.

Docket Numbers: ER97-4143-026; ER11-46-003; ER10-2975-003; ER98-542-028; ER10-727-003.

Applicants: American Electric Power Service Corporation, AEP Energy Partners, Inc., CSW Energy Services, Inc., Central and South West Services, Inc., AEP Retail Energy Partners LLC.

Description: Notice of change in status of American Electric Power Service Corporation.

Filed Date: 3/1/12.

Accession Number: 20120301-5268.

Comments Due: 5 p.m. ET 3/22/12.

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 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 2, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012-5901 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL12-42-000 and EL12-43-000]

TGP Granada, LLC v. Public Service Company of New Mexico; Tortoise Capital Resources Corp.: Notice of Complaint and Petition for Declaratory Order

Take notice that on March 2, 2012, pursuant to section 206 of the Federal Power Act, 16 U.S.C. 824e, Rules 206, 207, and 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission); 18 CFR 385.206 (2012), 18 CFR 385.207 (a)(2), and 385.212 (2012), TGP Granada, LLC (Complainant) filed (1) a formal complaint against the Public Service Company of New Mexico (PNM) and Tortoise Capital Resources Corp. (Respondents), requesting the Commission to direct the Respondents to identify the party that will immediately assume the obligation for making transmission capacity on the Eastern Interconnection Project (EIP) available to customers now for use after the April 1, 2015 expiration of the EIP Lease Agreement and (2) a petition for declaratory order requesting that the Commission confirm that section 23.2 of the PNM tariff allows the permitted assignee of a Transmission Service Agreement (TSA) to change the point of receipt (POR) associated with the TSA without losing its transmission service

priority, provided the change will not impair the operation and reliability of PNM's generation, transmission, or distribution systems. If the Commission denies the Complainant's petition for declaratory order, the Complainant requests that the Commission waive sections 22.2 and 23.2 of the PNM tariff, to allow TGP to change the POR without losing its current transmission service priority.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondents as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on April 2, 2012.

Dated: March 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012-5846 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR12-18-000]

Bay Gas Storage, LLC: Notice of Filing

Take notice that on March 2, 2012, Bay Gas Storage, LLC filed pursuant to Section 12.2.4 of its Statement of Operating Conditions to revise its Company Use Percentage as more fully described in the filing.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 14, 2012.

Dated: March 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012-5841 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. ID-6802-000]****Mahannah, Randy; Notice of Filing**

Take notice that on March 2, 2012, Randy Mahannah submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) (2011), part 45 of Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45 (2011), and Commission Order No. 664 (2005).¹

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on March 23, 2012.

¹ Commission Authorization to Hold Interlocking Positions, 112 FERC ¶ 61,298 (2005) (Order No. 664); *order on reh'g*, 114 FERC ¶61,142 (2006) (Order No. 664-A).

Dated: March 5, 2012.

Kimberly D. Bose,*Secretary.*

[FR Doc. 2012-5843 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. ER12-1195-000]****Camden County Energy Recovery, Associates, L.P.; 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 Camden County Energy Recovery Associates, L.P.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 26, 2012.

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 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the

above list. They are also available for 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 5, 2012.

Kimberly D. Bose,*Secretary.*

[FR Doc. 2012-5847 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. PR12-17-000]****New Mexico Gas Company, Inc.; Notice of Petition for Rate Approval**

Take notice that on March 2, 2012, New Mexico Gas Company, Inc. (NMGC) filed a Rate Election pursuant to 284.123(b)(1) of the Commission's regulations. NMGC proposes to utilize rates that are the same as those contained in NMGC's transportation rate schedules for comparable intrastate service on file with the New Mexico Public Regulation Commission as more fully detailed in the petition.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the

Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 14, 2012.

Dated: March 5, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-5849 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14339-000]

Lock+ Hydro Friends Fund VII; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 22, 2011, Lock+ Hydro Friends Fund VII filed an application for a preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed Mississippi River Chain of Rocks Project No. 14339, to be located immediately upstream of the existing Chain of Rocks impoundment on the Mississippi River, near the City of Madison, in Madison County and St. Clair County, Illinois, and St. Louis County, Missouri. The Chain of Rocks impoundment is owned by the United States Government and operated by the United States Army Corps of Engineers.

The proposed project would consist of: (1) A new 3,124-foot-long by 30-foot-high dam constructed with concrete-filled steel cylinders; (2) a new 150-foot-long by 400-foot-wide concrete powerhouse; (3) ten new 12,500-kilowatt low-head bulb hydropower turbines/generators with a total combined generating capacity of 125 megawatts; (4) a new 400-foot-wide intake channel; (5) a new 50-foot-wide by 50-foot-long switchyard; (6) a new 400-foot-wide by 200-foot-long tailrace; (7) a new 9-mile-long, 161-kilovolt

transmission line; and (8) appurtenant facilities. The project would have an estimated annual generation of 766,500 megawatt-hours.

Applicant Contact: Mr. Wayne F. Krouse, 900 Oakmont Lane, Suite 310, Westmont, IL 60559; (877) 556-6566.

FERC Contact: Tyrone A. Williams, (202) 502-6331.

Deadline for filing comments, motions to intervene, and competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at 1-866-208-3676, or for TTY, (202) 502-8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14339-000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 5, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-5848 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 349-173—Alabama]

Alabama Power Company, Martin Dam Hydroelectric Project; Notice of Proposed Revised Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.2010, provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding. The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Alabama State Historic Preservation Officer (Alabama SHPO) and the Advisory Council on Historic Preservation (Advisory Council) pursuant to the Advisory Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended*, (16 U.S.C. 470f), to prepare a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Martin Dam Hydroelectric Project.

The Programmatic Agreement, when executed by the Commission, the Alabama SHPO, and the Advisory Council, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13(e)). The Commission's responsibilities pursuant to section 106 for the Martin Dam Hydroelectric Project would be fulfilled through the Programmatic Agreement, which the Commission staff proposes to draft in consultation with the Alabama SHPO; Alabama Power Company, the licensee for Project No. 349-173; the Poarch Band of Creek Indians; the Choctaw Nation of Oklahoma; the Alabama-Quassarte Tribal Town; the Alabama-Coushatta Tribe of Texas; and the Thlopthlocco Tribal Town.

For purposes of commenting on the Programmatic Agreement, we propose to add the following persons to the

restricted service list for the Martin Dam Hydroelectric Project to represent the interests of the Muscogee (Creek) Nation of Oklahoma and the Kialegee Tribal Town of the Muscogee (Creek) Nation: Principal Chief A.D. Ellis, Muscogee (Creek) Nation of Oklahoma, P.O. Box 580, Okmulgee, OK 74447; Mekko Tiger Hobia, Kialegee Tribal Town of the Muscogee, (Creek) Nation, P.O. Box 332, Wetumpka, OK 74883.

Dated: March 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012-5842 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12-73-000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization

Take notice that on February 21, 2012 Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 State Highway 56, Owensboro, Kentucky 42301, filed in Docket No. CP12-73-000, 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 replace approximately 3 miles of certain pipeline facilities located in Johnson City, Missouri. Specifically, Southern Star proposes to replace 3 miles of 12-inch diameter XT pipeline by constructing approximately 3 miles of 20-inch diameter XM pipeline which is a continuation of the multi-year program initiated in 2008 to construct the Sedalia 20-inch diameter XM pipeline. The proposed replacement will allow Southern Star to meet a requirement from the Department of Transportation for safety reasons and to eliminate obsolete, acetylene-welded pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, 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 Phyllis Medley, Senior Analyst,

Regulatory Affairs, Southern Star Central Gas Pipeline, Inc., 4700 State Highway 56, Owensboro, Kentucky 42301, or call (270) 852-4653, or fax (270) 852-5010, or by email Phyllis.k.medley@sscgp.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.

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 the 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.

Dated: March 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012-5845 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance at MISO Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and Commission staff may attend the following MISO-related meetings:

Order 1000 Right of First Refusal (ROFR) Task Team, March 23, 2012, 9 a.m.-3 p.m. ET.

MISO Headquarters, 720 City Center Drive, Carmel, IN 46032. Further information may be found at www.midwestiso.org.

The above-referenced meetings are open to the public.

The discussions at each of the meetings described above may address matters at issue in the following proceedings:

Docket No. RM01-5, *Electronic Tariff Filings*.

Docket Nos. ER04-691, EL04-104 and ER04-106, *et al.*, *Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER05-6, *et al.*, *Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER05-636, *Midwest Independent Transmission System Operator, Inc.*

Order No. 890, *Preventing Undue Discrimination and Preference in Transmission Service*.

Docket Nos. ER06-18, *et al.*, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06-56, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06-192, *Midwest Independent Transmission System Operator, Inc.*

Order Nos. 693 and 693-A, *Mandatory Reliability Standards for Bulk-Power System*.

Docket No. AD07-12, *Reliability Standard Compliance and Enforcement in Regions with Independent System Operators and Regional Transmission Organizations*.

Docket No. ER07-1182, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER07-1372, *Midwest Independent Transmission System Operator, Inc.*

Docket Nos. RR07-2, *et al.*, *Delegation Agreement Between the North American Electric Reliability Corporation and Midwest Reliability Organization, et al.*

Docket No. EL08-32, *Central Minnesota Municipal Power Agency and*

Midwest Municipal Transmission Group, Inc.

Docket No. OA08–53, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER08–194, *et al.*, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER08–394, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER08–925, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER08–1074, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER08–1169, *Midwest Independent Transmission System Operator, Inc.*

Docket No. RM08–19, *Mandatory Reliability Standards for the Calculation of Available Transfer, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk Power System.*

Docket No. AD09–10, *National Action Plan on Demand Response.*

Docket No. AD09–15, *Version One Regional Reliability Standard for Resource and Demand Balancing.*

Docket No. ER09–1049, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER09–1074, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER09–1431, *Midwest Independent Transmission System Operator, Inc.*

Docket No. AD10–5, *RTO/ISO Performance Metrics.*

Docket No. AD10–14, *Reliability Standards Development and NERC and Regional Entity Enforcement.*

Docket No. EC10–39, *American Transmission Company, LLC.*

Docket No. EL10–41, *Tatanka Wind Power, LLC v. Montana-Dakota Utilities Company, a division of MDU Resources Group, Inc.*

Docket No. EL10–45, *Midwest Independent Transmission System Operator, Inc. v. PJM Interconnection, LLC.*

Docket No. EL10–46, *Midwest Independent Transmission System Operator, Inc. v. PJM Interconnection, LLC.*

Docket No. EL10–60, *PJM Interconnection, LLC v. Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–8, *Midwest Independent Transmission System Operator, Inc.*

Docket Nos. ER10–9, 10–73, 10–74, *Dairyland Power Cooperative v.*

Midwest Independent Transmission System Operator, Inc.

Docket Nos. ER10–209, EL10–12, and ER10–640, *Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. v. Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–1791, *Midwest Independent Transmission System Operator, Inc. and the Midwest ISO Transmission Owners.*

Docket No. ER10–2090, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–2283, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ES10–31, *Midwest Independent Transmission System Operator, Inc.*

Docket No. PL10–4, *Enforcement of Statutes, Orders, Rules, and Regulations.*

Docket No. RM09–13, *Time Error Correction Reliability Standard.*

Docket No. RM10–9, *Transmission Loading Relief Reliability Standard and Curtailment Priorities.*

Docket No. RM10–11, *Integration of Variable Energy Resources.*

Docket No. RM10–13, *Credit Reforms in Organized Wholesale Electric Markets.*

Docket No. RM10–17 and EL09–68, *Demand Response Compensation in Organized Wholesale Energy Markets.*

Docket No. RM10–23 and Order No. 1000, *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities.*

Docket No. ER11–15, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–138, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–1991, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–3225, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–2275, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–2700, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–3279, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–4081, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–3728, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–3572, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–4305, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–33, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–56, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–212, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–214, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–242, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–274, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–290, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–297, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–309, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–310, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–312, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–334, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–351, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–3415, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–427, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–450, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–451, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–480, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–517, *Midwest Independent Transmission System Operator, Inc.*

Docket No. OA08–53, *Midwest Independent Transmission System Operator, Inc.*

Docket No. EL12–11, *Rail Splitter Wind Farm v. Ameren and MISO.*

For more information, contact Patrick Clarey, Office of Energy Markets

Regulation, Federal Energy Regulatory Commission at (317) 249-5937 or patrick.clarey@ferc.gov, or Christopher Miller, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (317) 249-5936 or christopher.miller@ferc.gov.

Dated: March 5, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-5844 Filed 3-9-12; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9645-5]

Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held March 28 and 29 at Mount Vernon Place, 900 Massachusetts Avenue, Washington, DC. The CHPAC was created to advise the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

DATES: The Children's Health Protection Advisory Committee will meet March 28 and 29, 2012.

ADDRESSES: Mount Vernon Place, 900 Massachusetts Avenue, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Martha Berger, Office of Children's Health Protection, USEPA, MC 1107T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 564-2191, berger.martha@epa.gov.

SUPPLEMENTARY INFORMATION: The meetings of the CHPAC are open to the public. No registration is required. Preliminary agenda includes discussion of an advice letters on lead regulations, social determinants of health and children's environmental health, and EPA's Risk Assessment Forum and children's health projects. The full agenda will be posted at www.epa.gov/children.

Access: For information on access or services for individuals with disabilities, please contact Martha Berger at 202-564-2191 or berger.martha@epa.gov.

Dated: February 21, 2012.

Martha Berger,

Designated Federal Official.

[FR Doc. 2012-5881 Filed 3-9-12; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) 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; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) 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 (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 11, 2012. 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: 3060-1150.

Title: Structure and Practices of the Video Relay Service Program, Second Report and Order and Order, CG Docket No. 10-51.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 28 respondents; 89 responses.

Estimated Time per Response: .017 hours (1 minute) to 50 hours.

Frequency of Response: Annual, on occasion, and one-time reporting requirements; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collections are found at section 225 of the Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the ADA, Public Law 101-336, 104 Stat. 327, 366-69.

Total Annual Burden: 934 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On July 28, 2011, in document FCC 11-118, the Commission released a Second Report and Order and Order, published at 76 FR 47469, August 5, 2011, and at 76 FR 47476, August 5, 2011, adopting final and interim rules—designed to help prevent fraud and abuse, and ensure quality service, in the provision of Internet-based forms of Telecommunications Relay Services (iTRS). The Second Report and Order and Order amends the Commission's process for certifying Internet-based Telecommunications Relay Service (iTRS) providers as eligible for payment from the Interstate TRS Fund (Fund) for their provision of iTRS, as proposed in the Commission's April 2011 Further Notice of Proposed Rulemaking in the Video Relay Service (VRS) reform proceeding, CG Docket No. 10-51, published at 76 FR 24437, May 2, 2011. The Commission adopted the newly revised certification process to ensure that iTRS providers receiving certification are qualified to provide iTRS in compliance with the

Commission's rules, and to eliminate waste, fraud and abuse through improved oversight of such providers.

The Second Report and Order and Order contains information collection requirements with respect to the following eight requirements, all of which aims to ensure that providers are qualified to provide iTRS and that the services are provided in compliance with the Commission's rules with no or minimal service interruption.

(A) Required Evidence for Submission for Eligibility Certification. The Second Report and Order and Order requires that potential iTRS providers must provide full and detailed information in its application for certification that show its ability to comply with the Commission's rules. The Second Report and Order and Order requires that applicants must provide a detailed description of how the applicant will meet all non-waived mandatory minimum standards applicable to each form of TRS offered, including documentary and other evidence, and in the case of VRS, such documentary and other evidence shall demonstrate that the applicant leases, licenses or has acquired its own facilities and operates such facilities associated with TRS call centers and employees communications assistants, on a full or part-time basis, to staff such call centers at the date of the application. Such evidence shall include but not be limited to:

1. For VRS applicants operating five or fewer call centers within the United States, a copy of each deed or lease for each call center operated by the applicant within the United States;

2. For VRS applicants operating more than five call centers within the United States, a copy of each deed or lease for a representative sampling (taking into account size (by number of communications assistants) and location) of five call centers operated by the applicant within the United States;

3. For VRS applicants operating call centers outside of the United States, a copy of each deed or lease for each call center operated by the Applicant outside of the United States;

4. For all applicants, a list of individuals or entities that hold at least a 10 percent equity interest in the applicant, have the power to vote 10 percent or more of the securities of the applicant, or exercise de jure or de facto control over the applicant, a description of the applicant's organizational structure, and the names of its executives, officers, members of its board of directors, general partners (in the case of a partnership), and managing members (in the case of a limited liability company);

5. For all applicants, a list of the number of applicant's full-time and part-time employees involved in TRS operations, including and divided by the following positions: executives and officers; video phone installers (in the case of VRS), communications assistants, and persons involved in marketing and sponsorship activities;

6. Where applicable, a description of the call center infrastructure, and for all core call center functions (automatic call distribution, routing, call setup, mapping, call features, billing for compensation from the TRS fund, and registration) a statement whether such equipment is owned, leased or licensed (and from whom if leased or licensed) and proofs of purchase, leases or license agreements, including a complete copy of any lease or license agreement for automatic call distribution;

7. For all applicants, copies of employment agreements for all of the provider's employees directly involved in TRS operations, executives and communications assistants, and a list of names of employees directly involved in TRS operations, need not be submitted with the application, but must be retained by the applicant and submitted to the Commission upon request; and

8. For all applicants, a list of all sponsorship arrangements relating to Internet-based TRS, including any associated written agreements.

(B) Submission of Annual Report. The Second Report and Order and Order requires that providers submit annual reports that include updates to the information listed under Section A above or certify that there are no changes to the information listed under Section A above.

(C) Requiring Providers to Seek Prior Authorization of Voluntary Interruption of Service. The Second Report and Order and Order requires that a VRS provider seeking to voluntarily interrupt service for a period of 30 minutes or more in duration must first obtain Commission authorization by submitting a written request to the Commission's Consumer and Governmental Affairs Bureau (CGB) at least 60 days prior to any planned service interruption, with detailed information of:

(i) Its justification for such interruption;

(ii) Its plan to notify customers about the impending interruption; and

(iii) Its plans for resuming service, so as to minimize the impact of such disruption on consumers through a smooth transition of temporary service to another provider, and restoration of its service at the completion of such interruption.

(D) Reporting of Unforeseen Service Interruptions. With respect to brief, unforeseen service interruptions or in the event of a VRS provider's voluntary service interruption of less than 30 minutes in duration, the Second Report and Order and Order requires that the affected provider submit a written notification to CGB within two business days of the commencement of the service interruption, with an explanation of when and how the provider has restored service or the provider's plan to do so imminently. In the event the provider has not restored service at the time such report is filed, the provider must submit a second report within two business days of the restoration of service with an explanation of when and how the provider has restored service.

(E) Applicant Certifying Under Penalty of Perjury for Certification Application.

The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an applicant for Internet-based TRS certification with first hand knowledge of the accuracy and completeness of the information provided, when submitting an application for certification for eligibility to receive compensation from the Interstate TRS Fund, must certify under penalty of perjury that all application information required under the Commission's rules and orders has been provided and that all statements of fact, as well as all documentation contained in the application submission, are true, accurate, and complete.

(F) Certified Provider Certifying Under Penalty of Perjury for Annual Compliance Filings.

The Second Report and Order and Order requires the chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an Internet-based TRS provider with first hand knowledge of the accuracy and completeness of the information provided, when submitting an annual compliance report under paragraph (g) of section 64.606 of the Commission's rules, must certify under penalty of perjury that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in the annual compliance report submission, are true, accurate, and complete.

(G) Notification of Service Cessation.

The Second Report and Order and Order requires the applicant for certification must give its customers at least 30 days notice that it will no longer provide service should the

Commission determine that the applicant's certification application does not qualify for certification under paragraph (a)(2) of section 64.606 of the Commission's rules.

(H) Notification on Web site.

The Second Report and Order and Order requires the provider must provide notification of temporary service outages to consumers on an accessible Web site, and the provider must ensure that the information regarding service status is updated on its Web site in a timely manner.

On October 17, 2011, in document FCC 11–155, the Commission released a Memorandum Opinion and Order (MO&O), published at 76 FR 67070, October 31, 2011, addressing the petition for reconsideration filed by Sorenson Communications, Inc. (Sorenson). Sorenson concurrently filed a PRA comment challenging two aspects of the information collection requirements as being too burdensome. The Commission modified two aspects of information collection requirements contained in the July 28, 2011 Second Report and Order and Order to lessen the burdens on applicants for VRS certification and VRS providers to provide certain documentation to the Commission. In the MO&O, the Commission revised the language in the rules to require that providers that operate five or more domestic call centers only submit copies of proofs of purchase, leases or license agreements for technology and equipment used to support their call center functions for five of their call centers that constitute a representative sample of their centers, rather than requiring copies for all call centers. Further, the Commission clarifies that the rule requiring submission of a list of all sponsorship arrangements relating to iTRS only requires that a certification applicant include on the list associated written agreements, and does not require the applicant to provide copies of all written agreements.

Therefore, the information collection requirements listed above in section (A) 6 and 8 were revised to read as follows:

6. A description of the technology and equipment used to support their call center functions—including, but not limited to, automatic call distribution, routing, call setup, mapping, call features, billing for compensation from the TRS Fund, and registration—and for each core function of each call center for which the applicant must provide a copy of technology and equipment proofs of purchase, leases or license agreements in accordance with paragraphs (a)–(d) listed below, a statement whether such technology and

equipment is owned, leased or licensed (and from whom if leased or licensed);

(a) For VRS providers operating five or fewer call centers within the United States, a copy of each proof of purchase, lease or license agreement for all technology and equipment used to support their call center functions, for each call center operated by the applicant within the United States;

(b) For VRS providers operating more than five call centers within the United States, a copy of each proof of purchase, lease or license agreement for technology and equipment used to support their call center functions for a representative sampling (taking into account size (by number of communications assistants) and location) of five call centers operated by the applicant within the United States; a copy of each proof of purchase, lease or license agreement for technology and equipment used to support their call center functions for all call centers operated by the applicant within the United States must be retained by the applicant for three years from the date of the application, and submitted to the Commission upon request;

(c) For VRS providers operating call centers outside of the United States, a copy of each proof of purchase, lease or license agreement for all technology and equipment used to support their call center functions for each call center operated by the applicant outside of the United States; and

(d) A complete copy of each lease or license agreement for automatic call distribution.

8. For all applicants, a list of all sponsorship arrangements relating to Internet-based TRS, including on that list a description of any associated written agreements; copies of all such arrangements and agreements must be retained by the applicant for three years from the date of the application, and submitted to the Commission upon request.

OMB Control Number: 3060–1154.

Title: Commercial Advertisement Loudness Mitigation (“CALM”) Act; Financial Hardship and General Waiver Requests.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 300 respondents and 300 responses.

Frequency of Response: On occasion reporting requirement.

Estimated Time per Response: 1–20 hours.

Total Annual Burden: 3,150 hours.

Total Annual Cost to Respondents: \$90,000.

Obligation to Respond: Required to obtain benefits. The statutory authority for this collection of information is contained in 47 U.S.C 151, 152, 154(i) and (j), 303(r) and 621.

Nature and Extent of Confidentiality: There is no assurance of confidentiality provided to respondents, but, in accordance with the Commission's rules, 47 CFR 0.459, a station/MVPD may request confidential treatment for financial information supplied with its waiver request.

Privacy Impact Assessment: No impact(s).

Needs and Uses: TV stations and multichannel video programming distributors (MVPDs) may file financial hardship waiver requests to seek a one-year waiver of the effective date of the rules implementing the CALM Act or to request a one-year renewal of such waiver. A TV station or MVPD must demonstrate in its waiver request that it would be a “financial hardship” to obtain the necessary equipment to comply with the rules. TV stations and MVPDs may file general waiver requests to request waiver of the rules implementing the CALM Act for good cause. The information obtained by financial hardship and general waiver requests will be used by Commission staff to evaluate whether grant of a waiver would be in the public interest.

OMB Control Number: 3060–xxxx.

Title: Commercial Advertisement Loudness Mitigation (“CALM”) Act; 73.682(e) and 76.607(a).

Form Number: Not applicable.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2,937 respondents and 2,937 responses.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement; Annual reporting requirement.

Estimated Time per Response: 0.25–80 hours.

Total Annual Burden: 6,240 hours.

Total Annual Cost to Respondents: None.

Obligation to Respond: Mandatory. The statutory authority for this collection of information is contained in 47 U.S.C 151, 152, 154(i) and (j), 303(r) and 621.

Nature and Extent of Confidentiality: There is no assurance of confidentiality provided to respondents.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On December 13, 2011, the FCC released a Report & Order

("R&O"), FCC 11-182, adopting rules to implement the Commercial Advertisement Loudness Mitigation ("CALM") Act. Among other things, the CALM Act directs the Commission to incorporate into its rules by reference and make mandatory a technical standard developed by an industry standard-setting body that is designed to prevent television commercial advertisements from being transmitted at louder volumes than the program material they accompany. Specifically, the CALM Act requires the Commission to incorporate by reference the Advanced Television Systems Committee ("ATSC") A/85 Recommended Practice ("ATSC A/85 RP") and make it mandatory "insofar as such recommended practice concerns the transmission of commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming distributor." As mandated by the statute, the rules will apply to TV broadcasters, cable operators and other multichannel video programming distributors ("MVPDs"). The Commission will use this information to determine compliance with the CALM Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012-5897 Filed 3-9-12; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) 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; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and

clarity of the information collected; (d) 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 (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 11, 2012. 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 the Federal Communications Commission via email to PRA@fcc.gov and 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: 3060-0120.

Type of Review: Extension of a currently approved collection.

Title: Broadcast EEO Program Model Report, FCC Form 396-A.

Form Number: FCC Form 396-A.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and

Responses: 5,000 respondents; 5,000 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Total Annual Burden: 5,000 hours.

Total Annual Cost: None.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The Broadcast Equal Employment Opportunity (EEO) Model Program Report, FCC Form 396-A, is filed in conjunction with applicants

seeking authority to construct a new broadcast station, to obtain assignment of construction permit or license and/or seeking authority to acquire control of an entity holding construction permit or license. This program is designed to assist the applicant in establishing an effective EEO program for its station.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012-5898 Filed 3-9-12; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

Public Availability of Federal Election Commission, Procurement Division FY 2011 Service Contract Inventory

AGENCY: Federal Election Commission.

ACTION: Notice of public availability of FY 2011 Service Contract inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111-117), FEC PROCUREMENT DIVISION is publishing this notice to advise the public of the availability of the FY 2010 Service Contract inventory. This inventory provides information on service contract actions over \$25,000 that were made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on December 19, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at: <http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf>.

The FEC Procurement Division has posted its inventory and a summary of the inventory on the FEC homepage at the following link: <http://www.fec.gov/pages/procure/procure.shtml>.

FOR FURTHER INFORMATION CONTACT:

Questions regarding the service contract inventory should be directed to Mary Sprague, Chief Financial Officer, at 202-694-1217 or MSPRAGUE@FEC.GOV.

Dated: February 29, 2012.

Shawn Woodhead Werth,

Secretary and Clerk, Federal Election Commission.

[FR Doc. 2012-5866 Filed 3-9-12; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 111 0122]

Western Digital Corporation; Analysis of Agreement Containing Consent Order to Aid Public Comment**AGENCY:** Federal Trade Commission.**ACTION:** Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before April 4, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Western Digital, File No. 111 0122” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/westerndigitalhitachiconsent>, by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Benjamin Gris (202-326-3468), FTC, Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 5, 2012), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>. A paper copy can be obtained from the FTC Public Reference

Room, Room 130-H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 4, 2012. Write “Western Digital, File No. 111 0122” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/westerndigitalhitachiconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#/home>, you also may file a comment through that Web site.

If you file your comment on paper, write “Western Digital, File No. 111 0122” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 4, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Agreement Containing Consent Order to Aid Public Comment*I. Introduction*

The Federal Trade Commission (“Commission”) has accepted from Western Digital Corporation (“Western Digital”), subject to final approval, an Agreement Containing Consent Order (“Consent Agreement”), designed to remedy the likely anticompetitive effects resulting from Western Digital’s proposed acquisition of Vivoti Technologies Ltd., formerly known as Hitachi Global Storage Technologies Ltd. (“HGST”), a wholly-owned subsidiary of Hitachi, Ltd. (“Hitachi”).

Pursuant to an agreement dated March 7, 2011, Western Digital intends to acquire HGST from Hitachi for approximately \$4.5 billion in cash and Western Digital stock. The proposed merger would result in a merger to duopoly in the market for 3.5 inch hard disk drives used in desktop computers (“desktop HDDs”). The Commission’s Complaint alleges that the proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as

amended, 15 U.S.C. 45, by lessening competition in the market for desktop HDDs.

The Consent Agreement remedies the alleged violation by replacing the lost competition in the desktop HDD market that would result from the proposed acquisition. Under the terms of the Consent Agreement, Western Digital will divest to Toshiba Corporation ("Toshiba") all of the assets relating to the manufacture and sale of desktop HDDs necessary to replicate HGST's position in the desktop HDD business. The Consent Agreement requires Western Digital to provide Toshiba with access to employees involved in the research, development, and production of desktop HDDs, cross license all intellectual property necessary to manufacture and sell desktop HDDs, and to supply Toshiba with up to 50 percent of certain critical components needed for the divested business. In addition, the Consent Agreement requires Western Digital to contract manufacture desktop HDDs for Toshiba at cost until Toshiba is able to manufacture these products on its own.

The Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement and the comments received, and will decide whether it should withdraw from the Consent Agreement, modify it, or make final the accompanying Decision and Order.

II. The Products and Structure of the Market

HDDs are key inputs into computers and other electronic devices used to store and allow fast access to data. HDDs are used in various end-use applications including desktop and mobile computers, and in enterprise computing applications.

The relevant line of commerce in which to analyze the effects of the Acquisition is desktop HDDs. Desktop HDDs are utilized in non-portable desktop or tower personal computers. Consumers of these products demand HDDs with the highest available capacity at the lowest price per gigabyte. Desktop HDDs are the only HDDs that meet these specifications. As a result, customers would likely not switch to a different kind of HDD in response to a five to ten percent increase in the price of desktop HDDs in sufficient numbers to make that price increase unprofitable for a hypothetical monopolist.

The relevant geographic market for desktop HDDs is worldwide. Most

HDDs, including desktop HDDs, are manufactured in Asia and are shipped to customers worldwide. Also, most large customers negotiate the purchase price of desktop HDDs at a global level.

The desktop HDD market is highly concentrated, with three manufacturers currently in the market. After Western Digital's acquisition of HGST, Western Digital's market share would increase to approximately 50 percent, and the number of suppliers of desktop HDDs would decrease from three to two.

III. Entry

Neither new entry nor repositioning and expansion sufficient to deter or counteract the likely anticompetitive effects of the proposed acquisition in the desktop HDD market is likely to occur. Deterrents to entry into the desktop HDD market include high capital expenditures and intellectual property barriers. Because the market for desktop HDDs is mature with limited growth potential, it is unlikely that a potential competitor would have the incentive to make the substantial investments necessary to enter this market.

IV. Effects of the Acquisition

The proposed acquisition likely would result in anticompetitive effects in the market for desktop HDDs. The structure and characteristics of this highly concentrated and mature market, where competitors sell largely homogenous products and have substantial insight into their competitors' price and output levels, suggests that the two remaining firms in the market would likely find it possible and profitable to coordinate on pricing or output. In addition, HDD customers generally wish to have at least three suppliers available to them. The fact that customers have a strong desire to source their desktop HDD purchases from several suppliers simultaneously in order to obtain competitive pricing and adequate supply suggests that the transaction could result in unilateral effects as well.

V. The Consent Agreement

The Consent Agreement resolves the competitive concerns raised by Western Digital's proposed acquisition of HGST by requiring the divestiture of HGST's assets relating to the manufacture and sale of desktop HDDs to Toshiba. This divestiture must occur within fifteen days after the acquisition but may be extended an additional fifteen days, if necessary, to allow for regulatory approval in other jurisdictions.

Toshiba has the industry experience, reputation, and resources to replace

HGST as an effective competitor in the desktop HDD market. Headquartered in Tokyo, Japan, Toshiba is a diversified manufacturer and marketer of advanced electronic and electrical products spanning digital consumer products, electronic devices and components, power systems, industrial and social infrastructure systems, and home appliances. Toshiba does not currently compete against Western Digital or HGST in the sale of desktop HDDs, but it does manufacture HDDs for use in mobile and enterprise applications. Because Toshiba has extensive experience manufacturing these other types of HDDs, and has a worldwide infrastructure for the research, development, and sale of desktop HDDs, Toshiba is well-positioned to replace the competition that will be eliminated as a result of the proposed transaction.

Pursuant to the Consent Agreement, Toshiba would receive all of the assets necessary to replicate HGST's market position in the desktop HDD business, including sixteen desktop HDD production lines, representing the capacity to produce more than twenty million desktop HDD units per year, along with the product designs for HGST's most recent and advanced desktop HDD products. The Consent Agreement further requires Western Digital to provide Toshiba with access to HGST and/or Western Digital employees involved in the research, development, and production of desktop HDDs. In addition, the Consent Agreement also requires Western Digital to cross license all intellectual property necessary to manufacture and sell desktop HDDs and to supply Toshiba with up to 50 percent of certain critical components needed for the divested business. The Consent Agreement also requires Western Digital to contract manufacture desktop HDDs for Toshiba at cost until Toshiba is able to manufacture these products on its own. A divestiture of HGST's desktop HDD assets to Toshiba will enable Toshiba to compete immediately with the merged entity.

The Commission has appointed Phillip Comerford, Jr., Managing Director and Head of the Mergers & Acquisitions Group of ING Capital LLC, as Interim Monitor to oversee the divestiture of the desktop HDD assets. In order to ensure that the Commission remains informed about the status of the proposed divestiture, the Consent Agreement requires the parties to file periodic reports with the Commission until the divestiture is accomplished.

If, after the public comment period, the Commission determines that Toshiba is not an acceptable acquirer of

the assets to be divested, or that the manner of the divestiture is not acceptable, Western Digital must unwind the divestiture and divest the assets within 180 days of the date the Order becomes final to another Commission-approved acquirer. If Western Digital fails to divest the assets within the 180 days, the Commission may appoint a trustee to divest the relevant assets.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,
Secretary.

Statement of the Federal Trade Commission Concerning Western Digital Corporation/Viviti Technologies Ltd. and Seagate Technology LLC/Hard Disk Drive Assets of Samsung Electronics Co. Ltd.

After a thorough investigation the Federal Trade Commission has challenged Western Digital Corporation's ("Western Digital") proposed acquisition of Viviti Technologies Ltd., formerly known as Hitachi Global Storage Technologies ("HGST"). This challenge comes several months after the Federal Trade Commission closed its investigation of Seagate Technology LLC's ("Seagate") acquisition of Samsung Electronics Co. Ltd.'s hard disk drive assets ("Samsung"). The two proposed transactions were announced within weeks of each other, and both had potential implications for competition in the same product markets. Commission staff reviewed both matters at the same time in order to understand the effects on competition resulting from each transaction on its own, as well as the cumulative effect on the relevant markets if both transactions were allowed to be consummated.

The evidence gathered in the Commission's investigation revealed that the relevant product markets in which to assess the competitive impact of the proposed transactions are based on specific end-uses for hard disk drives ("HDDs")—such as desktop, notebook, and enterprise—because product features, pricing, and competition differ by end-use applications. For many of these end-uses, we did not have reason to believe that the proposed transactions would result in effects that would have justified a challenge. In the 3.5 inch desktop HDD ("desktop HDD") market, however, we had reason to believe the

consummation of both of these acquisitions would result in likely anticompetitive effects. The Commission came to this conclusion based on the evidence from interviews with market participants, testimony of the parties' executives, and documents produced by the parties and other industry participants.

The Commission determined after its investigation that there were significant differences between the competitive implications of the two proposed mergers. Since in each case the acquiring firm was a strong competitor, attention turned to the characteristics of the two firms that were to be acquired in these proposed transactions—HGST and Samsung. Based on this analysis, it was clear that an independent HGST was much more likely to be an effective competitive constraint in the desktop HDD market than would an independent Samsung.

In particular, HGST has been a strong, high quality and innovative competitor in the desktop HDD market. Moreover, HGST has been identified by a number of industry participants as a key driver of aggressive price competition in the desktop HDD market in 2010, and was well-positioned to grow its desktop HDD business in the near future. In contrast, Samsung had struggled to be competitive in the desktop HDD market. In a market for desktop HDDs containing only Western Digital, HGST, and the combined Seagate/Samsung entity, HGST would retain the ability and incentive to act as an effective constraint on desktop HDD pricing. By contrast, Samsung would be less likely to serve as a meaningful constraint on pricing in a desktop HDD market consisting of Western Digital/Hitachi, Seagate, and Samsung. Based on these considerations, the Commission made the decision to challenge the Western Digital/HGST transaction while clearing the Seagate/Samsung transaction, and to preserve the competitiveness of the desktop HDD market by requiring Western Digital to divest HGST's desktop HDD assets to Toshiba Corporation under the terms of a proposed Consent Agreement.

As we have explained in other cases, each merger that comes before the Commission is investigated and considered based on the particular facts presented. These investigations bear out the assertion in our Horizontal Merger Guidelines that our review of mergers "is a fact-specific process through which the Agencies, guided by their extensive experience, apply a range of analytical tools to the reasonably available and reliable evidence to

evaluate competitive concerns in a limited period of time."²

In addition to the scrutiny they have received from the Commission, many other antitrust enforcement agencies investigated these mergers. Commission staff cooperated with agencies in Australia, Canada, China, the European Union, Japan, Korea, Mexico, New Zealand, Singapore, and Turkey, and worked closely with the agencies' investigative teams on the timing of review, substantive analyses, and potential remedies, during the pendency of these investigations. This close cooperation with foreign antitrust enforcers helped ensure an outcome that benefited consumers in the United States.

[FR Doc. 2012-5851 Filed 3-9-12; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 77 FR 5804-5812, dated February 6, 2012) is amended to reflect the reorganization of the Office of the Chief Operating Officer, Office of the Director, Centers for Disease Control and Prevention.

Section C-B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the functional statement for the Office of the Chief Operating Officer (CAJ), and insert the following:

Office of the Chief Operating Officer (CAJ). (1) Provides mission and values-based leadership, direction, support and assistance to CDC's programs and activities to enhance CDC's strategic position in public health; ensure responsible stewardship; maintain core values; optimize operational effectiveness of business services; and institutionalize accountability for achieving management initiatives; (2) directs the conduct of operational

² U.S. Dep't of Justice & Fed. Trade Comm'n, Horizontal Merger Guidelines § 1 (2010), available at <http://www.ftc.gov/os/2010/08/100819hmg.pdf>.

activities undertaken by Agency program support and management service staff, including, among others, facilities and real property planning and management; grants, procurement and materiel management; human resources management; information technology and systems planning and support; internal security and emergency preparedness; and management analysis and services; (3) manages the planning, evaluation, and implementation of continuous improvement and reengineering initiatives and adoption of innovations and technologies in these areas and ensures that they are undertaken in a comprehensive and integrated manner and with consideration of strategic implications for human capital planning; (4) maintains liaison with officials of DHHS responsible for the direction and conduct of DHHS program support and management services functions; (5) participates in the development of CDC's goals and objectives; (6) provides assistance to DHHS officials and to CDC's Centers/Institute/Offices (CIOs) to assure that the human resources of CDC are sufficient in numbers, training, and diversity to effectively conduct the public health mission of CDC; (7) provides direction for the Agency's ethics program and activities associated with Departmental and Presidential management initiatives; (8) provides direction in establishing accountable measures for financial management of both budget estimating and execution processes agencywide; and (9) provides guidance and ensures compliance with the budget priorities established by the Office of the Director, CDC.

Delete in their entirety the title and functional statement for the Administrative Services and Program Office (CAJ12).

After the functional statement for the Office of the Director (CAJ1), Office of the Chief Operating Officer (CAJ), insert the following:

Office of the Chief Financial Officer (CAJ1P). The Office of the Chief Financial Officer (OCFO), located within the Office of the Chief Operating Officer (OCOO), addresses agency-wide fiscal accountability and oversight. The OCFO supports CDC's mission to "save money through prevention" by ensuring appropriate fiscal stewardship of the taxpayer dollar while CDC accomplishes its activities in the areas of disease research, prevention, and early detection. Accordingly, the OCFO: (1) Manages the financial risk of the agency; (2) provides oversight of the agency's financial activities and accounting practices; (3) performs reviews and training in high risk areas for both the

agency and the Department where there appears to be fiscal vulnerabilities; (4) provides expertise in interpreting appropriations law issues and financial policy matters; (5) assists in the receipt, distribution and monitoring of agency issues submitted by the Office of the Inspector General Hotline; (6) advises and assists the CDC Director, the Chief Operating Officer, and other key agency officials (both in Program and Business Service Offices) on all fiscal aspects of the agency; and (7) provides support for public health by ensuring that appropriated funds provided to the agency are utilized, in compliance with Congressional mandate, for the sole purpose of preventing and controlling infectious diseases domestically and globally.

Delete in its entirety the title for the Human Capital Management Office (CAJQ), and insert the title Human Capital and Resources Management Office (CAJQ).

After the title and functional statements for the Human Capital and Resources Management Office (CAJQ), insert the following:

Office of the Chief Information Officer (CAJR). The mission of the Office of the Chief Information Officer (OCIO) is to administer CDC's information resources and information technology programs including collection, management, use, and disposition of data and information assets; development, acquisition, operation, maintenance, and retirement of information systems and information technologies; IT capital planning; enterprise architecture; information security; education, training, and workforce development in information and IT disciplines; development and oversight of information and IT policies, standards, and guidance; and administration of certain other general management functions and services for CDC.

Office of the Director (CAJR1). (1) Provides leadership, direction, support and assistance to CDC's programs and activities to enhance CDC's strategic position in public health informatics; information technology, and other information areas to optimize operational effectiveness support of CDC's mission and business services; (2) coordinates and oversees all CDC efforts in these areas; (3) serves as the accountable focus for CDC in these program areas and represents CDC with various external stakeholders, collaborators, service providers, oversight organizations, and others; (4) maintains liaison with officials of HHS responsible for the direction and conduct of such functions; and (5) directs the operations of offices within

the OCIO to ensure effective and efficient service delivery and alignment with CDC strategic direction.

Enterprise Information Technology Portfolio Office (CAJR12). (1) Leads, plans, and manages CDC's information technology (IT) budget development and review processes; (2) plans and directs the Capital Planning Investment Control processes including investment selection, control and evaluation, business case analyses, lifecycle reviews, portfolio development, performance measures, and investment prioritization procedures; (3) develops and monitors earned value management analyses of project cost, schedule and deliverable commitments; (4) provides guidance to program and project managers on the use of the tools for preparing investment documentation that meet CDC, HHS, and OMB requirements; (5) develops CDC IT strategic and tactical plans; (6) leads development of the enterprise architecture and transition strategies; (7) collaborates with CDC staff to develop business process models for CDC public health functions; (8) develops and maintains a shared services catalog to promote reuse of existing resources; (9) supports CDC information resource governance structures including common processes, tools, techniques; (10) identifies needs and develops strategies and approaches to acquire and manage enterprise statistical software licenses; and (11) develops internal cost allocation methods and coordinates allocation of costs for annual license renewal payments.

Freedom of Information Act Office (CAJR13). (1) Leads and administers the Freedom of Information Act (FOIA) program for CDC and ATSDR; (2) reviews, analyzes, redacts as necessary, and releases documents to the public under the provisions of the Act; (3) tracks and monitors FOIA requests and responses to ensure timely and appropriate responses; (4) provides guidance to employees, supervisors, management, OGC and high-level agency officials on various aspects of the Act; (5) interprets and applies legal and technical precedents, laws and regulations relating to FOIA issues; and (6) provides training to program staff and management concerning FOIA requirements and processing.

CIMS Program Management Office (CAJR14). (1) Plans, develops, manages, and conducts oversight of CDC's information services contracts; (2) coordinates and facilitates contracts use including requirements development, specifications, performance needs, quality assurance and service delivery, and contract administration; and (3)

provides guidance and assistance to programs on the various aspects of the contracts to meet their requirements.

Remove all CAJD standard administrative codes for the Information Technology Services Office (CAJD), and replace with the following:

Information Technology Services Office (CAJRB), Office of the Director (CAJRB1), Operations Branch (CARBB), Network Technology Branch (CAJRBC), Customer Services Branch (CAJRBD).

Remove all CAJG standard administrative codes for the Management Analysis and Services Office (CAJG), and replace with the following:

Management Analysis and Services Office (CAJRC), Office of the Director (CAJRC1), Management Assessment Branch (CAJRCC), Information Services Branch (CAJRCC), Business Process Analysis Branch (CAJRCD), Federal Advisory Committee Management Branch (CAJRCE).

Remove the CAJN standard administrative code for the Management Information Systems Office (CAJN), and replace with Management Information Systems Office (CAJRD).

After the functional statement for the Management Information Systems Office (CAJRD), insert the following:

Office of the Chief Information Security Officer (CAJRE). The mission of the Office of the Chief Information Security Officer (OCISO) is to administer CDC's information security program to protect CDC's information, information systems, and information technology commensurate with the risk and magnitude of harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of information collected or maintained by or on behalf of the agency.

Office of the Director (CAJRE1). (1) Manages and directs the activities and functions of the Office of the Chief Information Security Officer; (2) develops and maintains a CDC-wide information security program; (3) develops and maintains information security policies, procedures and control techniques to address the responsibilities assigned to the CDC under the Federal Information Security Management Act of 2002 (FISMA) and other governing statutes, regulations, and policies; (4) coordinates the professional development and operating procedures of CDC staff substantially involved in information security responsibilities; (5) assists CDC senior management concerning their FISMA responsibilities; and (6) ensures privacy

management so personally identifiable information is appropriately collected, processed, stored and protected.

Operations, Analysis and Response Branch (CAJREB). (1) Performs continuous monitoring functions including enterprise security log correlation, vulnerability and risk assessments; (2) performs network monitoring, security event correlation, forensic investigations, data recovery and malware analysis; (3) develops and maintains the CDC Computer Security Incident Response Team; (4) performs cyber security incident reporting according to US-CERT reporting guidelines; (5) facilitates cyber security incident remediation; (6) coordinates with law enforcement agencies and participates in cyber security intelligence activities; (7) develops enterprise security architecture, firewall management, cyber security tool management and CDC information resource governance—security component; and (8) supports OCISO IT operations; and (9) performs security product research and development, evaluation and testing.

Policy and Planning Branch (CAJREC). (1) Coordinates compliance and audit reviews; (2) develops cyber security policies and standards; (3) conducts system security tests and evaluations and identifies, assesses, prioritizes, and monitors the progress of corrective efforts for security weaknesses found in programs and systems; (4) maintains the Security Awareness Training program and coordinates significant security responsibilities and IT security training; (5) reviews and approves security and privacy related elements of OMB business cases; (6) conducts OCISO internal audit program and contract language reviews for information security and privacy act clearance decisions; (7) coordinates critical infrastructure protection continuity operations plans, data call management, E-Authentication and security requirements of CDC information system development; (8) conducts security reviews of non-standard software for use at CDC; and (9) coordinates FISMA security milestone oversight reporting and is the Office of Inspector General and Government Accounting Office Audit Liaison.

Dated: March 5, 2012.

Thomas R. Frieden,

Director, Centers for Disease Control and Prevention.

[FR Doc. 2012-5862 Filed 3-9-12; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Performance Measures for Community-Centered Healthy Marriage, Pathways to Responsible Fatherhood and Community-Centered Responsible Fatherhood Ex-Prisoner Reentry grant programs.

OMB No.: 0970-0365.

Description: The Office of Family Assistance (OFA), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), intends to request approval from the Office of Management and Budget (OMB) to renew OMB Form 0970-0365 for the collection of performance measures from grantees for the Community-Centered Healthy Marriage, Pathways to Responsible Fatherhood and Community-Centered Responsible Fatherhood Ex-Prisoner Reentry discretionary grant programs. The performance measure data obtained from the grantees will be used by OFA to report on the overall performance of these grant programs.

Data will be collected from all 61 Community-Centered Healthy Marriage, 53 Pathways to Responsible Fatherhood and 4 Community-Centered Responsible Fatherhood Ex-Prisoner Reentry grantees in the OFA programs. Grantees will report on program and participant outcomes in such areas as participants' improvement in knowledge skills, attitudes, and behaviors related to healthy marriage and responsible fatherhood. Grantees will be asked to input data for selected outcomes for activities funded under the grants. Grantees will extract data from program records and will report the data twice yearly through an on-line data collection tool. Training and assistance will be provided to grantees to support this data collection process.

Respondents: Office of Family Assistance Funded Community-Centered Healthy Marriage, Pathways to Responsible Fatherhood and Community-Centered Responsible Fatherhood Ex-Prisoner Reentry Grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Performance measure reporting form (for private sector affected public)	103	2	0.8	165
Performance measure reporting form (for State, local, and tribal government affected public)	15	2	0.8	30
Estimated Total Annual Burden Hours				195

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: infocollection@acf.hhs.gov. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012-5835 Filed 3-9-12; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2012-N-0001]

Preparation for International Conference on Harmonization Steering Committee and Expert Working Group Meetings in Fukuoka, Japan; Regional Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

The Food and Drug Administration (FDA) is announcing a public meeting entitled "Preparation for ICH Steering Committee and Expert Working Group Meetings in Fukuoka, Japan" to provide information and receive comments on the International Conference on Harmonization (ICH) as well as the upcoming meetings in Fukuoka, Japan. The topics to be discussed are the topics for discussion at the forthcoming ICH Steering Committee Meeting. The purpose of the meeting is to solicit public input prior to the next Steering Committee and Expert Working Group meetings in Fukuoka, Japan, scheduled on June 2 through 7, 2012, at which discussion of the topics underway and the future of ICH will continue.

DATES: Date and Time: The public meeting will be held on May 14, 2012, from 2 p.m. to 4 p.m.

Location: The public meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993. Information regarding visitor parking and transportation may be accessed at: <http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm>; under the heading "Public Meetings at the White Oak Campus." Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: All participants must register with Kimberly Franklin, Office of the Commissioner, Food and Drug

Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993-0002, FAX: 301-595-7937, email: Kimberly.Franklin@fda.hhs.gov.

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm name, address, telephone, and fax number), written material, and requests to make oral presentations to the contact person (see *Contact Person*) by May 9, 2012.

Interested persons may present data, information, or views orally or in writing, on issues pending at the public meeting. Public oral presentations will be scheduled between approximately 3:30 p.m. and 4 p.m. Time allotted for oral presentations may be limited to 10 minutes. Those desiring to make oral presentations should notify the contact person (see *Contact Person*) by May 9, 2012, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses, telephone number, fax, and email of proposed participants, and an indication of the approximate time requested to make their presentation.

If you need special accommodations due to a disability, please contact Kimberly Franklin (see *Contact Person*) at least 7 days in advance.

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at <http://www.regulations.gov>. It may be viewed at the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD. 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 Division of Freedom of Information (ELEM-1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: The ICH was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in

Europe, Japan, and the United States without compromising the regulatory obligations of safety and effectiveness.

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for medical product development among regulatory Agencies. ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. ICH is concerned with harmonization among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labor, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations. The ICH Steering Committee includes representatives from each of the ICH sponsors and Health Canada, the European Free Trade Area, and the World Health Organization. The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the three ICH regions.

The current ICH process and structure can be found at the following Web site: <http://www.ich.org>. (FDA has verified the Web site addresses in this document, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

The agenda for the public meeting will be made available on the Internet at <http://www.fda.gov/Drugs/NewsEvents/ucm291624.htm>.

Dated: March 6, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012-5857 Filed 3-9-12; 8:45 am]

BILLING CODE 4160-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2012-N-0001]

Arthritis Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Arthritis Advisory Committee.

General Function of the Committee:

To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 9, 2012, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993-0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: <http://www.fda.gov/AdvisoryCommittees/default.htm>; under the heading "Resources for You," click on "Public Meetings at the FDA White Oak Campus." Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Philip Bautista, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Avenue, Bldg. 31, rm. 2417, Silver Spring, MD 20993-0002, 301-796-9001, FAX: (301) 847-8533, email: AAC@fda.hhs.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301) 443-0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss new drug application (NDA) 203214, tofacitinib tablets, Pfizer Inc., for the

treatment of adult patients with moderately to severely active rheumatoid arthritis who have had an inadequate response to one or more disease-modifying anti-rheumatic drugs.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at <http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 25, 2012. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 17, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 18, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Philip Bautista at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at <http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm11462.htm> for procedures on

public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 6, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012-5818 Filed 3-9-12; 8:45 am]

BILLING CODE 4160-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; New Proposed Collection; Comment Request; Environmental Science Formative Research Methodology Studies for the National Children's Study

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection:

Title: Environmental Science Formative Research Methodology Studies for the National Children's Study (NCS). *Type of Information Collection Request:* Generic Clearance. *Need and Use of Information Collection:* The Children's Health Act of 2000 (Pub. L. 106-310) states:

(a) *Purpose.*—It is the purpose of this section to authorize the National Institute of Child Health and Human Development* to conduct a national longitudinal study of environmental influences (including physical, chemical, biological, and psychosocial) on children's health and development.

(b) *In General.*—The Director of the National Institute of Child Health and Human Development* shall establish a consortium of representatives from appropriate Federal agencies (including the Centers for Disease Control and Prevention, the Environmental Protection Agency) to—

(1) Plan, develop, and implement a prospective cohort study, from birth to adulthood, to evaluate the effects of both chronic and intermittent exposures on child health and human development; and

(2) Investigate basic mechanisms of developmental disorders and environmental factors, both risk and protective, that influence health and developmental processes.

(c) *Requirement.*—The study under subsection (b) shall—

(1) Incorporate behavioral, emotional, educational, and contextual consequences to enable a complete assessment of the physical, chemical, biological, and psychosocial environmental influences on children's well-being;

(2) Gather data on environmental influences and outcomes on diverse populations of children, which may include the consideration of prenatal exposures; and

(3) consider health disparities among children, which may include the consideration of prenatal exposures.

To fulfill the requirements of the Children's Health Act, the results of formative research will be used to maximize the efficiency (measured by scientific robustness, participant and infrastructure burden, and cost) of environmental sample collection procedures and technology, storage procedures, accompanying questionnaires, and assays, and thereby inform data collection methodologies for the National Children's Study (NCS) Vanguard and Main Studies. With this submission, the NCS seeks to obtain OMB's generic clearance to collect environmental samples from homes and child care settings, and conduct accompanying short surveys related to the physical and chemical environment.

The NCS has obtained OMB's generic clearance to conduct survey and instrument design and administration, focus groups, cognitive interviews, and health and social service provider feedback information collection surrounding outreach, recruitment and retention (OMB # 0925-0590; Expiration Date 9/30/2014). Under separate notice, the NCS is also requesting generic clearance to conduct formative research featuring biospecimen and physical measures (OMB # 0925-0647, Expiration Date 1/31/2015), neurodevelopmental (pending clearance), and study logistic (pending clearance) information collection. Separate and distinct generic clearances are requested to facilitate the efficiency of submissions and review of these projects as requested by the Office of Information and Regulatory Affairs.

Background:

The National Children's Study is a prospective, national longitudinal study of the interaction between environment, genetics on child health and development. The Study defines "environment" broadly, taking a number of natural and man-made environmental, biological, genetic, and psychosocial factors into account. By studying children through their different phases of growth and development, researchers will be better able to understand the role these factors

have on health and disease. Findings from the Study will be made available as the research progresses, making potential benefits known to the public as soon as possible. The National Children's Study is led by a consortium of federal partners: The U.S. Department of Health and Human Services (including the Eunice Kennedy Shriver National Institute of Child Health and Human Development and the National Institute of Environmental Health Sciences of the National Institutes of Health and the Centers for Disease Control and Prevention), and the U.S. Environmental Protection Agency.

To conduct the detailed preparation needed for a study of this size and complexity, the NCS was designed to include a preliminary pilot study known as the Vanguard Study. The purpose of the Vanguard Study is to assess the feasibility, acceptability, and cost of the recruitment strategy, study procedures, and outcome assessments that are to be used in the NCS Main Study. The Vanguard Study begins prior to the NCS Main Study and will run in parallel with the Main Study. At every phase of the NCS, the multiple methodological studies conducted during the Vanguard phase will inform the implementation and analysis plan for the Main Study.

In this request, the NCS is requesting generic approval from OMB for formative research activities relating to the collection, storage, management, and assay of environmental samples and accompanying questionnaires. The results from these formative research projects will inform the feasibility (scientific robustness), acceptability (burden to participants and study logistics) and cost of NCS Vanguard and Main Study environmental sample and information collection in a manner that minimizes public information collection burden compared to burden anticipated if these projects were incorporated directly into either the NCS Vanguard or Main Study.

Frequency of Response: Annual [As needed on an on-going and concurrent basis]. *Affected Public:* Members of the public, researchers, practitioners, and other health professionals. *Type of Respondents:* Women of child-bearing age, fathers, public health and environmental science professional organizations and practitioners, and schools and child care organizations. These include both persons enrolled in the NCS Vanguard Study and their peers who are not participating in the NCS Vanguard Study. *Annual reporting burden:* See Table 1. The annualized cost to respondents is estimated at: \$780,000 (based on \$10 per hour). There

are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN SUMMARY, ENVIRONMENTAL SCIENCE

Data collection activity	Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Home Air	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
Home Water	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
Home Dust	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
School and Child Care Facility Air	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
School and Child Care Facility Water	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
School and Child Care Facility Dust	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
Small, focused survey and instrument design and administration.	NCS participants	4,000	2	1	8,000
	Members of NCS target population (not NCS participants).	4,000	2	1	8,000
Focus groups	Health and Social Service Providers	2,000	1	1	2,000
	Community Stakeholders	2,000	1	1	2,000
	NCS participants	2,000	1	1	2,000
	Members of NCS target population (not NCS participants).	2,000	1	1	2,000
Cognitive interviews	Health and Social Service Providers	2,000	1	1	2,000
	Community Stakeholders	2,000	1	1	2,000
	NCS participants	500	1	2	1,000
	Members of NCS target population (not NCS participants).	500	1	2	1,000
Total .....	.....	69,000	.....	.....	78,000

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and

instruments, contact Dr. Sarah L. Glavin, Deputy Director, Office of Science Policy, Analysis and Communication, National Institute of Child Health and Human Development, 31 Center Drive Room 2A18, Bethesda, Maryland 20892, or call non-toll free number (301) 496-1877 or Email your request, including your address to glavins@mail.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: March 6, 2012.

Sarah L. Glavin,
Deputy Director, Office of Science Policy, Analysis and Communications National Institute of Child Health and Human Development.

[FR Doc. 2012-5946 Filed 3-9-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Web-Based Assessment of the NHLBI Clinical Studies Support Center (CSSC)

SUMMARY: In compliance with the requirement of Section 3506(c) (2) (A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Web-Based Assessment of the Clinical Studies Support Center (CSSC). *Type of Information Collection Request:* New.

Need and Use of Information Collection: Over the past decade Data Safety Monitoring Boards (DSMBs), Observational Safety Monitoring Boards (OSMBs), and Protocol Review Committees (PRCs) have become an important quality standard in clinical trials and research involving human subjects. The National Heart, Lung, and Blood Institute (NHLBI) alone currently has approximately 60 active review Committees. These include DSMBs, OSMBs, and PRCs which are independent groups convened to review study protocols developed under NHLBI funded Clinical Trial Networks. These committees are composed of members with expertise in biostatistics, clinical trials, bioethics, and other specific scientific and research areas. The NHLBI is charged with ensuring the highest quality of each Institute-funded clinical research project and compliance with Department of Health and Human Services (DHHS)/National Institutes of Health (NIH)/NHLBI regulations regarding human subject protections and safety monitoring. To carry out this responsibility, the NHLBI program staff instituted a new methodology for supporting the administration of NHLBI-appointed Committees in 2009.

The new methodology included the establishment of the Clinical Studies Support Center (CSSC) under the direction of Westat, Inc. The CSSC is a pilot program to support the operations of NHLBI's DSMBs, Observational OSMBs, and PRCs for the Division of Blood Diseases and Resources. Utilizing Executive Secretaries to support each NHLBI safety monitoring board, the CSSC is responsible for documenting standardized operating procedures related to the administration of monitoring committees and the support center in a CSSC Manual of Operations and Procedures (MOP); coordinating meeting space and logistics for in-person meetings, Web conferences, and teleconferences; managing distribution of adverse event notifications to DSMB chairs and members, new protocols, and proposed amendments; and providing Executive Secretaries who provide scientific and administrative support to document board recommendations related to the safety and efficacy of trial interventions and the quality and completeness of clinical research study data. To move forward with full knowledge of current Committee operations and to monitor the effect of newly established procedures, Westat is

required, as part of this contract, to conduct an assessment of the efficiency and effectiveness of NHLBI CSSC committee operations. As part of this assessment, the NHLBI requires feedback and advice regarding the support provided by the CSSC for monitoring board operations. To this end, a Web-based questionnaire will be administered to Chairs and members of monitoring boards to learn about their opinions about specific CSSC activities and their satisfaction with the performance of CSSC staff.

Frequency of Response: Once; *Affected Public:* Individuals; *Type of Respondents:* Monitoring board members. The annual reporting burden is as follows: *Estimated Number of Respondents:* 90; *Estimated Number of Responses per Respondent:* 1; *Average Burden of Hours per Response:* 0.33 and *Estimated Total Annual Burden Hours Requested:* 30.36. The annualized cost to respondents is estimated at: \$3.036 (based on \$100 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Table 1–1 and 1–2: Estimate of Requested Burden Hours and Dollar Value of Burden Hours

TABLE A.12–1—ESTIMATES OF HOUR BURDEN

Type of respondents	Number of respondents	Frequency of responses	Average time per response	Annual hour burden
D/OSMB Chairs	10	1	0.33	3.3
D/OSMB Members	78	1	0.33	25.74
Members in two D/OSMB	2	2	0.33	1.32
Total	90	.....	.....	30.36

TABLE A.12–2—ANNUALIZED COST TO RESPONDENTS

Type of respondents	Number of respondents	Frequency of response	Average time per response	Hourly wage rate	Respondent cost
DSMB Chairs	10	1	.33	100	330
DSMB Members	78	1	.33	100	2,574
Members in two D/OSMB	2	2	.33	100	132
Totals	90	.....	.....	.....	3,036

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of

the data collection plans and instruments, contact Erin Smith, Contracting Officer's Technical Representative, NHLBI, Room 9149, 6701 Rockledge Drive, Bethesda, MD 20892–7950, or call 301–435–0050, or Email your request to smithee@nhlbi.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: February 16, 2012.

Keith Hoots,

Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH.

Dated: February 29, 2012.

Lynn Susulskis,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2012-5918 Filed 3-9-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Basic Research in Calcific Aortic Valve Disease.

Date: April 4, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott 1700 Jefferson Davis Highway Arlington, VA 22202.

Contact Person: David A Wilson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7204, Bethesda, MD 20892-7924, 301-435-0299, wilsonda2@nhlbi.nih.gov.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel COPD Genetic Epidemiology.

Date: April 4, 2012.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health One Democracy Plaza 6701 Democracy Boulevard Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stephanie J Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301-435-0291, stephanie.webb@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-5928 Filed 3-9-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; "BRAD".

Date: March 30, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852.

Contact Person: Sherry L. Dupere, Ph.D., Director, Division of Scientific Review, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301-451-3415, duperes@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 2, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-5932 Filed 3-9-12; 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; Bioengineering Sciences and Technologies: Shared Instrument Review.

Date: March 21-22, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ping Fan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301-408-9971, fanp@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.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Biophysical and Biomechanical Aspects of Embryonic Development.

Date: March 26-27, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301-435-1236, smirnov@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Research in Biomedicine and Agriculture Using Agriculturally Important Domestic Species.

Date: March 27, 2012.

Time: 9 a.m. to 2 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: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435-1046, knechtm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular and Molecular Immunology—B Overflow.

Date: March 30, 2012.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301-435-1152, dwinter@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Ultrafast Infrared Optical Processes.

Date: April 2-4, 2012.

Time: 6:30 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Sheraton Philadelphia University City Hotel, 3549 Chestnut Street, Philadelphia, PA 19104.

Contact Person: James W. Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435-2037, mackj2@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 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-5930 Filed 3-9-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel K22 Emphasis.

Date: March 28, 2012.

Time: 11 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David M. Armstrong, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/ Room 6138/MS 9608, 6001 Executive Boulevard, Bethesda, MD 20892-9608, 301-443-3534, armstrda@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 6, 2012

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-5929 Filed 3-9-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, NIH Blueprint for Neuroscience.

Date: March 28, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott, 1221 22nd Street NW., Washington, DC 20852.

Contact Person: Richard D. Crosland, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, 301-594-0635, Rc218u@nih.gov.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, NETT Special Emphasis Panel.

Date: April 3-4, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, 301-402-0288, Natalia.Strunnikova@nih.gov.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Epileptogenesis Exploratory Grant Review.

Date: April 20, 2012.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Avenue Chicago Hotel—Crowne Plaza, 160 East Huron, Chicago, IL 60611.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, 301-496-0660, BenzingW@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-5922 Filed 3-9-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY**U.S. Citizenship and Immigration Services****Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request**

ACTION: 60-Day notice of information collection under review; Form I-590, registration for classification as refugee.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 11, 2012.

During this 60 day period, USCIS will be evaluating whether to revise the Form I-590. Should USCIS decide to revise Form I-590 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I-590.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, 20 Massachusetts Avenue NW., Washington, DC 20529-2020. Comments may also be submitted to DHS via facsimile to 202-272-0997 or via email at rfs.regs@dhs.gov. When submitting comments by email, please make sure to add OMB Control No. 1615-0068 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

Note: The address listed in this notice should only be used to submit comments concerning the extension of the Form I-590. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check "My Case Status" online at <https://egov.uscis.gov/cris/Dashboard>, or call the USCIS National Customer Service Center at 1-800-375-5283 (TTY 1-800-767-1833).

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Registration for Classification as Refugee.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I-590; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I-590 provides a uniform method for applicants to apply for refugee status and contains the information needed for USCIS to adjudicate such applications.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 140,000 responses at 35 minutes (.583) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 81,620 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: <http://www.regulations.gov/>.

We may also be contacted at: USCIS, Regulatory Products Division, 20 Massachusetts Avenue NW., Washington, DC 20529-2020, Telephone number 202-272-8377.

Dated: March 7, 2012.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012-5893 Filed 3-9-12; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****Agency Information Collection Activities: Application To Use the Automated Commercial Environment (ACE)**

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0105.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application to Use the Automated Commercial Environment (ACE). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

DATES: Written comments should be received on or before May 11, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229-1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229-1177, at 202-325-0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). The comments should address: (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 estimates 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 including the use of automated collection

techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Application to Use ACE.
OMB Number: 1651-0105.
Form Number: None.

Abstract: The Automated Commercial Environment (ACE) is a trade processing system that will eventually replace the Automated Commercial System (ACS), the current import system for U.S. Customs and Border Protection (CBP) operations. ACE supports government agencies with border-related missions, as well as the business community, with respect to moving goods across the border efficiently and securely. Once ACE is fully implemented, all related CBP functions and the trade community will be supported from a single common user interface. The CBP transition to ACE began in October 2003 with the launch of the ACE Secure Data Portal, a customized Web page that provides a single, user-friendly gateway to access CBP information via the internet for CBP, the trade community and Participating Government Agencies. In order to participate in the various ACE pilots, companies and/or individuals are required to submit basic information to CBP such as: their name; their employer identification number (EIN) or social security number, standard carrier alpha code (SCAC), and if applicable, a statement certifying their capability to connect to the internet. The application for the ACE Secure Data Portal is accessible at: http://www.cbp.gov/linkhandler/cgov/trade/automated/modernization/ace_app_info/ace_portal_app.ctt/ace_portal_app.pdf.

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.
Estimated Number of Respondents: 21,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 6,930.

Dated: March 6, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012-5840 Filed 3-9-12; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5332-FA-03]

Announcement of Funding Awards for HUD's Fiscal Year 2009 Rental Assistance for Non-Elderly Persons With Disabilities

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of Funding Awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the FY 2009 Notice of Funding Availability (NOFA) for the Rental Assistance for Non-Elderly Persons with Disabilities. This announcement contains the consolidated names and addresses of those award recipients selected for funding based on the funding criteria established in the NOFA.

FOR FURTHER INFORMATION CONTACT: Darrin C. Dorsett, Grant Management Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., B133 Potomac Center, 3rd Floor, Washington, DC, 20410 telephone number 202-475-8861. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Relay Service at 800-877-8339. (Other than the "800" TTY

number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: This program is intended to provide incremental Section 8 Housing Choice Vouchers (HCVs) for non-elderly disabled families served by Public Housing Authorities with demonstrated experience and resources for supportive services. Vouchers provided under this program will enable non-elderly disabled families to access affordable housing, and enable non-elderly persons with disabilities to transition from nursing homes and other health-care institutions into the community.

On April 7, 2010, HUD posted its Notice of Funding Availability (NOFA) for the Rental Assistance for Non-Elderly Persons with Disabilities for Fiscal Year 2009. The NOFA addressed comments submitted in response to HUD's proposed Rental Assistance for Non-Elderly Persons with Disabilities NOFA published in the **Federal Register** on June 22, 2009 (74 FR 29504). The NOFA made approximately \$40 million available under the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2008 (Pub. L. 110-161). The allocation of housing assistance budget authority is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213 (d) of the Housing and Community Development Act of 1974, as amended.

The Fiscal Year 2009 awards announced in this Notice were selected for funding in a competition announced in the NOFA posted on April 7, 2010. In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 74 awards (totaling \$40,082,396) made under the Rental Assistance for Non-Elderly Persons with Disabilities competition.

Dated: February 24, 2012

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

Appendix A

FISCAL YEAR 2009 FUNDNG AWARDS FOR THE RENTAL ASSISTANCE FOR NON-ELDERLY PERSONS WITH DISABILITIES

Recipient	Address	City	State	Zip code	Category	Amount	Vouchers
Pima County c/o City of Tucson	P.O. Box 27210, 310 North Commerce Park Loop Road.	Tucson	AZ	85276	Funded-Category 2 ..	\$158,601	25
City of Anaheim Housing Authority.	201 South Anaheim Boulevard, Suite 203.	Anaheim	CA	92805	Funded-Category 1 ..	1,081,464	100
Housing Authority City of Napa	1115 Seminary Street	Napa	CA	94559	Funded-Category 1 ..	784,584	100

FISCAL YEAR 2009 FUNDNG AWARDS FOR THE RENTAL ASSISTANCE FOR NON-ELDERLY PERSONS WITH DISABILITIES—
Continued

Recipient	Address	City	State	Zip code	Category	Amount	Vouchers
Housing Authority of the City of Santa Ana.	P.O. Box 22030	Santa Ana	CA	92702	Funded-Category 1 ..	1,071,816	100
Housing Authority of the City of Santa Barbara.	808 Laguna Street	Santa Barbara	CA	93101	Funded-Category 1 ..	1,060,692	100
Housing Authority of the County of Alameda.	22941 Atherton Street	Hayward	CA	94541	Funded-Category 2 ..	129,146	10
Housing Authority of the County of Santa Barbara.	815 West Ocean Avenue	Lompoc	CA	93436	Funded-Category 2 ..	227,334	25
Housing Authority of the County of Santa Clara.	505 West Julian Street	San Jose	CA	95110	Funded-Category 2 ..	143,039	10
Imperial Valley Housing Authority.	1401 D Street	Brawley	CA	92227	Funded-Category 1 ..	434,712	100
Orange County Housing Authority.	1770 North Broadway	Santa Ana	CA	92706	Funded-Category 2 ..	459,792	50
Pasadena Community Development Commission.	649 North Fair Oaks Avenue, Suite 202.	Pasadena	CA	91103	Funded-Category 2 ..	331,608	40
Pasadena Community Development Commission.	649 North Fair Oaks Avenue, Suite 202.	Pasadena	CA	91103	Funded-Category 1 ..	497,412	60
Roseville Housing Authority	311 Vernon Street	Roseville	CA	95678	Funded-Category 1 ..	484,020	75
Fort Collins Housing Authority ..	1715 West Mountain Avenue ...	Fort Collins	CO	80521	Funded-Category 1 ..	763,848	100
Housing Authority City of Boulder dba Boulder Housing Partnership.	4800 Broadway	Boulder	CO	80304	Funded-Category 1 ..	763,572	100
District of Columbia Housing Authority.	1133 North Capitol Street, North East.	Washington	DC	20002	Funded-Category 1 ..	2,529,288	200
Collier County Housing Authority.	1800 Farm Worker Way	Immokalee	FL	34142	Funded-Category 2 ..	199,812	25
Housing Authority of the City of Fort Pierce.	707 North 7th Street	Fort Pierce	FL	34950	Funded-Category 1 ..	706,440	100
The Housing Authority of the City of Titusville.	524 South Hopkins Avenue	Titusville	FL	32796	Funded-Category 1 ..	320,784	50
Housing Authority of the City of Decatur, Georgia.	750 Commerce Drive, Suite 110.	Decatur	GA	30030	Funded-Category 2 ..	260,287	35
Idaho Housing and Finance Association.	P.O. Box 7899, 565 West Myrtle Street.	Boise	ID	83707	Funded-Category 1 ..	904,968	200
Housing Authority of the Village of Oak Park.	21 South Boulevard	Oak Park	IL	60302	Funded-Category 2 ..	120,323	15
Springfield Housing Authority	200 North Eleventh Street	Springfield	IL	62703	Funded-Category 2 ..	48,455	10
Cumberland Valley Regional Housing Authority.	338 Court Square	Barbourville	KY	40906	Funded-Category 1 ..	403,680	100
Kentucky Housing Corporation	1231 Louisville Road	Frankfort	KY	40601	Funded-Category 1 ..	732,510	150
Brockton Housing Authority	P.O. Box 7070, 45 Goddard Road.	Brockton	MA	2303	Funded-Category 1 ..	1,037,904	100
Lynn Housing Authority & Neighborhood Development.	10 Church Street	Lynn	MA	1902	Funded-Category 2 ..	334,307	35
Lynn Housing Authority & Neighborhood Development.	10 Church Street	Lynn	MA	1902	Funded-Category 1 ..	620,857	65
Malden Housing Authority	630 Salem Street	Malden	MA	2148	Funded-Category 1 ..	577,332	50
Baltimore County Department of Social Services Housing Office.	6401 York Road	Baltimore	MD	21212	Funded-Category 2 ..	412,884	50
Carroll County, Commissioners of.	225 North Center Street	Westminster	MD	21157	Funded-Category 1 ..	836,628	100
Housing Authority of Baltimore City.	417 East Fayette Street	Baltimore	MD	21202	Funded-Category 2 ..	376,752	40
Housing Opportunities Commission of Montgomery County, MD.	10400 Detrick Avenue	Kensington	MD	20895	Funded-Category 1 ..	2,063,597	160
Howard County Housing Commission.	6751 Columbia Gateway Drive, 3rd Floor.	Columbia	MD	21046	Funded-Category 2 ..	122,759	10
Maryland Department of Housing and Community Development.	100 Community Place	Crownsville	MD	21032	Funded-Category 2 ..	85,226	12
Traverse City Housing Commission.	10200 East Carter Centre	Traverse	MI	49684	Funded-Category 2 ..	56,714	10
Housing & Redevelopment Authority of Todd County.	300 Linden Avenue South	Browerville	MN	56438	Funded-Category 1 ..	73,689	25
Chatham County Housing Authority.	P.O. Box 637, 190 Sanford Road.	Pittsboro	NC	27312	Funded-Category 1 ..	332,820	50
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue.	Gastonia	NC	28053	Funded-Category 1 ..	586,200	100
Housing Authority of the City of Wilmington, N. C..	1524 South 16th Street	Wilmington	NC	28401	Funded-Category 2 ..	29,253	5
Kearney Housing Authority	P.O. Box 1236, 2715 Avenue I	Kearney	NE	68847	Funded-Category 1 ..	109,865	30
Keene Housing Authority	831 Court Street	Keene	NH	3431	Funded-Category 1 ..	876,288	100
Manchester Housing and Redevelopment Authority.	198 Hanover Street	Manchester	NH	3104	Funded-Category 1 ..	812,736	100
Housing Authority of the City of Jersey City.	400 US Highway # 1	Jersey City	NJ	7306	Funded-Category 1 ..	1,826,760	200

FISCAL YEAR 2009 FUNDNG AWARDS FOR THE RENTAL ASSISTANCE FOR NON-ELDERLY PERSONS WITH DISABILITIES—
Continued

Recipient	Address	City	State	Zip code	Category	Amount	Vouchers
Hunterdon, County of, Division of Housing.	P.O. Box 2900, 8 Gauntt Place	Flemington	NJ	8822	Funded-Category 1 ..	489,078	50
New Jersey Department of Community Affairs.	P.O. Box 051, 101 South Broad Street.	Trenton	NJ	8625	Funded-Category 2 ..	936,420	100
Belmont Shelter Corp. as agent for Erie County PHA Consortium.	1195 Main Street	Buffalo	NY	14209	Funded-Category 2 ..	91,555	20
City of Utica Section 8 Program	1 Kennedy Plaza	Utica	NY	13502	Funded-Category 1 ..	420,660	100
Athens Metropolitan Housing Authority.	10 Hope Drive	Athens	OH	45701	Funded-Category 1 ..	450,804	100
Butler Metropolitan Housing Authority.	4110 Hamilton Middletown Road.	Hamilton	OH	45011	Funded-Category 1 ..	594,252	100
Cincinnati Metropolitan Housing Authority.	16 West Central Parkway	Cincinnati	OH	45202	Funded-Category 2 ..	605,858	100
Fayette Metropolitan Housing Authority.	121 E. East Street	Washington CH	OH	43160	Funded-Category 1 ..	212,202	50
Lorain Metropolitan Housing Authority.	1600 Kansas Avenue	Lorain	OH	44055	Funded-Category 1 ..	592,068	100
Lucas Metropolitan Housing Authority.	P.O. Box 477, 435 Nebraska Avenue.	Toledo	OH	43697	Funded-Category 1 ..	801,847	140
Lucas Metropolitan Housing Authority.	P.O. Box 477, 435 Nebraska Avenue.	Toledo	OH	43697	Funded-Category 2 ..	343,649	60
Housing Authority of the County of Dauphin.	501 Mohn Street	Steelton	PA	17113	Funded-Category 2 ..	60,376	10
Municipality of Vega Alta	P.O. Box 1390	Vega Alta	PR	692	Funded-Category 1 ..	256,128	50
Bristol Housing Authority	1014 Hope Street	Bristol	RI	2809	Funded-Category 1 ..	168,498	25
Warren Housing Authority	20 Libby Lane	Warren	RI	2885	Funded-Category 1 ..	180,993	25
Metropolitan Development and Housing Agency.	701 South Sixth Street	Nashville	TN	37206	Funded-Category 1 ..	592,548	100
City of Amarillo	509 East 7th	Amarillo	TX	79105	Funded-Category 1 ..	289,087	53
Housing Authority of the City of Austin.	P.O. Box 6159	Austin	TX	78762	Funded-Category 2 ..	300,158	36
Harrisonburg Redevelopment and Housing Authority.	286 Kelley Street	Harrisonburg	VA	22802	Funded-Category 1 ..	557,820	100
Newport News Redevelopment and Housing Authority.	227 27th Street	Newport News	VA	23607	Funded-Category 1 ..	371,022	50
Norfolk Redevelopment and Housing Authority.	201 Granby Street	Norfolk	VA	23510	Funded-Category 1 ..	1,192,986	150
Portsmouth Redevelopment and Housing Authority.	801 Water Street, 2nd Floor	Portsmouth	VA	23704	Funded-Category 1 ..	819,903	93
PWC, Office of Housing and Community Development.	15941 Donald Curtis Drive, Suite 112.	Woodbridge	VA	22191	Funded-Category 1 ..	840,882	70
Barre Housing Authority	4 Humbert Street	Barre	VT	5641	Funded-Category 1 ..	287,220	50
Vermont State Housing Authority.	One Prospect Street	Montpelier	VT	5602	Funded-Category 1 ..	1,171,368	200
Housing Authority of Snohomish County.	12625 4th Avenue West, Suite 200.	Everett	WA	98204	Funded-Category 2 ..	454,830	50
Housing Authority of the City of Longview.	1207 Commerce Avenue	Longview	WA	98632	Funded-Category 2 ..	182,574	35
Housing Authority of the City of Tacoma.	902 South L Street	Tacoma	WA	98405	Funded-Category 2 ..	874,200	100
Housing Authority of the City of Yakima.	810 North 6th Avenue	Yakima	WA	98902	Funded-Category 2 ..	74,705	15
Housing Authority of the County of Clallam.	2603 South Francis Street	Port Angeles	WA	98362	Funded-Category 2 ..	77,947	15

[FR Doc. 2012-5884 Filed 3-9-12; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 5415-FA-15]

Announcement of Funding Awards Family Unification Program (FUP) Fiscal Year (FY) 2010

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the FY2010 Notice of Funding Availability (NOFA) for the Family Unification Program (FUP). This announcement contains the consolidated names and addresses of the award recipients for this year under the FUP Program.

FOR FURTHER INFORMATION CONTACT: Lisa Smyth, Grants Management Center, Office of Public and Indian Housing, Department of Housing and Urban

Development, 451 Seventh Street SW., B133 Potomac Center, 3rd Floor, Washington, DC 20410, telephone number 202-475-8835. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The FUP provides grants to public housing authorities (PHAs) that have an existing Annual Contributions Contracts (ACC) with HUD for Housing Choice Vouchers to provide voucher assistance for obtaining adequate housing as a means to promote family unification. More specifically, the FUP vouchers will be

used to promote unification of families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families or the delay in the discharge of the child, or children, to the family from out-of-home care. FUP vouchers under the NOFA will also be used for youths 18 to 21 years old who left foster care at age 16 or older and lack adequate housing.

The FY2010 awards announced in this notice identify applicants that were selected for funding in a competition posted on HUD's Web site on October 5, 2010. Applications were reviewed and selected based on rating and scoring in accordance with the FUP NOFA, which made approximately \$15 million available for distribution.

In accordance with Section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of

1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 32 awards made under the competition in Appendix A to this notice.

Dated: February 24, 2012.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

Appendix A

FISCAL YEAR 2010 FUNDING AWARDS FOR THE FAMILY UNIFICATION PROGRAM

Recipient	Address	City	State	Zip code	Amount	Vouchers
City of Oceanside Community Development Commission.	300 North Coast Highway	Oceanside	CA	92054	\$485,787	48
Napa Housing Authority	1115 Seminary Street	Napa	CA	94559	392,292	50
Plumas County Community Development Commission.	P.O. Box 319	Quincy	CA	95971	137,361	25
Vacaville Housing Authority	40 Eldridge Avenue Suite 2	Vacaville	CA	95688	381,894	50
Boulder County Housing Authority ..	P.O. Box 471	Boulder	CO	80306	444,330	50
Fort Collins Housing Authority	1715 West Mountain Avenue	Fort Collins	CO	80521	381,924	50
Housing Authority of the City of Aurora, CO.	10745 East Kentucky Avenue	Aurora	CO	80012	433,890	50
Housing Authority of the City of Meriden.	22 Church Street	Meriden	CT	6451	38,597	4
Broward County Housing Authority	4780 North State Road 7	Lauderdale Lakes	FL	33319	1,181,436	100
The Housing Authority of the City of Tampa.	1514 Union Street	Tampa	FL	33607	316,302	35
Chicago Housing Authority	60 East Van Buren	Chicago	IL	60605	923,232	100
Rock Island Housing Authority	227-21st Street	Rock Island	IL	61201	121,323	25
Springfield Housing Authority	200 North Eleventh Street	Springfield	IL	62703	242,274	50
Manhattan Housing Authority	P.O. Box 1024, 300 North 5th Street.	Manhattan	KS	66505	109,107	25
Massachusetts Dept. of Housing and Community Development.	100 Cambridge Street Suite 300 ...	Boston	MA	2114	1,068,708	100
Housing Authority of Baltimore City	1225 West Pratt Street	Baltimore	MD	21223	941,880	100
Housing Authority of St. Mary's County, Maryland (HSMC).	21155 Lexwood Drive Suite C	Lexington Park ...	MD	20653	474,282	50
Minneapolis Public Housing Authority.	1001 Washington Avenue North ...	Minneapolis	MN	55401	858,000	100
Housing Authority of the City of Charlotte, NC.	1301 South Boulevard	Charlotte	NC	28203	682,764	100
Housing Authority of the City of Wilmington, NC.	1524 South 16th Street	Wilmington	NC	28401	292,530	50
Housing Authority of Portland	135 SW. Ash Street	Portland	OR	97204	727,020	100
Housing Authority of the City of Salem.	360 Church Street South East	Salem	OR	97301	529,248	100
Housing Authority of the County of Salt Lake.	3595 South Main Street	Salt Lake City	UT	84115	752,568	100
City of Roanoke Redevelopment & Housing Authority.	2624 Salem Turnpike NW	Roanoke	VA	24017	267,312	50
Danville Redevelopment and Housing Authority.	135 Jones Crossing	Danville	VA	24541	258,102	50
Burlington Housing Authority	64 Main Street	Burlington	VT	5401	400,020	50
Vermont State Housing Authority ...	One Prospect Street	Montpelier	VT	5602	585,684	100
Housing Authority of Snohomish County.	12625 4th Avenue W, Suite 200 ...	Everett	WA	98204	454,830	50
Housing Authority of the County of Clallam.	2603 South Francis Street	Port Angeles	WA	98362	129,912	25
Housing Authority of the County of King.	600 Andover Park West	Tukwila	WA	98188	233,087	24
Seattle Housing Authority	120 Sixth Avenue North	Seattle	WA	98109	625,944	100
City of Kenosha Housing Authority ..	625 52nd Street Room 98	Kenosha	WI	53140	122,671	20

[FR Doc. 2012-5885 Filed 3-9-12; 8:45 am]
 BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5500-FA-09]

Announcement of Funding Awards for the Public and Indian Housing Family Self-Sufficiency Program Under the Resident Opportunity and Self-Sufficiency Program for Fiscal Year (FY) 2011

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the Notice of Funding Availability (NOFA) for the Public and Indian Housing Family Self-Sufficiency Program under the Resident Opportunity and Self-Sufficiency (PH-FSS) Program for FY 2011. This announcement contains the

consolidated names and addresses of those award recipients selected for funding based on the funding priority categories established in the NOFA.

FOR FURTHER INFORMATION CONTACT: Andrea Edmond, Grant Management Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., B133 Potomac Center, 3rd Floor, Washington, DC 20410, telephone number 202-475-8851. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Relay Service at 800-877-8339. (Other than the "800" TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The PH-FSS Program is designed to promote the development of local strategies to coordinate the use of assistance under the Public Housing program with public and private resources, enable participating families to increase earned income and financial literacy, reduce or eliminate the need for welfare assistance, and make progress toward achieving economic independence and housing self-sufficiency. The PH-FSS program provides critical tools that can be used by communities to support welfare reform and help families develop new skills that will lead to

economic self-sufficiency. A PH-FSS Program Coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

On April 21, 2011, HUD posted its PH-FSS NOFA. The NOFA made available approximately \$15,000,000 in one-year budget authority under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011). The Department reviewed, evaluated, and scored the applications received based on the criteria in the FY 2011 NOFA, and has funded the applications announced in Appendix A. In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 238 awards made under the Public and Indian Housing Family Self-Sufficiency Program under Resident Opportunity and Self-Sufficiency Program competition.

Dated: February 24, 2012.

Sandra B. Henriquez,
Assistant Secretary for Public and Indian Housing.

Appendix A

FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING FAMILY SELF-SUFFICIENCY PROGRAM UNDER RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)

Recipient	Address	City	Zip code	State	Zip code	Amount (\$)
Alaska Housing Finance Corporation.	P.O. Box 101020	Anchorage	99510	AK	99510	69,000
Alexander City Housing Authority ...	2110 County Road	Alexander City ...	35010	AL	35010	39,936
Housing Authority of the Birmingham District.	1826 3rd Avenue South	Birmingham	35233	AL	35233	69,000
Huntsville Housing Authority	200 Washington Street	Huntsville	35804	AL	35804	55,550
Mobile Housing Board	151 South Claiborne Street	Mobile	36602	AL	36602	46,926
Tuscaloosa Housing Authority	P.O. Box 2281, 2117 Jack Warner Parkway, Suite 3.	Tuscaloosa	35401	AL	35401	69,000
Housing Authority of Pine Bluff	2503 Belle Meade	Pine Bluff	71611	AR	71611	28,500
Housing Authority of the City of Hot Springs.	1004 Illinois Street	Hot Springs	71901	AR	71901	27,390
Housing Authority of the City of North Little Rock Arkansas.	2201 Division	North Little Rock	72114	AR	72114	40,629
Housing Authority of the City of West Memphis.	2820 Harrison Street	West Memphis ..	72301	AR	72301	42,652
City of Phoenix Housing Department.	251 West Washington, 4th Floor ..	Phoenix	85003	AZ	85003	68,000
City of Tucson	P.O. Box 27210, 310 North Commerce Park Loop.	Tucson	85726	AZ	85726	68,680
Housing Authority of Maricopa County.	2024 North 7th Street	Phoenix	85006	AZ	85006	69,000
Housing Authority of the City of Yuma.	420 South Madison Avenue	Yuma	85364	AZ	85364	62,458
Yuma County Housing Department	8450 West Highway 95, Suite 88	Somerton	85350	AZ	85350	56,000
Bear River Band Rohnerville Rancheria.	27 Bear River Drive	Loleta	95551	CA	95551	68,000
Housing Authority of the City of Sacramento.	801 12th Street	Sacramento	95814	CA	95814	69,000
Housing Authority of the City of San Buenaventura.	995 Riverside Street	Ventura	93001	CA	93001	69,000

FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING FAMILY SELF-SUFFICIENCY PROGRAM
UNDER RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—Continued

Recipient	Address	City	Zip code	State	Zip code	Amount (\$)
Housing Authority of the City of San Luis Obispo.	487 Leff Street	San Luis Obispo	93401	CA	93401	54,622
Housing Authority of the City of Santa Barbara.	808 Laguna Street	Santa Barbara ...	93101	CA	93101	66,950
Housing Authority of the County of Kern.	601-24th Street	Bakersfield	93301	CA	93301	62,804
Housing Authority of the County of Marin.	4020 Civic Center Drive	San Rafael	94903	CA	94903	68,959
Housing Authority of the County of Sacramento.	801 12th Street	Sacramento	95814	CA	95814	69,000
Housing Authority of the County of San Bernardino.	715 East Brier Drive	San Bernardino	92408	CA	92408	69,000
Housing Authority of the County of San Joaquin.	448 South Center Street	Stockton	95203	CA	95203	120,442
Housing Authority of the County of Santa Cruz.	2931 Mission Street	Santa Cruz	95060	CA	95060	69,000
Housing Authority of the County of Stanislaus.	P.O. Box 581918, 1701 Robertson Road.	Modesto	95358	CA	95358	65,000
Madera, City of	205 North G Street	Madera	93637	CA	93637	54,368
Oakland Housing Authority	1619 Harrison Street	Oakland	94612	CA	94612	66,836
Oxnard Housing Authority	435 South D Street	Oxnard	93030	CA	93030	69,000
The Housing Authority of the County of Los Angeles.	2 Coral Circle	Monterey Park ...	91755	CA	91755	69,000
Boulder, City of Housing Authority dba Boulder Housing Partn.	4800 Broadway	Boulder	80304	CO	80304	69,000
Fort Collins Housing Authority	1715 West Mountain Avenue	Fort Collins	80521	CO	80521	69,000
Housing Authority of the City and County of Denver.	777 Grant Street	Denver	80203	CO	80203	243,230
Housing Authority of New Britain ...	16 Armistice Street	New Britain	6053	CT	6053	69,000
Housing Authority of Stamford	22 Clinton Street	Stamford	6901	CT	6901	66,950
Housing Authority of the City of Meriden.	22 Church Street	Meriden	6451	CT	6451	58,539
Housing Authority of the City of New Haven.	360 Orange Street	New Haven	6511	CT	6511	69,000
Housing Authority of the City of Norwalk.	24½ Monroe Street	Norwalk	6856	CT	6856	69,000
Broward County Housing Authority	4780 North State Road 7	Lauderdale Lakes.	33319	FL	33319	46,550
Fort Pierce Housing Authority	511 Orange Avenue	Fort Pierce	34950	FL	34950	45,320
Hialeah Housing Authority	75 East 6th Street	Hialeah	33010	FL	33010	40,293
Housing Authority of Brevard County.	1401 Guava Avenue	Melbourne	32935	FL	32935	55,222
Housing Authority of Lakeland	430 Hartsell Avenue	Lakeland	33815	FL	33815	52,084
Housing Authority of the City of Fort Myers.	4224 Renaissance Preserve Way	Fort Myers	33916	FL	33916	60,092
Housing Authority of the City of Tampa.	1529 West Main Street	Tampa	33607	FL	33607	67,593
Jacksonville Housing Authority	1300 Broad Street	Jacksonville	32202	FL	32202	45,867
Lee County Housing Authority	14170 Warner Circle	North Fort Myers	33903	FL	33903	48,801
Manatee County Housing Authority	5631 11th Street East	Bradenton	34203	FL	34203	62,620
Pinellas County Housing Authority ..	11479 Ulmertown Road	Largo	33778	FL	33778	69,000
Sarasota Housing Authority	40 South Pineapple Avenue	Sarasota	34236	FL	34236	49,000
The Housing Authority of the City of Daytona Beach.	211 North Ridgewood Avenue, Suite 300.	Daytona Beach ..	32114	FL	32114	45,020
West Palm Beach Housing Authority.	1715 Division Avenue	West Palm Beach.	33407	FL	33407	40,206
Housing Authority of Columbus, Georgia.	P.O. Box 630, 1000 Wynnton Road.	Columbus	31902	GA	31902	46,350
Housing Authority of Savannah	1407 Wheaton Street	Savannah	31404	GA	31404	69,000
Housing Authority of the City of Albany, GA.	P.O. Box 485, 521 Pine Avenue ..	Albany	31702	GA	31702	30,836
Housing Authority of the City of Carrollton.	1 Roop Street	Carrollton	30117	GA	30117	61,074
Macon Housing Authority	2015 Felton Avenue	Macon	31201	GA	31201	63,368
Northwest Georgia Housing Authority.	800 North Fifth Avenue	Rome	30162	GA	30162	45,976
The Housing Authority of the City of Marietta.	P.O. Drawer K, 95 Cole Street	Marietta	30061	GA	30061	57,070
Tri-City Housing Authority	P.O. Box, 33 Martin Luther King Jr. Drive.	Woodland	31836	GA	31836	69,000

**FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING FAMILY SELF-SUFFICIENCY PROGRAM
UNDER RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—Continued**

Recipient	Address	City	Zip code	State	Zip code	Amount (\$)
City of Des Moines Municipal Housing Agency.	100 East Euclid Avenue, Suite 101.	Des Moines	50313	IA	50313	32,024
Eastern Iowa Regional Housing Authority.	7600 Commerce Park	Dubuque	52002	IA	52002	66,746
Nampa Housing Authority	211 19th Avenue North	Nampa	83687	ID	83687	36,342
Chicago Housing Authority	60 East Van Buren	Chicago	60605	IL	60605	57,962
Housing Authority of Elgin	120 South State Street	Elgin	60123	IL	60123	69,000
Housing Authority of Greene County.	P.O. Box 336, 325 North Carr Street.	White Hall	62092	IL	62092	45,910
Housing Authority of Henry County	125 North Chestnut Street	Kewanee	61443	IL	61443	48,918
Housing Authority of Joliet	6 South Broadway Street	Joliet	60436	IL	60436	64,992
Housing Authority of the City of Freeport.	1052 West Galena Avenue	Freeport	61032	IL	61032	69,000
Housing Authority of the County of Lake.	33928 North Route 45	Grayslake	60030	IL	60030	69,000
Macoupin County Housing Authority	P.O. Box 226	Carlinville	62626	IL	62626	42,616
Menard County Housing Authority ..	P.O. Box 168, 101 West Sheridan Road.	Petersburg	62675	IL	62675	29,160
Peoria Housing Authority	100 South Richard Pryor Place	Peoria	61605	IL	61605	49,515
Rock Island Housing Authority	227 21st Street	Rock Island	61201	IL	61201	65,000
Rockford Housing Authority	223 South Winnebago Street	Rockford	61102	IL	61102	68,964
Springfield Housing Authority	200 North Eleventh Street	Springfield	62703	IL	62703	39,000
Housing Authority of the City of Evansville.	500 Court Street	Evansville	47708	IN	47708	47,690
Housing Authority of the City of Fort Wayne, Indiana.	P.O. Box 13489	Fort Wayne	46869	IN	46869	40,000
Housing Authority of the City of Michigan City.	621 East Michigan Boulevard	Michigan City	46360	IN	46360	43,894
Housing Authority, City of Elkhart ...	1396 Benham Avenue	Elkhart	46516	IN	46516	40,982
Indianapolis Housing Agency	1919 North Meridian Street	Indianapolis	46202	IN	46202	69,000
New Albany Housing Authority	P.O. Box 11	New Albany	47150	IN	47150	114,000
Lawrence-Douglas County Housing Authority.	1600 Haskell Avenue	Lawrence	66044	KS	66044	81,456
Housing Authority of Bowling Green	247 Double Springs Road	Bowling Green ...	42101	KY	42101	47,470
Housing Authority of Covington	2300 Madison Avenue	Covington	41014	KY	41014	69,000
Housing Authority of Glasgow	P.O. Box 1745, 111 Bunche Avenue.	Glasgow	42142	KY	42142	40,631
Lexington-Fayette Urban County Housing Authority.	300 West New Circle Road	Lexington	40505	KY	40505	54,000
Louisville Metro Housing Authority ..	420 South Eighth Street	Louisville	40203	KY	40203	69,000
Housing Authority of the City of Shreveport.	2500 Line Avenue	Shreveport	71104	LA	71104	58,440
Jefferson Parish Housing Authority	1718 Betty Street	Marrero	70072	LA	70072	45,893
Boston Housing Authority	52 Chauncy Street	Boston	2111	MA	2111	69,000
Brockton Housing Authority	45 Goddard Road	Brockton	2303	MA	2303	69,000
Fall River Housing Authority	85 Morgan Street	Fall River	2722	MA	2722	69,000
Framingham Housing Authority	1 John J. Brady Drive	Framingham	1702	MA	1702	69,000
Holyoke Housing Authority	475 Maple Street, Suite One	Holyoke	1040	MA	1040	47,744
Lowell Housing Authority	P.O. Box 60, 350 Moody Street ...	Lowell	1853	MA	1853	65,000
Lynn Housing Authority & Neighborhood Development (LHAND).	10 Church Street	Lynn	1902	MA	1902	53,074
Malden Housing Authority	630 Salem Street	Malden	2148	MA	2148	68,000
Medford Housing Authority	121 Riverside Avenue	Medford	2155	MA	2155	69,000
Somerville Housing Authority	30 Memorial Road	Somerville	2145	MA	2145	69,000
Worcester Housing Authority	40 Belmont Street	Worcester	1605	MA	1605	68,000
Hagerstown Housing Authority	35 West Baltimore Street	Hagerstown	21740	MD	21740	100,125
Havre De Grace Housing Authority	101 Stansbury Court	Havre De Grace ..	21078	MD	21078	69,000
Housing Authority of Baltimore City	417 East Fayette Street	Baltimore	21202	MD	21202	69,000
Housing Authority of St. Mary's County, Maryland.	21155 Lexwood Drive, Suite C	Lexington Park ..	20653	MD	20653	42,008
Housing Authority of the City of Frederick.	209 Madison Street	Frederick	21701	MD	21701	53,045
Housing Commission of Anne Arundel County.	7477 Baltimore Annapolis Boulevard.	Glen Burnie	21060	MD	21060	69,000
Housing Opportunities Commission	10400 Detrick Avenue	Kensington	20895	MD	20895	141,114
Rockville Housing Enterprises	621-A Southlawn Lane	Rockville	20850	MD	20850	23,075
Housing Authority of the City of Brewer.	15 Colonial Circle, Suite 1	Brewer	4412	ME	4412	52,832
Lewiston Housing Authority	1 College Street	Lewiston	4240	ME	4240	17,848
Portland Housing Authority	14 Baxter Boulevard	Portland	4101	ME	4101	19,157

FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING FAMILY SELF-SUFFICIENCY PROGRAM
UNDER RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—Continued

Recipient	Address	City	Zip code	State	Zip code	Amount (\$)
Grand Rapids Housing Commission	1420 Fuller Avenue SE	Grand Rapids	49507	MI	49507	65,500
Saginaw Housing Commission	1803 Norman Street	Saginaw	48605	MI	48605	48,675
Housing Authority of St. Louis Park	5005 Minnetonka Boulevard	St. Louis Park	55416	MN	55416	18,035
Washington County Housing and Redevelopment Authority.	321 Broadway Avenue	St. Paul Park	55071	MN	55071	29,247
Housing Authority of Kansas City, Missouri.	301 East Armour	Kansas City	64111	MO	64111	54,775
Housing Authority of Saint Charles	1041 Olive Street	Saint Charles	63301	MO	63301	44,790
Housing Authority of the City of Co- lumbia, MO.	201 Switzler Street	Columbia	65203	MO	65203	52,396
St. Louis Housing Authority	3520 Page Boulevard	St. Louis	63106	MO	63106	68,000
The Meridian Housing Authority	2425 E. Street	Meridian	39301	MS	39301	57,011
Missoula Housing Authority	1235 34th Street	Missoula	59801	MT	59801	69,000
City of Concord Housing Depart- ment.	P.O. Box 308, 283 Harold Good- man Circle.	Concord	28026	NC	28026	48,568
City of Hickory Public Housing Au- thority.	P.O. Box 2927	Hickory	28603	NC	28603	50,073
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue.	Gastonia	28053	NC	28053	62,000
Housing Authority of the City of Asheville.	165 South French Broad Avenue	Asheville	28801	NC	28801	55,000
Housing Authority of the City of Charlotte, NC.	1301 South Boulevard	Charlotte	28203	NC	28203	65,000
Housing Authority of the City of Greensboro.	P.O. Box 21287, 450 North Church Street.	Greensboro	27420	NC	27420	63,115
Housing Authority of the City of Greenville.	1103 Broad Street	Greenville	27834	NC	27834	60,371
Housing Authority of the City of High Point.	500 East Russell Avenue	High Point	27261	NC	27261	104,724
Housing Authority of the City of Kinston, NC.	608 North Queen Street	Kinston	28501	NC	28501	46,957
Housing Authority of the City of Wil- mington NC.	1524 South 16th Street	Wilmington	28401	NC	28401	60,000
Lexington Housing Authority	P.O. Box 1085	Lexington	27293	NC	27293	58,054
Mid-East Regional Housing Author- ity.	809 Pennsylvania Avenue	Washington	27889	NC	27889	41,000
North Wilkesboro Housing Authority	101 Hickory Street	North Wilkesboro	28659	NC	28659	55,000
Statesville Housing Authority	110 West Allison Street	Statesville	28677	NC	28677	130,000
The Housing Authority of the City of Durham.	330 East Main Street	Durham	27701	NC	27701	69,000
Fargo Housing and Redevelopment Authority.	325 Broadway	Fargo	58102	ND	58102	51,830
Housing Authority of the City of Lin- coln.	Lincoln Housing Authority, 5700 R Street.	Lincoln	68505	NE	68505	51,856
Kearney Housing Agency	P.O. Box 1236, 2715 Avenue I	Kearney	68848	NE	68848	46,350
Dover Housing Authority	62 Whittier Street	Dover	3820	NH	3820	69,000
Atlantic City Housing Authority and Urban Redevelopment Agen.	227 North Vermont Avenue, 17th Floor.	Atlantic City	8404	NJ	8404	58,065
Housing Authority County of Morris	99 Ketch Road	Morristown	7960	NJ	7960	36,102
Housing Authority of the Borough of Madison.	24 Central Avenue	Madison	7940	NJ	7940	69,000
Housing Authority of the City of Camden.	2021 Watson Street, 2nd Floor	Camden	8105	NJ	8105	46,683
Housing Authority of the City of Long Branch.	2 Hope Lane	Long Branch	7740	NJ	7740	69,000
Housing Authority of the City of Perth Amboy.	P.O. Box 390, 881 Amboy Avenue	Perth Amboy	8862	NJ	8862	55,652
Housing Authority of the City of Vineland.	191 West Chester Avenue	Vineland	8360	NJ	8360	69,000
Pleasantville Housing Authority	156 North Main Street	Pleasantville	8232	NJ	8232	69,000
The Housing Authority of Plainfield	510 East Front Street	Plainfield	7060	NJ	7060	69,000
Clovis Housing & Redevelopment Agency, Inc.	P.O. Box 1240, 2101 West Grand Avenue.	Clovis	88101	NM	88101	45,020
Housing Authority of the City of Truth or Consequences.	108 Cedar Street	Truth or Con- sequences.	87901	NM	87901	56,227
Santa Fe Civic Housing Authority ...	664 Alta Vista Street	Santa Fe	87505	NM	87505	57,585
Santa Fe County Housing Authority	52 Camino De Jacobo	Santa Fe	87507	NM	87507	56,587
Housing Authority of the City of Reno.	1525 East 9th Street	Reno	89512	NV	89512	28,214

**FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING FAMILY SELF-SUFFICIENCY PROGRAM
UNDER RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—Continued**

Recipient	Address	City	Zip code	State	Zip code	Amount (\$)
Southern Nevada Regional Housing Authority (SNRHA).	340 North 11th Street	Las Vegas	89101	NV	89101	182,804
Buffalo Municipal Housing Authority	300 Perry Street	Buffalo	14204	NY	14204	69,000
Geneva Housing Authority	P.O. Box 153, 41 Lewis Street	Geneva	14456	NY	14456	65,642
Mechanicville Housing Authority	1 Harris Avenue	Mechanicville	12118	NY	12118	34,479
Municipal Housing Authority of the City of Schenectady.	375 Broadway	Schenectady	12305	NY	12305	57,199
New Rochelle Municipal Housing Authority.	50 Sickles Avenue	New Rochelle ...	10801	NY	10801	69,000
Rochester Housing Authority	675 West Main Street	Rochester	14611	NY	14611	66,136
Troy Housing Authority	One Eddy's Lane	Troy	12180	NY	12180	61,955
Akron Metropolitan Housing Authority.	100 West Cedar Street	Akron	44307	OH	44307	131,431
Chillicothe Metropolitan Housing Authority.	178 West Fourth Street	Chillicothe	45601	OH	45601	50,325
Dayton Metropolitan Housing Authority.	P.O. Box 8750, 400 Wayne Avenue.	Dayton	45401	OH	45401	65,042
Fairfield Metropolitan Housing Authority.	315 North Columbus Street	Lancaster	43130	OH	43130	56,580
Geauga Metropolitan Housing Authority.	385 Center Street	Chardon	44024	OH	44024	63,654
Lorain Metropolitan Housing Authority.	1600 Kansas Avenue	Lorain	44052	OH	44052	64,781
Lucas Metropolitan Housing Authority.	435 Nebraska Avenue	Toledo	43604	OH	43604	55,110
Morgan Metropolitan Housing Authority.	4580 N. Street Route 376 NW	McConnelsville ..	43756	OH	43756	49,849
Springfield Metropolitan Housing Authority.	101 West High Street	Springfield	45502	OH	45502	69,000
Trumbull Metropolitan Housing Authority.	4076 Youngstown Road SE, Suite 101.	Warren	44484	OH	44484	50,078
Youngstown Metropolitan Housing Authority.	131 West Boardman Street	Youngstown	44503	OH	44503	59,518
Zanesville Metropolitan Housing Authority.	407 Pershing Road	Zanesville	43701	OH	43701	51,487
Housing Authority of the City of Muskogee.	220 North 40th Street	Muskogee	74401	OK	74401	42,436
Housing Authority of the City of Shawnee, OK.	P.O. Box 3427, 601 West Seventh Street.	Shawnee	74804	OK	74804	92,148
Housing Authority of the City of Tulsa.	415 East Independence Street	Tulsa	74106	OK	74106	46,712
Housing Authority & Community Services Agency of Lane County.	177 Day Island Road	Eugene	97401	OR	97401	69,000
Housing Authority and Urban Renewal Agency of Polk County OR.	P.O. Box 467, 204 SW Walnut	Dallas	97338	OR	97338	15,881
Housing Authority of Portland	135 South West Ash Street	Portland	97204	OR	97204	199,524
Housing Authority of the City of Salem.	360 Church Street SE	Salem	97301	OR	97301	69,000
Allegheny County Housing Authority	625 Stanwix Street, 12th Floor	Pittsburgh	15222	PA	15222	68,428
Harrisburg Housing Authority	351 Chestnut Street	Harrisburg	17101	PA	17101	55,000
Housing Authority of Northumberland County.	50 Mahoning Street	Milton	17847	PA	17847	53,718
Housing Authority of the City of Pittsburgh.	200 Ross Street	Pittsburgh	15219	PA	15219	47,262
Housing Authority of the City of York.	31 South Broad Street	York	17403	PA	17403	45,278
Philadelphia Housing Authority	12 South 23rd Street, 6th Floor	Philadelphia	19103	PA	19103	69,000
Westmoreland County Housing Authority.	154 South Greengate Road	Greensburg	15601	PA	15601	60,676
The Housing Authority of the City of Providence.	100 Broad Street	Providence	2903	RI	2903	69,000
Housing Authority of Greenville	511 Augusta Street	Greenville	29605	SC	29605	47,206
Housing Authority of the City of Columbia, SC.	1917 Harden Street	Columbia	29204	SC	29204	48,329
North Charleston Housing Authority	2170 Ashley Phosphate Road, #700.	North Charleston	29406	SC	29406	50,000
Chattanooga Housing Authority	801 North Holtzclaw Avenue	Chattanooga	37404	TN	37404	68,000
Franklin Housing Authority	200 Spring Street	Franklin	37064	TN	37064	55,080
Jackson Housing Authority	125 Preston Street	Jackson	38301	TN	38301	101,268

**FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING FAMILY SELF-SUFFICIENCY PROGRAM
UNDER RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—Continued**

Recipient	Address	City	Zip code	State	Zip code	Amount (\$)
Kingsport Housing & Redevelopment Authority.	P.O. Box 44, 906 East Sevier Avenue.	Kingsport	37662	TN	37662	64,174
Memphis Housing Authority	700 Adams Avenue	Memphis	38105	TN	38105	69,000
Metropolitan Development and Housing Agency.	701 South Sixth Street	Nashville	37206	TN	37206	136,648
Shelbyville Housing Authority	316 Templeton Street	Shelbyville	37160	TN	37160	49,037
Town of Crossville Housing Authority.	P.O. Box 425	Crossville	38557	TN	38557	56,837
Housing Authority of Austin	P.O. Box 6159	Austin	78762	TX	78762	109,342
Housing Authority of City of Fort Worth.	1201 East 13th Street	Fort Worth	76102	TX	76102	69,000
Housing Authority of the City of Beaumont.	1890 Laurel	Beaumont	77701	TX	77701	41,330
Housing Authority of the City of Brownsville.	P.O. Box 4420, 2606 Boca Chica Boulevard.	Brownsville	78523	TX	78523	44,283
Housing Authority of the City of Mission.	1300 East 8th Street	Mission	78572	TX	78572	68,000
Housing Authority of the City of Round Rock.	1505 Lance Lane	Round Rock	78664	TX	78664	69,000
Housing Authority of the City of San Antonio.	818 South Flores Street	San Antonio	78204	TX	78204	413,273
Housing Authority of the City of Waco.	P.O. Box 978, 4400 Cobbs Drive	Waco	76703	TX	76703	52,758
Housing Authority of the City of Wichita Falls.	501 Webster	Wichita Falls	76301	TX	76301	48,500
Housing Authority of the County of Hidalgo.	1800 North Texas Boulevard	Weslaco	78596	TX	78596	41,734
Houston Housing Authority	2640 Fountainview, Suite 400	Houston	77057	TX	77057	52,518
Robstown Housing Authority	625 West Avenue F	Robstown	78380	TX	78380	32,136
San Marcos Housing Authority	1201 Thorpe Lane	San Marcos	78666	TX	78666	51,260
The Housing Authority of the City of Dallas.	3939 North Hampton Road	Dallas	75212	TX	75212	56,440
Housing Authority of the County of Salt Lake.	3595 South Main Street	Salt Lake City	84115	UT	84115	59,652
Alexandria Redevelopment & Housing Authority.	600 North Fairfax Street	Alexandria	22314	VA	22314	69,000
Bristol Redevelopment and Housing Authority.	809 Edmond Street	Bristol	24201	VA	24201	41,843
Charlottesville Redevelopment and Housing Authority.	P.O. Box 1405	Charlottesville	22902	VA	22902	50,920
City of Roanoke Redevelopment & Housing Authority.	2624 Salem Turnpike NW	Roanoke	24017	VA	24017	110,000
Danville Redevelopment and Housing Authority.	135 Jones Crossing	Danville	24541	VA	24541	47,271
Fairfax Co. Redevelopment and Housing Authority.	3700 Pender Drive, Suite 300	Fairfax	22030	VA	22030	69,000
Newport News Redevelopment and Housing Authority.	227 27th Street	Newport News	23607	VA	23607	48,410
Norfolk Redevelopment and Housing Authority.	201 Granby Street	Norfolk	23510	VA	23510	138,000
Portsmouth Redevelopment & Housing Authority.	801 Water Street	Portsmouth	23704	VA	23704	55,340
Richmond Redevelopment & Housing Authority.	901 Chamberlayne Parkway	Richmond	23220	VA	23220	69,000
Waynesboro Redevelopment and Housing Authority.	P.O. Box 1138, 1700 New Hope Road.	Waynesboro	22980	VA	22980	44,290
Brattleboro Housing Authority	P.O. Box 2275	Brattleboro	5303	VT	5303	69,000
Rutland Housing Authority	5 Tremont Street	Rutland	5701	VT	5701	65,477
Housing Authority of the City of Tacoma.	902 South L. Street	Tacoma	98405	WA	98405	59,662
Housing Authority of the City of Vancouver.	2500 Main Street	Vancouver	98660	WA	98660	65,775
King County Housing Authority	600 Andover Park West	Tukwila	98188	WA	98188	68,861
Seattle Housing Authority	120 6th Avenue North	Seattle	98109	WA	98109	69,000
Housing Authority of the City of Milwaukee.	P.O. Box 324	Milwaukee	53201	WI	53201	69,000
Benwood Housing Authority	2200 Marshall Street	Benwood	26031	WV	26031	18,104
Charleston-Kanawha Housing Authority.	1525 Washington Street West	Charleston	25387	WV	25387	46,183

FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING FAMILY SELF-SUFFICIENCY PROGRAM UNDER RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—Continued

Recipient	Address	City	Zip code	State	Zip code	Amount (\$)
Housing Authority of the City of Cheyenne.	33054 Sheridan Street	Cheyenne	82009	WY	82009	34,500

[FR Doc. 2012-5887 Filed 3-9-12; 8:45 am]
 BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5500-FA-07]

Announcement of Funding Awards for the Housing Choice Voucher Family Self-Sufficiency (HCV-FSS) Program for Fiscal Year (FY) 2011

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the Notice of Funding Availability (NOFA) HCV-FSS program for FY 2011. This announcement contains the consolidated names and addresses of those award recipients selected for funding based on the funding priority categories established in the NOFA.

FOR FURTHER INFORMATION CONTACT: Darrin C. Dorsett, Grant Management

Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., B133 Potomac Center, 3rd Floor, Washington, DC 20410, telephone number 202-475-8861. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Relay Service at 800-877-8339. (Other than the "800" TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The HCV-FSS Program is intended to promote the development of local strategies to coordinate the use of assistance under the HCV program with public and private resources to enable participating families to increase earned income and financial literacy, reduce or eliminate the need for welfare assistance, and make progress toward economic independence and self-sufficiency. The HCV-FSS program provides critical tools that can be used by communities to help families develop new skills that will lead to economic self-sufficiency. As a result of their participation in the HCV-FSS program, many families have achieved stable employment. An HCV-FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency. In addition to working

directly with families, an HCV-FSS Program Coordinator is responsible for building partnership with employers and service providers in the community to help participants obtain jobs and services.

On April 21, 2011, HUD posted its FY 2011 HCV-FSS NOFA. The NOFA made approximately \$59.8 million available under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011). The Department reviewed, evaluated and scored the applications received based on the criteria in the FY 2011 NOFA, and has funded the applications announced in Appendix A in accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 659 awards made under the FY 2011 HCV-FSS Program competition.

Dated: February 17, 2012.

Sandra B. Henriquez,
Assistant Secretary for Public and Indian Housing.

Appendix A

Fiscal Year 2011 Funding Awards for the Housing Choice Voucher Family Self-Sufficiency Program

Recipient	Address	City	State	Zip code	Amount
Alaska Housing Finance Corporation	P.O. Box 101020	Anchorage	AK	99510	\$198,642
Albertville Housing Authority	711 South Broad Street	Albertville	AL	35950	42,242
Alexander City Housing Authority	2110 County Road	Alexander City	AL	35010	38,773
Florence Housing Authority	110 South Cypress Street, Suite 1	Florence	AL	35630	52,246
Housing Authority of the Birmingham District.	1826 3rd Avenue South	Birmingham	AL	35233	66,214
Huntsville Housing Authority	200 Washington Street	Huntsville	AL	35804	116,026
Jefferson County Housing Authority	3700 Industrial Parkway	Birmingham	AL	35217	100,286
Mobile Housing Board	151 South Claiborne Street	Mobile	AL	36602	168,528
Prichard Housing Authority	200 West Prichard Avenue	Prichard	AL	36610	46,606
Sheffield Housing Authority	505 North Columbia Avenue	Sheffield	AL	35660	50,213
The Housing Authority of the City of Montgomery, Alabama.	525 South Lawrence Street	Montgomery	AL	36104	51,801
Tuscaloosa Housing Authority	P.O. Box 2281, 2117 Jack Warner Parkway.	Tuscaloosa	AL	35403	53,000
Conway County Housing Authority FSS	P.O. Box 229, 71 Bridewell Manor	Morrilton	AR	72110	39,543
Fort Smith Housing Authority	2100 North 31st Street	Fort Smith	AR	72904	52,025
Housing Authority of Lonoke County	P.O. Box 74, 617 North Greenlaw	Carlisle	AR	72024	37,513
Housing Authority of the City of Conway	335 South Mitchell Street	Conway	AR	72034	34,500
Housing Authority of the City of Hope	720 Texas Street	Hope	AR	71801	31,627
Housing Authority of the City of Hot Springs.	1004 Illinois Street	Hot Springs	AR	71901	47,879

Recipient	Address	City	State	Zip code	Amount
Housing Authority of the City of North Little Rock Arkansas.	P.O. Box 516, 2201 Division Street	North Little Rock	AR	72114	96,015
Housing Authority of the City of Pine Bluff ..	P.O. Box 8872, 2503 Belle Meade Drive ...	Pine Bluff	AR	71611	58,000
Housing Authority of the City of West Memphis.	2820 Harrison Street	West Memphis	AR	72301	44,970
Jonesboro Urban Renewal and Housing Authority.	330 Union	Jonesboro	AR	72401	42,460
Lee County Housing Authority	100 West Main	Marianna	AR	72360	27,596
McGehee Public Residential Housing Facilities Board.	P.O. Box 725	McGehee	AR	71654	39,810
Mississippi County Public Facilities Board ..	810 West Keiser	Osceola	AR	72370	39,314
Northwest Regional Housing Authority	P.O. Box 2568, 114 Sisco Avenue	Harrison	AR	72602	41,016
Pope County Public Facilities Board	P.O. Box 846, 301 East 3rd Street	Russellville	AR	72811	36,052
Pulaski County Housing Agency	201 South Broadway, Suite 220	Little Rock	AR	72201	43,974
White River Regional Housing Authority	P.O. Box 650	Melbourne	AR	72556	39,594
Wynne Housing Authority	200 Fisher Place	Wynne	AR	72396	17,170
Chandler, City of	P.O. Box 4008, Mail Stop 101	Chandler	AZ	85244	54,986
City of Mesa	P.O. Box 1466	Mesa	AZ	85211	68,680
City of Phoenix Housing Department	251 West Washington, 4th Floor	Phoenix	AZ	85003	138,000
City of Scottsdale Housing Agency	7515 East 1st Street	Scottsdale	AZ	85251	68,680
City of Tempe Housing Services	21 East 6th Street, Suite 214	Tempe	AZ	85281	68,680
City of Tucson	P.O. Box 27210, 310 North Commerce Park Loop.	Tucson	AZ	85726	138,000
Douglas City of, Public Housing Authority ..	425 10th Street	Douglas	AZ	85607	67,226
Housing Authority of Cochise County	P.O. Box 167, 100 Clawson Avenue	Bisbee	AZ	85603	55,476
Housing Authority of the City of Yuma	420 South Madison Avenue	Yuma	AZ	85364	249,500
Mohave, County of	P.O. Box 7000	Kingman	AZ	86402	50,601
Pinal County Housing & Community Development.	970 North Eleven Mile Corner Road	Casa Grande	AZ	85194	55,922
Yuma County Housing Department	8450 West Highway 95, Suite 88	Somerton	AZ	85350	57,430
Area Housing Authority of the County of Ventura.	1400 West Hillcrest Drive	Newbury Park	CA	91320	64,135
City of Anaheim Housing Authority	201 South Anaheim Boulevard	Anaheim	CA	92805	137,360
City of Norwalk	12035 Firestone Boulevard	Norwalk	CA	90650	64,637
City of Oceanside Community Development Commission.	300 North Coast Highway	Oceanside	CA	92054	137,360
City of Pomona	505 South Garey Avenue	Pomona	CA	91766	138,000
City of Santa Monica Housing Authority	1901 Main Street	Santa Monica	CA	90405	65,286
City of Santa Rosa	90 Santa Rosa Avenue	Santa Rosa	CA	95404	68,000
Consolidated Area Housing Authority of Sutter County.	448 Garden Highway	Yuba City	CA	95991	51,978
Culver City Housing Agency	9770 Culver Boulevard	Culver City	CA	90232	33,107
El Dorado County Public Housing Authority	937 Spring Street	Placerville	CA	95667	59,902
Fairfield Housing Authority	823-B Jefferson Street	Fairfield	CA	94533	135,816
Garden Grove Housing Authority	11277 Garden Grove Boulevard, Suite 101C.	Garden Grove	CA	92842	69,000
Housing and Community Development, California Dept of.	1800 Third Street, Room 390-4	Sacramento	CA	95811	34,845
Housing Authority City of Fresno	1331 Fulton Mall	Fresno	CA	93721	194,514
Housing Authority County of Stanislaus	P.O. Box 581918, 1701 Robertson Road ...	Modesto	CA	95358	136,350
Housing Authority of Fresno County	1331 Fulton Mall	Fresno	CA	93721	196,812
Housing Authority of the City of Alameda ...	701 Atlantic Avenue	Alameda	CA	94501	69,000
Housing Authority of the City of Long Beach.	521 East 4th Street	Long Beach	CA	90802	269,723
Housing Authority of the City of Los Angeles.	2600 Wilshire Boulevard	Los Angeles	CA	90057	755,480
Housing Authority of the City of Redding ...	P.O. Box 496071	Redding	CA	96049	58,717
Housing Authority of the City of San Buenaventura.	995 Riverside Street	Ventura	CA	93001	54,948
Housing Authority of the City of San Luis Obispo.	487 Leff Street	San Luis Obispo	CA	93401	51,577
Housing Authority of the City of Santa Ana	P.O. Box 22030, M-27, 20 Civic Center Plaza, 2nd Floor.	Santa Ana	CA	92702	69,000
Housing Authority of the City of Santa Barbara.	808 Laguna Street	Santa Barbara	CA	93101	134,654
Housing Authority of the City of Vallejo	200 Georgia Street	Vallejo	CA	94590	68,680
Housing Authority of the County of Butte ...	2039 Forest Avenue	Chico	CA	95928	63,630
Housing Authority of the County of Kern ...	601-24th Street	Bakersfield	CA	93301	188,412
Housing Authority of the County of Kings ...	P.O. Box 355, 680 North Douty Street	Hanford	CA	93232	57,234
Housing Authority of the County of Los Angeles.	12131 Telegraph Road	Santa Fe Springs ...	CA	90670	621,000
Housing Authority of the County of Marin ...	4020 Civic Center Drive	San Rafael	CA	94903	138,000
Housing Authority of the County of Merced	405 U Street	Merced	CA	95341	54,400

Recipient	Address	City	State	Zip code	Amount
Housing Authority of the County of Monterey.	123 Rico Street	Salinas	CA	93907	138,000
Housing Authority of the County of Riverside.	5555 Arlington Avenue	Riverside	CA	92504	483,000
Housing Authority of the County of Sacramento.	801 12th Street	Sacramento	CA	95814	69,000
Housing Authority of the County of San Bernardino.	715 East Brier Drive	San Bernardino	CA	92408	138,000
Housing Authority of the County of San Diego.	3989 Ruffin Road	San Diego	CA	92123	136,327
Housing Authority of the County of San Joaquin.	448 South Center Street	Stockton	CA	95203	131,116
Housing Authority of the County of San Mateo.	264 Harbor Boulevard, #A	Belmont	CA	94002	207,000
Housing Authority of the County of Santa Barbara.	815 West Ocean Avenue	Lompoc	CA	93436	67,327
Housing Authority of the County of Santa Cruz.	2931 Mission Street	Santa Cruz	CA	95060	69,000
Imperial Valley Housing Authority	1401 D Street	Brawley	CA	92227	61,151
Lake County Housing Commission	P.O. Box 1049, 16170 Main Street, Suite D	Lower Lake	CA	95457	63,764
Madera, City of	205 North G Street	Madera	CA	93627	56,720
Napa Housing Authority	1115 Seminary Street	Napa	CA	94559	138,000
Oakland Housing Authority	1619 Harrison Street	Oakland	CA	94612	276,000
Orange County Housing Authority	1770 North Broadway	Santa Ana	CA	92706	194,970
Oxnard Housing Authority	435 South D Street	Oxnard	CA	93030	67,327
Pico Rivera Housing Assistance Agency	6615 South Passons Boulevard	Pico Rivera	CA	90660	32,500
Roseville Housing Authority	311 Vernon Street	Roseville	CA	95678	66,213
San Diego Housing Commission	1122 Broadway, Suite 300	San Diego	CA	92101	408,798
Solano County Housing Authority	40 Eldridge Avenue, Suite 2	Vacaville	CA	95688	57,131
Sonoma County Community Development Commission.	1440 Guerneville Road	Santa Rosa	CA	95403	69,000
Vacaville Housing Authority	40 Eldridge Avenue, Suite 2	Vacaville	CA	95688	132,424
Yuba County Housing Authority	915 8th Street, Suite 130	Marysville	CA	95901	55,458
Adams County Housing Authority	7190 Colorado Boulevard	Commerce City	CO	80022	49,484
Boulder County Housing Authority	P.O. Box 471	Boulder	CO	80306	193,740
Colorado Department of Local Affairs, Division of Housing.	1313 Sherman Street	Denver	CO	80203	103,522
Fort Collins Housing Authority	1715 West Mountain Avenue	Fort Collins	CO	80521	134,654
Housing Authority of the City and County of Denver.	777 Grant Street	Denver	CO	80203	88,928
Housing Authority of the City of Englewood	3460 South Sherman, Suite #101	Englewood	CO	80113	44,128
Housing Authority of the City of Grand Junction.	1011 North 10th Street	Grand Junction	CO	81501	51,761
Housing Authority of the City of Pueblo	1414 North Santa Fe Avenue	Pueblo	CO	81003	42,804
Lakewood Housing Authority	575 Union Boulevard, Suite 100	Lakewood	CO	80228	33,663
Bristol Housing Authority	164 Jerome Street	Bristol	CT	6210	67,328
Connecticut Department of Social Services	25 Sigourney Street	Hartford	CT	6106	206,040
Housing Authority of the City of Ansonia	36 Main Street	Ansonia	CT	6401	27,727
Housing Authority of New Britain	16 Armistice Street	New Britain	CT	6053	69,000
Housing Authority of Stamford	22 Clinton Street	Stamford	CT	6901	68,680
Housing Authority of the City of Derby	101 West Fourth Street	Derby	CT	6418	54,914
Housing Authority of the City of New Haven	360 Orange Street	New Haven	CT	6511	69,000
Housing Authority of the City of Norwalk	24½ Monroe Street	Norwalk	CT	6856	69,000
West Hartford Housing Corporation	80 Shield Street	West Hartford	CT	6110	68,680
District of Columbia Housing Authority	1133 North Capitol Street NE, Suite 150B	Washington	DC	20002	276,000
Wilmington Housing Authority	400 North Walnut Street	Wilmington	DE	19801	69,000
Boca Raton Housing Authority	2333A West Glades Road	Boca Raton	FL	33431	51,515
Broward County Housing Authority	4780 North State Road 7	Lauderdale Lakes	FL	33319	179,101
Clearwater Housing Authority	908 Cleveland Street	Clearwater	FL	33755	47,769
Collier County Housing Authority	1800 Farm Worker Way	Immokalee	FL	34142	52,049
Delray Beach Housing Authority	600 North Congress Avenue, Suite 310-B	Delray Beach	FL	33445	51,426
Hialeah Housing Authority	75 East 6th Street	Hialeah	FL	33010	72,351
Hillsborough County Board of County Commissioners.	3620 West Humphrey Street	Tampa	FL	33614	191,934
Hollywood Housing Authority	7350 North Davie Road Ext.	Hollywood	FL	33024	20,107
Housing Authority of Brevard County	1401 Guava Avenue	Melbourne	FL	32935	60,000
Housing Authority of Lakeland	430 Hartsell Avenue	Lakeland	FL	33815	88,253
Housing Authority of Pompano Beach	P.O. Box 2006	Pompano Beach	FL	33061	46,107
Housing Authority of the City of Deerfield Beach.	533 South Dixie Highway, Suite 201	Deerfield Beach	FL	33441	47,232
Housing Authority of the City of Fort Lauderdale.	437 Southwest 4th Avenue	Fort Lauderdale	FL	33315	132,964
Housing Authority of the City of Fort Myers	4224 Renaissance Preserve Way	Fort Myers	FL	33916	100,736

Recipient	Address	City	State	Zip code	Amount
Housing Authority of the City of Miami Beach.	200 Alton Road	Miami Beach	FL	33139	63,000
Housing Authority of the City of Tampa	1529 West Main Street	Tampa	FL	34691	204,168
Jacksonville Housing Authority	1300 North Broad Street	Jacksonville	FL	32202	188,550
Lee County Housing Authority	14170 Warner Circle	North Fort Myers	FL	33903	46,879
Manatee County Housing Authority	5631 11th Street East	Bradenton	FL	34203	31,310
Miami-Dade Public Housing Agency	701 Northwest 1st Court, 16th Floor	Miami	FL	33136	218,120
Milton Housing Authority	5668 Byrom Street	Milton	FL	32570	69,000
Orange County Housing and Community Development.	525 East South Street	Orlando	FL	32801	68,000
Pahokee Housing Authority	465 Friend Terrace	Pahokee	FL	33476	39,000
Palm Beach County Housing Authority	3432 West 45th Street	West Palm Beach ...	FL	33407	119,614
Pasco County Housing Authority	14517 7th Street	Dade City	FL	33523	32,749
Pinellas County Housing Authority	11479 Ulmerton Road	Largo	FL	33778	64,539
Punta Gorda Housing Authority	340 Gulf Breeze Avenue	Punta Gorda	FL	33950	53,025
Sarasota Housing Authority	40 South Pineapple Avenue, Suite 200	Sarasota	FL	34236	10,100
The Housing Authority of the City of Daytona Beach.	211 North Ridgewood Avenue, Suite 300 ..	Daytona Beach	FL	32114	41,543
The Housing Authority of the City of Fort Pierce.	511 Orange Avenue	Fort Pierce	FL	34950	63,798
The West Palm Beach Housing Authority ...	1715 Division Avenue	West Palm Beach ...	FL	33407	88,401
Walton County Housing Agency	63 BoPete Manor Road	DeFuniak Springs ...	FL	32435	30,000
Winter Haven Housing Authority	2653 Avenue C. SW	Tampa	FL	33880	69,000
City of Marietta HCV	268 Lawrence Street, Suite 200	Marietta	GA	30060	56,694
Housing Authority of Columbus, Georgia ...	P.O. Box 630, 1000 Wynnton Road	Columbus	GA	31902	45,904
Housing Authority of Fulton County	4273 Wendell Drive	Atlanta	GA	30336	46,562
Housing Authority of Savannah	P.O. Box 1179	Savannah	GA	31402	138,000
Housing Authority of the City of Augusta, Georgia.	1435 Walton Way	Augusta	GA	30901	150,695
Housing Authority of the City of Carrollton ..	1 Roop Street	Carrollton	GA	30117	56,450
Housing Authority of the City of East Point, GA.	3056 Norman Berry Drive	East Point	GA	30344	66,600
Housing Authority of the City of Jonesboro	P.O. Box 458, 203 Hightower Street	Jonesboro	GA	30237	100,908
Housing Authority of the City of Marietta ...	P.O. Box Drawer K, 95 Cole Street NE	Marietta	GA	30061	57,070
Northwest Georgia Housing Authority	800 North Fifth Avenue	Rome	GA	30162	41,410
The Housing Authority of the City of Atlanta, Georgia.	230 John Wesley Dobbs Avenue	Atlanta	GA	30303	120,000
The Housing Authority of the City of College Park.	2000 West Princeton Avenue	College Park	GA	30337	64,068
Guam Housing and Urban Renewal Authority.	117 Bien Venida Avenue	Sinajana	GU	96910	56,718
City and County of Honolulu	Honolulu Hale	Honolulu	HI	96813	189,008
County of Maui	35 Lunalilo Street, Suite 400	Wailuku	HI	96793	68,680
Hawaii County Housing Agency	50 Wiluku Drive	Hilo	HI	96720	66,204
Hawaii Public Housing Authority	1002 North School Street	Honolulu	HI	96817	63,031
Kauai, County of; DBA Kauai County Housing Agency.	4444 Rice Street, Suite 330	Lihue	HI	96766	133,000
Central Iowa Regional Housing Authority ...	1201 Southeast Gateway Drive	Grimes	IA	50111	57,529
City of Cedar Rapids	1211 6th Street, SW	Cedar Rapids	IA	52404	138,000
City of Des Moines Municipal Housing Agency.	100 East Euclid Avenue, Suite 101	Des Moines	IA	50313	132,973
City of Dubuque	350 West 6th Street, Suite 312	Dubuque	IA	52001	63,478
City of Sioux City Housing Authority	P.O. Box 447, 405 6th Street	Sioux	IA	51102	138,000
Eastern Iowa Regional Housing Authority ...	7600 Commerce Park	Dubuque	IA	52002	139,940
Iowa City Housing Authority	410 East Washington Street	Iowa City	IA	52240	121,721
Mid Iowa Regional Housing Authority	1605 1st. Avenue North, Suite #1	Fort Dodge	IA	50501	23,528
Municipal Housing Agency of Council Bluffs, IA.	505 South 6th Street	Council Bluffs	IA	51501	48,676
Municipal Housing Agency of the City of Fort Dodge.	700 South 17th Street	Fort Dodge	IA	50501	102,766
Muscatine, City of	215 Sycamore	Muscatine	IA	52761	55,309
Northeast Nebraska Joint HA	1122 Pierce Street	Sioux City	IA	51105	40,756
Region XII Regional Housing Authority	P.O. Box 663, 320 East 7th Street	Carroll	IA	51401	45,000
Southern Iowa Regional Housing Authority	219 North Pine Street	Creston	IA	50801	43,850
Ada County Housing Authority	1276 West River Street, Suite #300	Boise	ID	83702	111,708
Boise City Housing Authority	1276 West River Street, Suite #300	Boise	ID	83702	111,710
Idaho Housing and Finance Association	P.O. Box 7899, 565 West Myrtle Street	Boise	ID	83707	247,402
Southwestern Idaho Cooperative Housing Authority Corp.	377 East Main Street	Middleton	ID	83644	89,114
Chicago Housing Authority	60 East Van Buren	Chicago	IL	60605	738,873
DuPage Housing Authority	711 East Roosevelt Road	Wheaton	IL	60187	135,342
Housing Authority of Elgin	120 South State Street	Elgin	IL	60123	67,327
Housing Authority of Joliet	6 South Broadway Street	Joliet	IL	60436	64,992

Recipient	Address	City	State	Zip code	Amount
Housing Authority of the City of Bloomington.	104 East Wood Street	Bloomington	IL	61701	51,782
Housing Authority of the City of East St. Louis.	700 North 20th Street	East St. Louis	IL	62205	69,000
Housing Authority of the County of Cook	175 West Jackson Boulevard, Suite 350 ...	Chicago	IL	60604	184,800
Housing Authority of the County of Lake	33928 North Route 45	Grayslake	IL	60030	153,561
Kankakee County Housing Authority	P.O. Box 965, 185 North Street Joseph Avenue.	Kankakee	IL	60901	43,280
Madison County Housing Authority	1609 Olive Street	Collinsville	IL	62234	69,000
Rock Island Housing Authority	227 21st Street	Rock Island	IL	61201	32,454
Rockford Housing Authority	223 South Winnebago Street	Rockford	IL	61102	192,345
Springfield Housing Authority	200 North Eleventh Street	Springfield	IL	62703	148,580
Winnebago County Housing Authority	3617 Delaware Street	Rockford	IL	61102	63,936
Housing Authority City of Peru	701 East Main Street	Peru	IN	46970	45,945
Housing Authority City of Vincennes	P.O. Box 1636, 501 Hart Street	Vincennes	IN	47591	87,270
Housing Authority of South Bend	501 Alonzo Watson Drive	South Bend	IN	46601	36,748
Housing Authority of the City of Bloomington.	1007 North Summit Street	Bloomington	IN	47404	91,953
Housing Authority of the City of Fort Wayne, Indiana.	P.O. Box 13489, 7315 Hanna Street	Fort Wayne	IN	46869	80,000
Housing Authority of the City of Gary	578 Broadway	Gary	IN	46402	50,900
Housing Authority of the City of Hammond	1402 173rd Street	Hammond	IN	46324	59,418
Housing Authority of the City of Kokomo	P.O. Box 1207, 210 East Taylor Street	Kokomo	IN	46903	20,828
Housing Authority of the City of Terre Haute.	P.O. Box 3086, 2001 North 19th Street	Terre Haute	IN	47803	114,434
Housing Authority, City of Elkhart	1396 Benham Avenue	Elkhart	IN	46516	87,888
Logansport Housing Authority	719 Spencer Street, Suite 100	Logansport	IN	46947	29,706
New Albany Housing Authority	P.O. Box 11	New Albany	IN	47150	48,965
City of Olathe	P.O. Box 768, 201 North Cherry Street	Olathe	KS	66051	54,278
City of Wichita Kansas Housing Authority ...	332 North Riverview	Wichita	KS	67203	176,384
Johnson County Kansas	12425 West 87th Street Parkway, Suite 200.	Lenexa	KS	66215	62,736
Lawrence-Douglas County Housing Authority.	1600 Haskell Avenue	Lawrence	KS	66044	157,005
Manhattan Housing Authority	P.O. Box 1024, 300 North 5th Street	Manhattan	KS	66505	18,096
Topeka Housing Authority	2010 Southeast California Avenue	Topeka	KS	66607	21,790
Appalachian Foothills Housing Agency, Inc	1214 Riverside Boulevard	Wurtland	KY	41144	44,203
Barbourville Urban Renewal & Community Development Agency.	P.O. Box 806, 338 Court Square	Barbourville	KY	40906	32,703
Boone County Fiscal Court	2950 Washington Square	Burlington	KY	41005	65,558
Campbell County Department of Housing ...	1098 Monmouth Street	Newport	KY	41072	24,166
Campbellsville Housing & Redevelopment Authority.	400 Ingram Avenue	Campbellsville	KY	42718	28,640
City of Covington CDA	638 Madison Avenue, Room 506	Covington	KY	41011	51,005
City of Richmond Section 8 Housing	P.O. Box 250	Richmond	KY	40476	100,000
Cumberland Valley Regional Housing Authority.	P.O. Box 806, 338 Court Square	Barbourville	KY	40906	86,125
Housing Authority of Cynthiana	148 Federal Street	Cynthiana	KY	41031	63,291
Housing Authority of Floyd County	402 John M Stumbo Drive	Langley	KY	41645	30,603
Housing Authority of Frankfort	590 Walter Todd Drive	Frankfort	KY	40601	48,728
Housing Authority of Georgetown	139 Scroggins Park	Georgetown	KY	40324	45,908
Housing Authority of Newport, KY	P.O. Box 72459, 30 East 8th Street	Newport	KY	41071	52,735
Housing Authority of Somerset	P.O. Box 449	Somerset	KY	42502	42,334
Kentucky Housing Corporation	1231 Louisville Road	Frankfort	KY	40601	153,949
Lexington-Fayette Urban County Housing Authority.	300 West New Circle Road	Lexington	KY	40505	50,029
Louisville Metro Housing Authority	420 South Eighth Street	Louisville	KY	40203	451,038
Pineville Urban Renewal & Community	114 West Kentucky Avenue	Pineville	KY	40977	31,642
Calcasieu Parish Police Jury Housing Department.	P.O. Box 1583, 1011 Lakeshore Drive, Suite 602.	Lake Charles	LA	70602	46,020
Housing Authority of the Parish of Natchitoches.	525 Fourth Street	Natchitoches	LA	71457	22,980
Jefferson Parish Housing Authority	1718 Betty Street	Marrero	LA	70072	108,220
Terrebonne, Parish of	Barrow Street	Houma	LA	70360	43,478
Acton Housing Authority	68 Windsor Avenue	Acton	MA	1720	58,000
Arlington Housing Authority	4 Winslow Street	Arlington	MA	2474	67,327
Boston Housing Authority	52 Chauncy Street	Boston	MA	2111	206,040
Braintree Housing Authority	25 Roosevelt Street	Braintree	MA	2184	26,982
Brockton Housing Authority	45 Goddard Road	Brockton	MA	2303	68,680
Chelmsford Housing Authority	10 Wilson Street	Chelmsford	MA	1824	63,356
Chelsea Housing Authority	54 Locke Street	Chelsea	MA	2150	32,779
Commonwealth of Massachusetts	100 Cambridge Street	Boston	MA	2114	730,429
Fall River Housing Authority	85 Morgan Street	Fall River	MA	2722	36,664
Framingham Housing Authority	1 John J. Brady Drive	Framingham	MA	1702	33,485

Recipient	Address	City	State	Zip code	Amount
Gardner Housing Authority	116 Church Street	Gardner	MA	1440	50,762
Gloucester Housing Authority	P.O. Box 1599, 259 Washington Street	Gloucester	MA	1931	42,953
Greenfield Housing Authority	1 Elm Terrace	Greenfield	MA	1301	63,159
Hingham Housing Authority	30 Thaxter Street	Hingham	MA	2043	67,332
Holyoke Housing Authority	475 Maple Street, Suite One	Holyoke	MA	1040	48,680
Leominster Housing Authority	100 Main Street	Leominster	MA	1453	48,250
Lowell Housing Authority	P.O. Box 60, 350 Moody Street	Lowell	MA	1853	65,558
Lynn Housing Authority & Neighborhood Development (LHAND)	10 Church Street	Lynn	MA	1902	60,639
Malden Housing Authority	630 Salem Street	Malden	MA	2148	56,468
Medford Housing Authority	121 Riverside Avenue	Medford	MA	2155	67,332
Melrose Housing Authority	910 Main Street	Melrose	MA	2176	19,510
Methuen Housing Authority	24 Mystic Street	Methuen	MA	1844	55,668
Milton Housing Authority	65 Miller Avenue	Milton	MA	2186	33,364
North Andover Housing Authority	One Morkeski Meadows	North Andover	MA	1845	57,857
Plymouth Housing Authority	P.O. Box 3537, 69 Allerton Street	Plymouth	MA	2361	46,363
Revere Housing Authority	70 Cooledge Street	Revere	MA	2151	66,600
Somerville Housing Authority	30 Memorial Road	Somerville	MA	2145	62,392
Taunton Housing Authority	30 Olney Street, Suite B	Taunton	MA	2780	61,248
Wayland Housing Authority	106 Main Street	Wayland	MA	1778	18,200
Winchester Housing Authority	13 Westley Street	Winchester	MA	1890	69,000
Worcester Housing Authority	40 Belmont Street	Worcester	MA	1605	131,300
Baltimore, County of	6401 York Road	Baltimore	MD	21212	175,288
Cecil County Housing Agency	200 Chesapeake Boulevard, Suite 1800	Elkton	MD	21921	52,034
Commissioners of Carroll County	225 North Center Street	Westminster	MD	21157	54,078
Hagerstown Housing Authority	35 West Baltimore Street	Hagerstown	MD	21740	50,659
Harford County Housing Agency	15 South Main Street, Suite 106	Bel Air	MD	21014	28,118
Housing Authority of Baltimore City	417 East Fayette Street, Room 923	Baltimore	MD	21202	344,040
Housing Authority of St. Mary's County, Maryland (HSMC)	21155 Lexwood Drive, Suite C	Lexington Park	MD	20653	45,048
Housing Opportunities Commission	10400 Detrick Avenue	Kensington	MD	20895	417,000
Howard County Housing Commission	6751 Columbia Gateway Drive, Gateway Building, 3rd Floor	Columbia	MD	21046	61,059
Maryland Department of Housing and Com- munity Development	100 Community Place	Crownsville	MD	21032	37,901
Rockville Housing Enterprises	621-A Southlawn Lane	Rockville	MD	20850	68,680
The Housing Authority of Washington County	319 East Antietam Street, 2nd Floor	Hagerstown	MD	21740	31,310
The Housing Commission of Anne Arundel County	7477 Baltimore & Annapolis Boulevard, Suite 300	Glen Burnie	MD	21061	63,630
Augusta Housing Authority	32 Union Street	Augusta	ME	4330	16,242
Bangor Housing Authority	161 Davis Road	Bangor	ME	4401	22,550
City of Caribou	25 High Street	Caribou	ME	4736	48,729
Housing Authority of the City of Old Town ..	P.O. Box 404, 358 Main Street	Old Town	ME	4468	23,972
Lewiston Housing Authority	1 College Street	Lewiston	ME	4240	19,986
Maine State Housing Authority	353 Water Street	Augusta	ME	4330	54,031
Portland Housing Authority	14 Baxter Boulevard	Portland	ME	4101	52,855
Westbrook Housing Authority	30 Liza Harmon Drive	Westbrook	ME	4092	40,607
Ann Arbor, City of	727 Miller Avenue	Ann Arbor	MI	48103	34,500
Dearborn Heights Housing Commission	1160 Sheridan Street	Plymouth	MI	48170	44,471
Detroit Housing Commission	1301 East Jefferson	Detroit	MI	48207	196,500
Grand Rapids Housing Commission	1420 Fuller Avenue SE	Grand Rapids	MI	49507	196,705
Kent County Housing Commission	82 Ionia Avenue NW, Suite 390	Grand Rapids	MI	49503	117,082
Lansing Housing Commission	310 Seymour Avenue	Lansing	MI	48933	34,500
Michigan State Housing Development Au- thority	P.O. Box 30044, 735 East Michigan Ave- nue	Lansing	MI	48909	966,000
Plymouth Housing Commission	1160 Sheridan Street	Plymouth	MI	48170	88,942
Pontiac Housing Commission	132 Franklin Boulevard	Pontiac	MI	48341	69,000
Saginaw Housing Commission	1803 Norman Street	Saginaw	MI	48605	87,356
Traverse City Housing Commission	150 Pine Street	Traverse City	MI	49684	66,970
Westland Housing Commission	32715 Dorsey Road	Westland	MI	18186	33,069
Wyoming Housing Commission	2450 36th Street SW	Wyoming	MI	49519	137,680
Brainerd Housing and Redevelopment Au- thority	324 East River Road	Brainerd	MN	56401	59,000
Dakota County Community Development Agency	1228 Town Centre Drive	Eagan	MN	55123	12,438
Housing & Redevelopment Authority of Clay County	P.O. Box 99, 116 Center Avenue E	Dilworth	MN	56529	65,746
Housing & Redevelopment Authority of Du- luth, MN	P.O. Box 16900, 222 East Second Street ..	Duluth	MN	55816	65,543
Housing and Redevelopment Authority of Virginia, MN	442 Pine Mill Court	Virginia	MN	55792	58,713
Housing Authority of St. Louis Park	5005 Minnetonka Boulevard	St. Louis Park	MN	55416	20,356
Mankato Economic Development Authority ..	P.O. Box 3368, 10 Civic Center Plaza	Mankato	MN	56002	53,075

Recipient	Address	City	State	Zip code	Amount
Public Housing Agency of the City of Saint Paul.	555 North Wabasha Street, Suite 400	Saint Paul	MN	55102	68,680
Scott County Community Development Agency.	323 South Naumkeag Street	Shakopee	MN	55379	45,000
South Central MN Multi-County HRA	360 Pierce Avenue, Suite 106	North Mankato	MN	56003	38,806
Southeastern Minnesota Multi-County HRA	134 East Second Street	Wabasha	MN	55981	36,424
Washington County Housing and Redevelopment Authority.	321 Broadway Avenue	Saint Paul Park	MN	55071	17,268
Franklin County Public Housing Agency	P.O. Box 920	Hillsboro	MO	63050	86,840
Housing Authority of Kansas City, Missouri	301 East Armour	Kansas City	MO	64111	306,022
Housing Authority of Saint Charles	1041 Olive Street	Saint Charles	MO	63301	50,274
Housing Authority of St. Louis County	8865 Natural Bridge Road	St. Louis	MO	63121	121,855
Housing Authority of the City of Columbia, MO.	201 Switzler Street	Columbia	MO	65203	51,378
Housing Authority of the City of Jefferson ..	P.O. Box 1029, 1040 Myrtle Avenue	Jefferson City	MO	65109	69,000
Housing Authority of the City of Liberty	17 East Kansas	Liberty	MO	64068	44,645
Housing Authority of the City of Springfield, Missouri.	421 West Madison Street	Springfield	MO	65806	26,825
Jasper County Public Housing Agency	302 Joplin Street	Joplin	MO	64801	27,774
North East Community Action Corp./dba Lincoln County PHA.	P.O. Box 470, 16 North Court Street	Bowling Green	MO	63334	75,528
Phelps County Public Housing Agency	#4 Industrial Drive	Saint James	MO	65559	53,932
Ripley County Public Housing Agency	3019 Fair Street	Poplar Bluff	MO	63901	34,213
St. Charles County Government	100 North Third Street	St. Charles	MO	63301	42,825
St. Clair County PHA	P.O. Box 125, 106 West Fourth	Appleton City	MO	64724	169,988
St. Francois County Public Housing Agency	Box 308, 403 Parkway Drive	Park Hills	MO	63601	31,530
St. Louis Housing Authority	3520 Page Boulevard	St. Louis	MO	63106	61,481
Mississippi Regional Housing Authority No. II.	900 Molly Barr Road	Oxford	MS	38655	30,000
Mississippi Regional Housing Authority No. VII.	P.O. Box 748, 130 Commerce Street	McComb	MS	39648	71,909
Mississippi Regional Housing Authority VI ..	P.O. Box 8746, 2180 Terry Road	Jackson	MS	39284	121,965
Mississippi Regional Housing Authority VIII	P.O. Box 2347, 10430 Three Rivers Road	Gulfport	MS	39501	68,680
North Delta Regional Housing Authority	P.O. Box 1148, #4 East Second Street	Clarksdale	MS	38614	21,450
South Delta Regional Housing Authority	202 Weston Avenue	Leland	MS	38756	106,500
Tennessee Valley Regional Housing Authority.	P.O. Box 1329	Corinth	MS	38835	176,640
The Housing Authority of the City of Biloxi	P.O. Box 447, 330 Benachi Avenue	Biloxi	MS	39533	41,612
The Housing Authority of the City of Jackson, MS.	2747 Livingston Road	Jackson	MS	39213	56,588
The Housing Authority of the City of Meridian.	2425 E. Street	Meridian	MS	39302	53,833
Housing Authority of Billings	2415 1st Avenue North	Billings	MT	59101	41,049
Missoula Housing Authority	1235 34th Street	Missoula	MT	59801	134,654
Chatham County Housing Authority	P.O. Box 637, 190 Sanford Road	Pittsboro	NC	27312	48,636
City of Concord Housing Department	P.O. Box 308, 283 Harold Goodman Circle	Concord	NC	28026	19,076
Coastal Community Action, Inc.	Post Office Box 729, 303 McQueen Avenue.	Newport	NC	28570	37,301
East Spencer Housing Authority	P.O. Box 367, 206 South Long Street	East Spencer	NC	28039	44,200
Eastern Carolina Human Services Agency, Inc..	246 Georgetown Road	Jacksonville	NC	28541	66,799
Economic Improvement Council, Inc.	712 Virginia Road	Edenton	NC	27932	44,167
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue ...	Gastonia	NC	28053	23,884
Greensboro Housing Authority	P.O. Box 21287, 450 North Church Street	Greensboro	NC	27420	150,670
Housing Authority of the City of Asheville ...	165 South French Broad Avenue	Asheville	NC	28801	69,000
Housing Authority of the City of Charlotte, NC.	1301 South Boulevard	Charlotte	NC	28203	48,233
Housing Authority of the City of Greenville	1103 Broad Street	Greenville	NC	27834	100,050
Housing Authority of the City of High Point	500 East Russell Avenue	High Point	NC	27261	49,003
Housing Authority of the City of Kinston, NC.	608 North Queen Street	Kinston	NC	28501	48,463
Housing Authority of the City of Wilmington, NC.	1524 South 16th Street	Wilmington	NC	28401	55,273
Housing Authority of the City of Winston-Salem.	500 West Fourth Street, Suite 300	Winston-Salem	NC	27101	57,000
Housing Authority of the Town of Laurinburg.	P.O. Box 1437, 1300 Woodlawn Street	Laurinburg	NC	28353	47,564
Isothermal Plan and Dev Commission	P.O. Box 841, 111 West Court Street	Rutherfordton	NC	28139	35,744
Mid-East Regional Housing Authority	809 Pennsylvania Avenue	Washington	NC	27889	40,804
Mountain Projects, Inc.	2251 Old Balsam Road	Waynesville	NC	28786	33,771
Northwestern Regional Housing Authority ..	P.O. Box 2510, 869 Highway 105 Extension, Suite 10.	Boone	NC	28607	206,884
Rowan County Housing Authority	310 Long Meadow Drive	Salisbury	NC	28147	90,900
Sandhills Community Action Program, Inc.	P.O. Box 937, 103 Saunders Street	Carthage	NC	28327	38,000

Recipient	Address	City	State	Zip code	Amount
Sanford Housing Authority	1000 Carthage Street	Sanford	NC	27330	22,113
Statesville Housing Authority	110 West Allison Street	Statesville	NC	28677	45,419
The Housing Authority of the City of Durham.	330 East Main Street	Durham	NC	27701	68,680
Thomasville Housing Authority	201 James Avenue	Thomasville	NC	27360	32,000
Twin Rivers Opportunities, Inc.	318 Craven Street	New Bern	NC	28563	22,403
Washington Housing Authority	809 Pennsylvania Avenue	Washington	NC	27889	40,000
Western Carolina Community Action	P.O. Box 685, 220 King Creek Boulevard ..	Hendersonville	NC	28793	61,705
Western Piedmont Council of Governments	P.O. Box 9026, 736 4th Street SW	Hickory	NC	28603	69,000
Fargo Housing and Redevelopment Authority.	325 Broadway	Fargo	ND	58102	55,675
Minot Housing Authority	108 Burdick Expressway East	Minot	ND	58701	43,612
The Housing Authority of the City of Grand Forks, ND.	1405 1st Avenue North	Grand Forks	ND	58203	104,385
Douglas County Housing Authority	5404 No. 107th Plaza	Omaha	NE	68134	51,510
Goldenrod Regional Housing Agency	P.O. Box 799, 1017 Avenue East	Wisner	NE	68791	36,421
Housing Authority of the City of Lincoln	5700 R Street	Lincoln	NE	68505	60,952
Housing Authority of the City of Omaha	540 South 27th Street	Omaha	NE	68105	141,884
Kearney Housing Agency	P.O. Box 1236, 2715 Avenue I	Kearney	NE	68848	7,535
Dover Housing Authority	62 Whittier Street	Dover	NH	3820	69,000
Keene Housing Authority	831 Court Street	Keene	NH	3431	131,198
Manchester Housing and Redevelopment Authority.	198 Hanover Street	Manchester	NH	3104	44,997
New Hampshire Housing Finance Authority	32 Constitution Drive	Bedford	NH	3110	234,031
Fort Lee Housing Authority	1403 Teresa Drive	Fort Lee	NJ	7024	51,000
Housing Authority County of Morris	99 Ketch Road	Morristown	NJ	7960	32,485
Housing Authority of Gloucester County	100 Pop Moylan Boulevard	Deptford	NJ	8096	43,400
Housing Authority of the Borough of Madison.	24 Central Avenue	Madison	NJ	7940	55,233
Housing Authority of the City of Camden	2021 Watson Street, 2nd Floor	Camden	NJ	8105	40,740
Housing Authority of the City of East Orange.	160 Halsted Street	East Orange	NJ	7018	69,000
Housing Authority of the City of Jersey City	400 US Highway #1	Jersey City	NJ	7306	293,435
Housing Authority of the City of Newark	500 Broad Street	Newark	NJ	7102	65,897
Housing Authority of the City of Orange	340 Thomas Boulevard	Orange	NJ	7050	34,000
Housing Authority of the City of Paterson	60 Van Houten Street	Paterson	NJ	7505	49,889
Housing Authority of the City of Perth Amboy.	P.O. Box 390, 881 Amboy Avenue	Perth Amboy	NJ	8862	135,806
Housing Authority of the Town of Dover	215 East Blackwell Street	Dover	NJ	7801	31,777
Irvington Housing Authority, Inc.	624 Nye Avenue	Irvington	NJ	7111	68,680
Lakewood Housing Authority	P.O. Box 1599, 317 Sampson Avenue	Lakewood	NJ	8701	66,214
Lakewood Tenants Organization, Inc.	600 West Kennedy Boulevard	Lakewood	NJ	8701	51,140
Long Branch Housing Authority	2 Hope Lane	Long Branch	NJ	7740	30,380
Monmouth County Public Housing Agency	3000 Kozloski Road	Freehold	NJ	7728	69,000
New Jersey Department of Community Affairs.	P.O. Box 051, 101 South Broad Street	Trenton	NJ	8625	275,040
Passaic County Public Housing Agency	100 Hamilton Plaza, Suite 510	Paterson	NJ	7505	123,244
Pleasantville Housing Authority	156 North Main Street	Pleasantville	NJ	8232	34,340
Woodbridge Housing Authority	20 Bunns Lane	Woodbridge	NJ	7095	22,286
Bernalillo County Housing Department	1900 Bridge Boulevard SW	Albuquerque	NM	87105	118,368
Clovis Housing & Redevelopment Agency, Inc..	P.O. Box 1240, 2101 West Grand Avenue	Clovis	NM	88101	41,624
Housing Authority of the City of Truth or Consequences.	108 Cedar	Truth or Consequences.	NM	87901	46,101
Santa Fe Civic Housing Authority	664 Alta Vista Street	Santa Fe	NM	87505	66,963
Santa Fe County Housing Authority	52 Camino De Jacobo	Santa Fe	NM	87507	69,000
Socorro County Housing Authority	P.O. Box 00, 301 Otero Avenue	Socorro	NM	87801	25,000
Taos County Housing Authority	Box 4239 NDCBU, 525 Ranchitos Road	Taos	NM	87571	59,243
Housing Authority of the City of Reno	1525 East 9th Street	Reno	NV	89512	44,327
Southern Nevada Regional Housing Authority.	340 North 11th Street	Las Vegas	NV	89101	514,806
Albany Housing Authority	200 South Pearl Street	Albany	NY	12202	137,360
Amsterdam Housing Authority	52 Division Street	Amsterdam	NY	12010	49,435
City of Johnstown	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	32,969
City of North Tonawanda, Belmont Housing Resources, Agent.	1195 Main Street	Buffalo	NY	14209	48,583
City of Oswego Community Development Office.	20 West Oneida Street, Third Floor	Oswego	NY	13126	47,140
City of Port Jervis	17-19 Sussex Street, Exchange Plaza	Port Jervis	NY	12771	14,147
City of Utica Section 8 Program	1 Kennedy Plaza	Utica	NY	13502	46,000
Erie County PHA Consortium, Town of Amherst, Belmont Housing.	1195 Main Street	Buffalo	NY	14209	147,097
Geneva Housing Authority	P.O. Box 153, 41 Lewis Street	Geneva	NY	14456	50,419

Recipient	Address	City	State	Zip code	Amount
Gloversville Housing Authority	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	49,199
Ithaca Housing Authority	800 South Plain Street	Ithaca	NY	14850	137,360
Mechanicville Housing Authority	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	32,000
Municipal Housing Authority of the City of Schenectady.	375 Broadway	Schenectady	NY	12305	47,830
New Rochelle Municipal Housing Authority	50 Sickles Avenue	New Rochelle	NY	10801	65,558
New York City Housing Authority	250 Broadway	New York	NY	10007	69,000
New York Department Housing Preservation + Development.	100 Gold Street	New York City	NY	10038	.....
North Fork Housing Alliance, Inc.	116 South Street	Greenport	NY	11944	34,500
NYS Housing Trust Fund (NY904)	25 Beaver Street, #732	New York	NY	10004	.....
Rental Assistance Corporation of Buffalo ...	470 Franklin Street	Buffalo	NY	14202	98,697
Rochester Housing Authority	675 West Main Street	Rochester	NY	14611	278,050
Syracuse Housing Authority	516 Burt Street	Syracuse	NY	13202	206,040
Town of Babylon Housing Assistance Agency.	281 Phelps Lane, Room #9	North Babylon	NY	11703	49,599
Town of Brookhaven	One Independence Hill	Farmingville	NY	11738	58,273
Town of Colonie	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	52,602
Town of Guilderland	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	65,038
Town of Huntington Housing Authority	1 A Lowndes Avenue	Huntington Station ..	NY	11746	68,680
Town of Islip Housing Authority	963 Montauk Highway	Oakdale	NY	11769	23,000
Town of Rotterdam	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	54,797
Town of Smithtown	P.O. Box 575, 99 West Main Street	Smithtown	NY	11787	24,853
Troy Housing Authority	One Eddy's Lane	Troy	NY	12180	69,000
Village of Ballston Spa	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	41,623
Village of Corinth	c/o Joseph E. Mastrianni, 11 Federal Street.	Saratoga Springs	NY	12866	33,237
Village of Fort Plain	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	32,969
Village of Highland Falls	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	32,969
Village of Kiryas Joel Housing Authority	51 Forest Road, Suite 360	Monroe	NY	10950	66,200
Village of Scotia	c/o Joseph E Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	28,779
Adams Metropolitan Housing Authority	401 East Seventh Street	Manchester	OH	45144	40,000
Akron Metropolitan Housing Authority	100 West Cedar Street	Akron	OH	44307	184,367
Allen Metropolitan Housing Authority	600 South Main Street	Lima	OH	45804	39,501
Athens Metropolitan Housing Authority	10 Hope Drive	Athens	OH	45701	41,276
Chillicothe Metropolitan Housing Authority ..	178 West Fourth Street	Chillicothe	OH	45601	45,247
Cincinnati Metropolitan Housing Authority ..	16 West Central Parkway	Cincinnati	OH	45202	248,250
City of Marietta, Ohio/PHA	304 Putnam Street	Marietta	OH	45750	44,222
Clinton Metropolitan Housing Authority	478 Thorne Avenue	Wilmington	OH	45177	50,225
Columbus Metropolitan Housing Authority ..	880 East 11th Avenue	Columbus	OH	43211	96,258
Cuyahoga Metropolitan Housing Authority ..	3400 Hamilton Avenue	Cleveland	OH	44114	90,958
Dayton Metropolitan Housing Authority	P.O. Box 8750, 400 Wayne Avenue	Dayton	OH	45401	95,252
Delaware Metropolitan Housing Authority ...	P.O. Box 1292, 222 Curtis Street (rear)	Delaware	OH	43015	47,001
Erie MHA (OH028)	322 Warren Street	Sandusky	OH	44870	61,650
Fairfield Metropolitan Housing Authority	315 North Columbus Street	Lancaster	OH	43130	52,645
Geauga Metropolitan Housing Authority	385 Center Street	Chardon	OH	44024	59,000
Jackson Metropolitan Housing Authority	P.O. Box 619, 249 West 13th Street	Wellston	OH	45692	40,640
Jefferson Metropolitan Housing Authority ...	815 North 6th Avenue	Steubenville	OH	43952	49,999
Knox Metropolitan Housing Authority	201A West High Street	Mount Vernon	OH	43050	46,244
Lake Metropolitan Housing Authority	189 First Street	Painesville	OH	44077	77,987
Logan County Metropolitan Housing Authority.	116 North Everett	Bellefontaine	OH	43311	37,903
Lorain Metropolitan Housing Authority	1600 Kansas Avenue	Lorain	OH	44052	49,606
Lucas Metropolitan Housing Authority	P.O. Box 477, 435 Nebraska Avenue	Toledo	OH	43697	181,255
Medina Metropolitan Housing Authority	850 Walter Road	Medina	OH	44256	37,535
Meigs Housing Authority	117 East Memorial Drive, Suite 6	Pomeroy	OH	45769	7,365
Morgan Metropolitan Housing Authority	4580 N. Street Route 376 NW	McConnelsville	OH	43756	21,341
Morrow Metropolitan Housing Authority	81 North Rich Street	Mount Gilead	OH	43338	37,589
Parma Public Housing Agency	1440 Rockside Road, Suite 306	Parma	OH	44134	41,212
Pickaway Metro Housing Authority	176 Rustic Drive	Circleville	OH	43113	23,500
Portage Metropolitan Housing Authority	2832 State Route 59	Ravenna	OH	44266	38,462
Springfield Metropolitan Housing Authority ..	101 West High Street	Springfield	OH	45502	44,645
Trumbull Metropolitan Housing Authority	4076 Youngstown Road, S.E., Suite 101 ...	Warren	OH	44484	66,212
Tuscarawas Metropolitan Housing Authority	134 Seconed Street SW	New Philadelphia	OH	44663	50,000
Vinton Metropolitan Housing Authority	P.O. Box 487, 310 West High Street	McArthur	OH	45651	38,728

Recipient	Address	City	State	Zip code	Amount
Wayne Metropolitan Housing Authority	345 North Market Street	Wooster	OH	44691	43,528
Youngstown Metropolitan Housing Authority	131 West Boardman Street	Youngstown	OH	44503	182,093
Zanesville Metropolitan Housing Authority ..	407 Pershing Road	Zanesville	OH	43701	183,444
Housing Authority of the City of Norman	700 North Berry Road	Norman	OK	73069	49,212
Housing Authority of the City of Shawnee, OK.	P.O. Box 3427, 601 West Seventh Street ..	Shawnee	OK	74802	41,208
Housing Authority of the City of Stillwater ...	807 South Lowry, Ofc.	Stillwater	OK	74074	45,178
Housing Authority of the City of Tulsa	415 East Independence Street	Tulsa	OK	74106	39,294
Oklahoma City Housing Authority	1700 Northeast 4th Street	Oklahoma City	OK	73117	17,679
Oklahoma Housing Finance Agency	100 N.W. 63rd Street, Suite 200	Oklahoma City	OK	73116	195,071
Central Oregon Regional Housing Authority ..	405 Southwest 6th Street	Redmond	OR	97756	134,654
Columbia Gorge Housing Authority	312 Court Street, Suite 419	The Dalles	OR	97058	54,000
Housing Authority & Community Services Agency of Lane County.	177 Day Island Road	Eugene	OR	97401	138,000
Housing Authority & Urban Renewal Agency of Polk County.	P.O. Box 467, 204 SW Walnut Avenue	Dallas	OR	97338	67,326
Housing Authority of Clackamas County	P.O. Box 1510	Oregon City	OR	97045	99,286
Housing Authority of Jackson County	2251 Table Rock Road	Medford	OR	97501	127,526
Housing Authority of Portland	135 S.W. Ash	Portland	OR	97204	313,695
Housing Authority of the City of Salem	360 Church Street SE	Salem	OR	97301	198,213
Housing Authority of Washington County ...	111 North East Lincoln Street, Suite 200-L	Hillsboro	OR	97124	51,563
Housing Authority of Yamhill County	P.O. Box 865, 135 Northeast Dunn Place	McMinnville	OR	97128	262,625
Linn-Benton Housing Authority	1250 Queen Avenue SE	Albany	OR	97322	137,360
Marion County Housing Authority	2645 Portland Road NE, Suite 200	Salem	OR	97301	58,570
Mid-Columbia Housing Authority	312 Court Street, Suite 419	The Dalles	OR	97058	54,000
Northeast Oregon Housing Authority	P.O. Box 3357, 2608 May Lane	La Grande	OR	97850	85,000
Northwest Oregon Housing Authority	P.O. Box 1149, 147 South Main Avenue ...	Warrenton	OR	97146	45,437
Adams County Housing Authority	40 East High Street	Gettysburg	PA	17325	47,768
Allegheny County Housing Authority	625 Stanwix Street	Pittsburgh	PA	15222	100,879
Altoona Housing Authority	2700 Pleasant Valley Boulevard	Altoona	PA	16602	56,689
Delaware County Housing Authority	P.O. Box 100, 1855 Constitution Avenue ...	Woodlyn	PA	19094	43,932
Harrisburg Housing Authority	351 Chestnut Street	Harrisburg	PA	17101	55,000
Housing Authority of Centre County	602 East Howard Street	Bellefonte	PA	16823	47,278
Housing Authority of Indiana County	104 Philadelphia Street	Indiana	PA	15701	13,215
Housing Authority of Northumberland County.	50 Mahoning Street	Milton	PA	17847	16,937
Housing Authority of the City of Easton	P.O. Box 876, 157 South Fourth Street	Easton	PA	18044	57,570
Housing Authority of the City of Lancaster ..	325 Church Street	Lancaster	PA	17602	52,316
Housing Authority of the City of Pittsburgh ..	200 Ross Street	Pittsburgh	PA	15219	262,267
Housing Authority of the City of York	31 South Broad Street	York	PA	17403	48,577
Housing Authority of the County of Armstrong.	350 South Jefferson Street	Kittanning	PA	16201	26,587
Housing Authority of the County of Butler ...	114 Woody Drive	Butler	PA	16001	45,477
Housing Authority of the County of Clarion ..	8 West Main Street	Clarion	PA	16214	81,266
Housing Authority of the County of Cumberland.	114 North Hanover Street	Carlisle	PA	17013	20,173
Housing Authority of the County of Dauphin ..	P.O. Box 7598, 501 Mohn Street	Steelton	PA	17113	28,327
Housing Authority of the County of Franklin ..	436 West Washington Street	Chambersburg	PA	17201	20,800
Housing Authority of the County of Union ...	1610 Industrial Boulevard, Suite 400	Lewisburg	PA	17837	23,654
Lancaster County Housing Authority	202 North Prince Street, Suite 400	Lancaster	PA	17603	52,313
Lehigh County Housing Authority	635 Broad Street	Emmaus	PA	18049	48,480
Lycoming Housing Authority	1941 Lincoln Drive	Williamsport	PA	17701	19,976
Montgomery County Housing Authority	104 West Main Street, Suite #1	Norristown	PA	19401	55,182
Philadelphia Housing Authority	12 South 23rd Street, 6th Floor	Philadelphia	PA	19103	345,000
Westmoreland County Housing Authority ...	154 South Greengate Road	Greensburg	PA	15601	150,041
Municipality of Bayamon	P.O. Box 1588	Bayamon	PR	960	28,180
Municipality of Guaynabo	P.O. Box 7885	Guaynabo	PR	970	13,000
Municipality of Juana Diaz	P.O. Box 1409, Calle Degetau #35	Juana Diaz	PR	795	24,373
Municipality of Ponce	P.O. Box 331709	Ponce	PR	733	15,150
Municipality of San Juan	P.O. Box 36-2138	San Juan	PR	936	35,985
Central Falls Housing Authority	30 Washington Street	Central Falls	RI	2863	63,456
East Providence Housing Authority	99 Goldsmith Avenue	East Providence	RI	2914	24,470
Housing Authority of Pawtucket	214 Roosevelt Avenue	Pawtucket	RI	2860	34,500
Housing Authority of the Town of East Greenwich.	146 First Avenue	East Greenwich	RI	2818	25,645
Narragansett Housing Authority	25 Fifth Avenue	Narragansett	RI	2882	69,000
Rhode Island Housing	44 Washington Street	Providence	RI	2903	183,618
The Housing Authority of the City of Providence.	100 Broad Street	Providence	RI	2903	127,744
Town of Coventry Housing Authority	14 Manchester Circle	Coventry	RI	2816	51,571
Town of Cumberland Housing Authority	573 Mendon Road, Suite 4	Cumberland	RI	2864	67,326
Warwick Housing Authority	1035 West Shore Road	Warwick	RI	2889	15,529
Beaufort Housing Authority	Post Office Box 1104	Beaufort	SC	29901	43,260

Recipient	Address	City	State	Zip code	Amount
Charleston County Housing & Redevelopment Authority.	2106 Mount Pleasant Street	Charleston	SC	29403	60,000
Housing Authority of Anderson	1335 East River Street	Anderson	SC	29624	38,622
Housing Authority of Greenville	511 Augusta Street	Greenville	SC	29605	54,187
Housing Authority of Myrtle Beach	P.O. Box 2468, 605 10th Avenue North	Myrtle Beach	SC	29577	34,340
Housing Authority of the City of Columbia, SC.	1917 Harden Street	Columbia	SC	29204	23,408
North Charleston Housing Authority	2170 Ashley Phosphate Road, Suite #700	North Charleston	SC	29406	47,500
Spartanburg Housing Authority	201 Calder Avenue, Suite A	Spartanburg	SC	29306	51,000
The Housing Authority City of Charleston ..	550 Meeting Street	Charleston	SC	29403	52,136
Brookings County Housing and Redevelopment Commission.	P.O. Box 432, 1310 South Main Avenue, Suite 106.	Brookings	SD	57006	37,823
Sioux Falls Housing and Redevelopment Commission.	630 South Minnesota Avenue	Sioux Falls	SD	57104	73,865
Chattanooga Housing Authority	801 North Holtzclaw Avenue	Chattanooga	TN	37401	69,000
East Tennessee Human Resource Agency, Inc..	9111 Cross Park Drive, Suite D-100	Knoxville	TN	37923	34,750
Jackson Housing Authority	125 Preston Street	Jackson	TN	38301	102,010
Kingsport Housing & Redevelopment Authority.	P.O. Box 44, 906 East Sevier Avenue	Kingsport	TN	37662	93,084
Knoxville's Community Development Corporation.	P.O. Box 3550, 901 North Broadway	Knoxville	TN	37927	91,830
Memphis Housing Authority	700 Adams Avenue	Memphis	TN	38105	68,680
Metropolitan Development and Housing Agency.	701 South Sixth Street	Nashville	TN	37206	130,094
Oak Ridge Housing Authority	10 Van Hicks Lane	Oak Ridge	TN	37830	36,651
Tennessee Housing Development Agency	404 James Robertson Parkway, Suite 1200.	Nashville	TN	37243	267,000
Anthony Housing Authority Inc	P.O. Box 1710, 1007 Franklin Street	Anthony	TX	79821	37,988
Brazos Valley Council of Governments	P.O. Drawer 4128	Bryan	TX	77805	552,000
City of Amarillo	P.O. Box 1971	Amarillo	TX	79105	36,009
City of Garland Housing Agency	210 Carver, Suite 201B	Garland	TX	75040	51,368
City of Longview, Texas	P.O. Box 1952, 1202 North Sixth Street	Longview	TX	75606	24,507
City of Tyler Housing Agency	900 West Gentry Parkway	Tyler	TX	75702	49,564
Dallas, County of	2377 North Stemmons Freeway, Suite 600	Dallas	TX	75207	64,000
Deep East Texas Council of Governments	210 Premier Drive	Jasper	TX	75951	71,714
Housing Authority of Bexar County	1017 North Main Avenue, Suite 201	San Antonio	TX	78212	50,000
Housing Authority of Austin	P.O. Box 6159	Austin	TX	78762	138,975
Housing Authority of City of Fort Worth	P.O. Box 430	Fort Worth	TX	76101	269,856
Housing Authority of City of Galveston	4700 Broadway	Galveston	TX	77551	59,151
Housing Authority of the City of Abilene	534 Cypress Street, Suite 200	Abilene	TX	79601	48,320
Housing Authority of the City of Arlington, TX.	501 West Sanford Street, Suite 20	Arlington	TX	76011	162,702
Housing Authority of the City of Beaumont	1890 Laurel	Beaumont	TX	77701	41,080
Housing Authority of the City of El Paso	5300 East Paisano Drive	El Paso	TX	79905	52,710
Housing Authority of the City of Kingsville ..	1000 West Corral Avenue	Kingsville	TX	78363	54,823
Housing Authority of the City of Lubbock	1708 Crickets Avenue	Lubbock	TX	79401	39,390
Housing Authority of the City of Mission	1300 East 8th Street	Mission	TX	78572	69,000
Housing Authority of the City of Pharr	104 West Polk	Pharr	TX	78577	37,501
Housing Authority of the City of San Angelo	420 East 28th Street	San Angelo	TX	76903	49,000
Housing Authority of the City of San Antonio.	818 South Flores Street	San Antonio	TX	78204	394,401
Housing Authority of the City of Waco	P.O. Box 978, 4400 Cobbs Drive	Waco	TX	76703	86,320
Housing Authority of the County of Hidalgo	1800 North Texas Boulevard	Weslaco	TX	78596	37,462
Houston Housing Authority	2640 Fountainview Drive	Houston	TX	77057	274,764
Midland County Housing Authority	1710 Edwards	Midland	TX	79701	42,466
Montgomery County Housing Authority	1500 North Frazier, Suite 101	Conroe	TX	77301	43,122
Robstown Housing Authority	625 West Avenue F	Robstown	TX	78380	15,600
Round Rock Housing Authority	1505 Lance Lane	Round Rock	TX	78664	69,000
San Marcos Housing Authority	1201 Thorpe Lane	San Marcos	TX	78666	25,630
Tarrant County Housing Assistance Office	2100 Circle Drive, 100 East Weatherford, Suite 500.	Fort Worth	TX	76119	194,951
Texoma Council of Governments	1117 Gallagher Drive	Sherman	TX	75090	65,862
Walker County Housing Authority	340 State Highway 75 North, #E	Huntsville	TX	77320	45,450
Cedar City Housing Authority	364 South 100 East	Cedar City	UT	84720	17,000
Davis Community Housing Authority	P.O. Box 328, 352 South 200 West, Suite 1.	Farmington	UT	84025	41,131
Housing Authority of Salt Lake City	1776 South West Temple	Salt Lake City	UT	84115	101,804
Housing Authority of the City of Ogden	1100 Grant Avenue	Ogden	UT	84404	52,030
Housing Authority of the County of Salt Lake.	3595 South Main Street	Salt Lake City	UT	84115	142,446
Housing Authority of Utah County	240 East Center	Provo	UT	84606	53,539
Provo City Housing Authority	650 West 100 North	Provo	UT	84601	81,952
St. George Housing Authority	975 North 1725 West, #101	St. George	UT	84770	20,570

Recipient	Address	City	State	Zip code	Amount
Tooele County Housing Authority	118 East Vine Street	Tooele	UT	84074	44,928
Alexandria Redevelopment and Housing Authority.	600 North Fairfax	Alexandria	VA	22314	69,000
Chesapeake Redevelopment & Housing Authority.	1468 South Military Highway	Chesapeake	VA	23320	100,819
City of Roanoke Redevelopment & Housing Authority.	2624 Salem Turnpike NW	Roanoke	VA	24017	51,462
City of Virginia Beach	2401 Courthouse Drive, Building 1, Lower Level.	Virginia Beach	VA	23456	48,435
County of Loudoun	102 Heritage Way NE, Suite 103	Leesburg	VA	20176	67,326
Fairfax County Redevelopment and Housing Authority.	3700 Pender Drive, Suite 300	Fairfax	VA	22030	69,000
Franklin Redevelopment and Housing Authority.	601 Campbell Avenue	Franklin	VA	23851	34,300
Hampton Redevelopment & Housing Authority.	P.O. Box 280, 1 Franklin Street, Suite 603	Hampton	VA	23669	50,813
Harrisonburg Redevelopment and Housing Authority.	286 Kelley Street	Harrisonburg	VA	22802	24,019
James City County Office of Housing & Community Development.	5320 Palmer Lane, Suite 1A	Williamsburg	VA	23188	23,990
Newport News Redevelopment and Housing Authority.	227 27th Street	Newport News	VA	23607	99,658
Norfolk Redevelopment and Housing Authority.	201 Granby Street	Norfolk	VA	23510	194,175
Portsmouth Redevelopment & Housing Authority.	801 Water Street, 2nd Floor	Portsmouth	VA	23704	85,592
Prince William County OHCD	15941 Donald Curtis Drive, Suite 112	Woodbridge	VA	22191	95,939
Richmond Redevelopment and Housing Authority.	901 Chamberlayne Parkway	Richmond	VA	23220	66,791
Suffolk Redevelopment and Housing Authority.	530 East Pinner Street	Suffolk	VA	23434	64,057
Waynesboro Redevelopment and Housing Authority.	P.O. Box 1138, 1700 New Hope Road	Waynesboro	VA	22980	39,031
Burlington Housing Authority	65 Main Street	Burlington	VT	5401	101,685
Vermont State Housing Authority	One Prospect Street	Montpelier	VT	5602	234,998
Housing Authority City of Kelso	1415 South 10th	Kelso	WA	98626	18,766
Housing Authority of Chelan County & the City of Wenatchee.	1555 South Methow	Wenatchee	WA	98801	16,083
Housing Authority of Island County	7 N.W. 6th Street	Coupeville	WA	98239	48,267
Housing Authority of Skagit County	1650 Port Drive	Burlington	WA	98233	49,000
Housing Authority of the City of Bremerton	4040 Wheaton Way	Bremerton	WA	98310	66,717
Housing Authority of the City of Longview ..	1207 Commerce Avenue	Longview	WA	98632	43,123
Housing Authority of the City of Pasco and Franklin County.	2505 West Lewis Street	Pasco	WA	99301	50,160
Housing Authority of the City of Tacoma	902 South L Street	Tacoma	WA	98405	138,000
Housing Authority of the City of Vancouver	2500 Main Street, Suite 200	Vancouver	WA	98660	128,442
Housing Authority of the County of Clallam	2603 South Francis Street	Port Angeles	WA	98362	94,170
Housing Authority of Thurston County	1206 12th Avenue SE	Olympia	WA	98501	132,428
King County Housing Authority	600 Andover Park West	Tukwila	WA	98188	260,924
Kitsap County Consolidated Housing Authority.	9307 Bayshore Drive NW	Silverdale	WA	98383	25,756
Pierce County Housing Authority	603 South Polk Street	Tacoma	WA	98448	199,000
Seattle Housing Authority	120 6th Avenue North	Seattle	WA	98109	345,000
Appleton Housing Authority	925 West Northland Avenue	Appleton	WI	54914	49,600
Brown County Housing Authority	100 North Jefferson Street	Green Bay	WI	54301	135,462
City of Kenosha Housing Authority	625 52nd Street, Room 98	Kenosha	WI	53140	67,266
Dane County Housing Authority	2001 West Broadway, Suite 1	Monona	WI	53713	38,572
Dunn County Housing Authority	1421 Stout Road	Menomonie	WI	54751	18,698
Housing Authority of Racine County	837 Main Street	Racine	WI	53403	66,190
Housing Authority of the City of Milwaukee	P.O. Box 324	Milwaukee	WI	53201	69,000
Sauk County Housing Authority	P.O. Box 147, 1211 8th Street	Baraboo	WI	53913	52,332
Winnebago County Housing Authority	600 Merritt Avenue	Oshkosh	WI	54901	69,000
Benwood Housing Authority	2200 Marshall Street	Benwood	WV	26031	13,851
Charleston-Kanawha Housing Authority	1525 Washington Street, West	Charleston	WV	25387	35,777
Clarksburg Harrison Regional Housing Authority.	433 Baltimore Avenue	Clarksburg	WV	26301	34,028
Parkersburg Housing Authority	1901 Cameron Avenue	Parkersburg	WV	26101	45,136
The Housing Authority of the City of Fairmont.	P.O. Box 2738, 103 12th Street	Fairmont	WV	26555	30,186

[FR Doc. 2012-5890 Filed 3-9-12; 8:45 am]
 BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5500-FA-08]

Announcement of Funding Awards for the Public and Indian Housing Resident Opportunity and Self-Sufficiency (ROSS); Service Coordinators Program for Fiscal Year 2011

AGENCY: Assistant Secretary for the Office of Public and Indian Housing, HUD.

ACTION: Announcement of Funding Awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the FY 2011 Notice of Funding Availability (NOFA) for the Public and Indian Housing Resident Opportunity and Self-Sufficiency (ROSS)—Service Coordinators Program for Fiscal Year 2011. This announcement contains the consolidated names and addresses of those award recipients selected for funding based on the funding priority categories established in the NOFA.

FOR FURTHER INFORMATION CONTACT: Joseph E. Taylor, Grant Management Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., B133 Potomac Center, 3rd Floor, Washington, DC 20410, telephone number 202-475-8852. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Relay Service at 800-877-8339. (Other than the “800” TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The purpose of the Public and Indian Housing Resident Opportunity and Self-Sufficiency (ROSS) Service Coordinators program is to provide grants to public housing agencies (PHAs), tribes/tribally designated housing entities (TDHEs), Resident Associations (RAs), and nonprofit organizations (including grassroots, faith-based and other community-based organizations) for the provision of a Service Coordinator to coordinate supportive services and other activities designed to help Public and Indian housing residents attain economic and housing self-sufficiency. This program works to promote the development of local strategies to coordinate the use of assistance under the Public Housing program with public and private resources, for supportive services and

resident empowerment activities. A Service Coordinator ensures that program participants are linked to the supportive services they need to achieve self-sufficiency or remain independent.

On April 21, 2011, HUD posted its FY 2011 Public and Indian Housing Resident Opportunity and Self-Sufficiency (ROSS) Service Coordinators NOFA. The NOFA made approximately \$35 million available under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011). The Department reviewed, evaluated, and scored the applications received based on the criteria published by the FY 2011 NOFA and has funded the applications announced in Appendix A. In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 110 awards made under the Public and Indian Housing Resident Opportunity and Self-Sufficiency (ROSS)—Service Coordinators Program competition.

Dated: February 24, 2012.

Sandra B. Henriquez,
Assistant Secretary for Public and Indian Housing.

Appendix A

FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—SERVICE COORDINATORS PROGRAM

Recipient	Address	City	State	Zip code	Amount
Huntsville Housing Authority	200 Washington Street	Huntsville	AL	35804	\$462,000
Prichard Housing Authority	200 West Prichard Avenue	Prichard	AL	36610	240,000
Moenkopi Senior Center, Inc.	N.E. Hopi Housing—Highway 160	Tuba	AZ	86045	240,000
Pinal County Housing and Community Development.	970 North Eleven Mile Corner Road ...	Casa Grande	AZ	85194	186,000
White Mountain Apache Housing Authority.	P.O. Box 1270, 50 West Chinatown Street.	Whiteriver	AZ	85941	480,000
Area Housing Authority of the County of Ventura (AHA).	1400 West Hillcrest Drive	Newbury Park	CA	91320	240,000
Chico Rancheria Housing Corporation	585 East Avenue	Chico	CA	95926	224,360
Housing Authority of the City of Sacramento.	801 12th Street	Sacramento	CA	95814	480,000
Housing Authority of the City of San Buenaventura.	995 Riverside Street	Ventura	CA	93001	240,000
Housing Authority of the County of Riverside.	5555 Arlington Avenue	Riverside	CA	92504	240,000
Housing Authority of the County of Santa Barbara.	815 West Ocean Avenue	Lompoc	CA	93436	240,000
Madera, City of	205 North G Street	Madera	CA	93637	209,303
The Housing Authority of the County of Los Angeles.	2 Coral Circle	Monterey Park	CA	91755	720,000
Adams County Housing Authority	7180 Colorado Boulevard	Commerce City	CO	80022	207,450
Walsh Manor Local Resident Council ..	1790 West Mosier Place	Denver	CO	80223	200,778
Westridge Dispersed West Local Resident Council.	3550 West 13th Avenue, A-1	Denver	CO	80204	200,778
Westwood Dispersed South Local Resident Council.	855 South Irving Street	Denver	CO	80219	200,778
Bristol Housing Authority	164 Jerome Street	Bristol	CT	6010	240,000

FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—SERVICE COORDINATORS PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Housing Authority of the City of Ansonia.	36 Main Street	Ansonia	CT	6401	240,000
Housing Authority of the City of Bridgeport.	150 Highland Avenue	Bridgeport	CT	6604	467,388
Broward County Housing Authority	4780 North State Road 7	Lauderdale Lakes	FL	33319	240,000
Housing Authority of Lakeland	430 Hartsell Avenue	Lakeland	FL	33815	140,838
Housing Authority of the County of Flagler, Florida.	P.O. Box 188	Bunnell	FL	32110	216,000
Lee County Housing Authority	14170 Warner Circle	North Fort Myers	FL	33903	231,000
The Housing Authority of the City of Titusville.	524 South Hopkins Avenue	Titusville	FL	32796	170,636
Northwest Georgia Housing Authority ..	800 North Fifth Avenue	Rome	GA	30162	367,094
City of Des Moines Municipal Housing Agency.	100 East Euclid Avenue, Suite 101 ...	Des Moines	IA	50313	232,093
Eastern Iowa Regional Housing Authority.	7600 Commerce Park	Dubuque	IA	52002	240,000
Nampa Housing Authority	211 19th Avenue	Nampa	ID	83687	203,125
Nez Perce Tribal Housing Authority	P.O. Box 188	Lapwai	ID	83540	240,000
Macoupin County Housing Authority	P.O. Box 226, 760 Anderson Street ...	Carlinville	IL	62626	135,421
Menard County Housing Authority	101 West Sheridan Road	Petersburg	IL	62675	130,572
Housing Authority of the City of Bloomington.	1007 Summit Street	Bloomington	IN	47404	172,500
New Albany Housing Authority	P.O. Box 11	New Albany	IN	47150	376,000
Bryant Way Resident Council	247 Double Springs Road	Bowling Green	KY	42101	181,607
Gordon Avenue/Summit View Resident Council.	247 Double Springs Road	Bowling Green	KY	42101	148,726
Housing Authority of Floyd County	402 John M. Stumbo Drive	Langley	KY	41645	147,728
Housing Authority of Madisonville	211 Pride Avenue	Madisonville	KY	42431	134,968
Housing Authority of Owensboro	2161 East 19th Street	Owensboro	KY	42303	203,729
Louisville Metro Housing Authority	420 South Eighth Street	Louisville	KY	40203	720,000
Fall River Housing Joint Tenant Council.	220 Johnson Street	Fall River	MA	2723	158,000
New Bedford Housing Authority	P.O. Box 2081, 134 South Second Street.	New Bedford	MA	2740	480,000
Norwood Housing Authority	40 William Shyne Circle	Norwood	MA	2062	240,000
Old Colony Elder Services, Inc.	144 Main Street	Brockton	MA	2301	240,000
The Commonwealth Tenants Association.	35 Fidelis Way	Brighton	MA	2135	240,000
Housing Authority of the City of Cumberland, MD.	635 East First Street	Cumberland	MD	21502	203,659
Resident Services, Inc.	417 East Fayette Street, Room 923 ...	Baltimore	MD	21202	720,000
Robinwood Tenant Council	1468 Tyler Avenue	Annapolis	MD	21403	240,000
Wyman House Tenant Council	123 West 29th Street	Baltimore	MD	21218	240,000
Lewiston Housing Authority	1 College Street	Lewiston	ME	4240	182,030
Portland Housing Authority	14 Baxter Boulevard	Portland	ME	4101	236,967
City Wide Resident Council of the City of St. Paul Minnesota.	555 Wabasha Street North, Suite 400	Saint Paul	MN	55102	702,000
Northwest Minnesota Multi-County HRA.	P.O. Box 128, 205 Garfield Avenue ...	Mentor	MN	56736	240,000
Housing Authority of the City of Columbia.	201 Switzler Street	Columbia	MO	65203	197,195
Housing Authority of the City of Yazoo City.	121 Lindsey Lawn Drive	Yazoo City	MS	39194	164,000
Missoula Housing Authority	1235 34th Street	Missoula	MT	59801	240,000
Burlington Development Corporation ...	P.O. Box 2380, 133 North Ireland Street.	Burlington	NC	27217	235,000
Hickory Housing Authority	P.O. Box 2927, 841 South Center Street.	Hickory	NC	28602	201,000
Housing Authority of the City of Greensboro.	P.O. Box 21287, 450 North Church Street.	Greensboro	NC	27420	453,794
North Wilkesboro Housing Authority	101 Hickory Street	North Wilkesboro	NC	28659	198,000
Statesville Housing Authority	110 West Allison Street	Statesville	NC	28677	204,000
Fargo Housing and Redevelopment Authority.	325 Broadway	Fargo	ND	58102	205,106
Cerebral Palsy Association of Middlesex County, Inc..	10 Oak Drive	Edison	NJ	8837	240,000
Housing Authority of the City of Jersey City.	400 U.S. Highway #1, (MARION GARDENS).	Jersey City	NJ	7306	480,000
Housing Authority of the City of Passaic.	52 Aspen Place	Passaic	NJ	7055	240,000

FISCAL YEAR 2011 FUNDING AWARDS FOR THE PUBLIC AND INDIAN HOUSING RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)—SERVICE COORDINATORS PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Housing Authority of the City of Rahway.	165 East Grand Avenue	Rahway	NJ	7065	240,000
Phillipsburg Housing Authority	530 Heckman Street	Phillipsburg	NJ	8865	240,000
Southern Nevada Regional Housing Authority.	340 North 11th Street	Las Vegas	NV	89101	702,000
Albany Housing Authority	200 South Pearl Street	Albany	NY	12202	480,000
Buffalo Municipal Housing Authority	300 Perry Street	Buffalo	NY	14204	720,000
Municipal Housing Authority for the City of Yonkers.	P.O. Box 35, 1511 Central Park Avenue.	Yonkers	NY	10710	480,000
Niagara Falls Housing Authority	744 Tenth Street	Niagara Falls	NY	14301	236,784
Ocean Bay Community Development Corporation.	434 Beach 54th Street	Arverne	NY	11692	720,000
Rochester Housing Authority	675 West Main Street	Rochester	NY	14611	683,484
Syracuse Housing Authority	516 Burt Street	Syracuse	NY	13202	480,000
White Plains Housing Authority	223 Dr. Martin Luther King Jr. Boulevard.	White Plains	NY	10601	235,000
Akron Metropolitan Housing Authority ..	100 West Cedar Street	Akron	OH	44307	650,000
Lucas Metropolitan Housing Authority ..	435 Nebraska Avenue	Toledo	OH	43604	625,545
Springfield Metropolitan Housing Authority.	101 West High Street	Springfield	OH	45502	121,000
Zanesville Metropolitan Housing Authority.	407 Pershing Road	Zanesville	OH	43701	240,000
Housing Authority of the City of Tulsa ..	415 East Independence Street	Tulsa	OK	74106	344,526
Housing Authority of Clackamas County.	P.O. Box 1510, 13930 South Gain Street.	Oregon City	OR	97045	240,000
Housing Authority of Lincoln County	P.O. Box 1470, 1039 NW Nye Street	Newport	OR	97365	240,000
Housing Authority of Portland	135 SW Ash Street	Portland	OR	97204	720,000
Allegheny County Housing Authority	625 Stanwix Street, 12th Floor	Pittsburgh	PA	15222	702,000
Harrisburg Housing Authority	351 Chestnut Street	Harrisburg	PA	17101	480,000
Philadelphia Housing Authority	12 South 23rd Street, 6th Floor	Philadelphia	PA	19103	676,740
Westmoreland County Housing Authority.	154 South Greengate Road	Greensburg	PA	15601	324,272
Housing Authority of the City of Providence.	100 Broad Street	Providence	RI	2903	701,265
Housing Authority of Greenville	511 Augusta Street	Greenville	SC	29605	240,000
Housing Authority of the City of Columbia, SC.	1917 Harden Street	Columbia	SC	29204	367,854
Crow Creek Sioux Tribe	P.O. Box 19	Fort Thompson	SD	57339	170,140
Sisseton Wahpeton Housing Authority	605 Lydia Goodsell Street	Sisseton	SD	57262	163,995
Columbia Housing and Redevelopment Corporation.	201 Dyer Street	Colombia	TN	38401	240,000
Jackson Housing Authority	125 Preston Street	Jackson	TN	38301	240,000
Johnson City Public Housing Authority	901 Pardee Street	Johnson City	TN	37601	237,980
Housing Authority of City of Fort Worth	1201 East 13th Street	Fort Worth	TX	76102	352,376
Houston Housing Authority	2640 Fountainview, Suite 400	Houston	TX	77057	720,000
Cardinal Village Tenant Association, Inc..	651 Cardinal Place	Danville	VA	24541	207,688
Chesapeake Redevelopment & Housing Authority.	1468 South Military Highway	Chesapeake	VA	23320	240,000
Danville Redevelopment and Housing Authority.	135 Jones Crossing	Danville	VA	24541	220,174
Pleasant View Tenant Association, Inc.	101 Pleasant View Avenue	Danville	VA	24541	207,688
Burlington Housing Authority	65 Main Street	Burlington	VT	5401	222,000
Housing Authority of the City of Tacoma.	902 South L Street	Tacoma	WA	98405	240,000
Arlington Court Resident Organization	c/o Kenneth Barbeau, Contract Administrator, HACM, 650 West Reservoir Avenue.	Milwaukee	WI	53212	237,619
Cherry Court Resident Organization	c/o Kenneth Barbeau, Contract Administrator, HACM, 650 West Reservoir Avenue.	Milwaukee	WI	53212	237,619
Riverview Resident Organization	c/o Kenneth Barbeau, Contract Administrator, HACM, 650 West Reservoir Avenue.	Milwaukee	WI	53212	239,450
S.E.T. Ministry, Inc.	2977 North 50 Street	Milwaukee	WI	53210	239,450
Charleston-Kanawha Housing Authority	1525 Washington Street W	Charleston	WV	25387	204,000
The Huntington West Virginia Housing Authority.	300 West Seventh Avenue	Huntington	WV	25701	164,384

[FR Doc. 2012-5888 Filed 3-9-12; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR**Office of the Secretary****21st Century Conservation Service Corps Advisory Committee**

AGENCY: Office of the Secretary, Interior.
ACTION: Notice of meeting.

SUMMARY: We, the Department of the Interior, announce a public meeting of the 21st Century Conservation Service Corps Advisory Committee (Committee).

DATES: *Meeting:* Wednesday, March 28, 2012, from 8:30 a.m. to 5 p.m., and on Thursday, March 29, 2012, from 8:30 a.m. to 12:00 noon (Pacific Time).

Meeting Participation: Notify Lisa Young (see **FOR FURTHER INFORMATION CONTACT**) by close of business Friday, March 23, if requesting to make an oral presentation (limited to 2 minutes per speaker). The meeting will accommodate no more than a total of 45 minutes for all public speakers.

ADDRESSES: The meeting will be held at The Fort Mason Center Fire House, San Francisco, CA. The entrance for The Fort Mason Center is at Marina Blvd. and Buchanan Street. For specific directions, contact Lisa Young (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Lisa Young, Designated Federal Officer (DFO), 1849 C Street NW., MS 3559, Washington, DC 20240; telephone (202) 208-7586; fax (202) 208-5873; or email Lisa_Young@ios.doi.gov.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 2, we announce that the 21st Century Conservation Service Corps Advisory Committee will hold a meeting.

Background

Chartered in November 2011, the committee is a discretionary advisory committee established under the authority of the Secretary of the Interior. The purpose of the Committee is to provide the Secretary of Interior with recommendations on: (1) Developing a framework for the 21CSC, including program components, structure, and implementation, as well as accountability and performance evaluation criteria to measure success; (2) the development of certification criteria for 21CSC providers and

individual certification of 21CSC members; (3) strategies to overcome existing barriers to successful 21CSC program implementation; (4) identifying partnership opportunities with corporations, private businesses or entities, foundations, and non-profit groups, as well as state, local, and tribal governments, to expand support for conservation corps programs, career training and youth employment opportunities; (5) and developing pathways for 21 CSC participants for future conservation engagement and natural resource careers.

Background information on the Committee is available at www.doi.gov/21csc.

Meeting Agenda

The Committee will convene to consider the initial recommendations from the subcommittees; and other Committee business. The public will be able to make comment on Thursday, March 29, 2012 from 10:30 a.m. to 11:15 a.m. The final agenda will be posted on www.doi.gov/21csc prior to the meeting.

Public Input

Interested members of the public may present, either orally or through written comments, information for the Committee to consider during the public meeting. Speakers who wish to expand upon their oral statements, or those who had wished to speak, but could not be accommodated during the public comment period, are encouraged to submit their comments in written form to the Committee after the meeting.

Individuals or groups requesting to make comment at the public Committee meeting will be limited to 2 minutes per speaker, with no more than a total of 45 minutes for all speakers. Interested parties should contact Lisa Young, DFO, in writing (preferably via email), by March 23, 2012. (See **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting.

In order to attend this meeting, you must register by close of business March 23, 2012. The meeting location is open to the public. Space is limited, so all interested in attending should pre-register. Please submit your name, time of arrival, email address and phone number to Lisa Young via email at Lisa_Young@ios.doi.gov or by phone at (202) 208-7586.

Dated: March 7, 2012.

Lisa Young,
Designated Federal Officer.

[FR Doc. 2012-5891 Filed 3-9-12; 8:45 am]

BILLING CODE 4310-10-P

DEPARTMENT OF THE INTERIOR**Tribal Consultation Sessions—
Administrative Organizational
Assessment Draft Report,
Organizational Streamlining of BIA and
BIE, and BIE Topics**

AGENCY: Office of the Assistant Secretary—Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Office of the Assistant Secretary—Indian Affairs (AS-IA), the Bureau of Indian Affairs (BIA), and the Bureau of Indian Education (BIE) are hosting several upcoming tribal consultation sessions. The purpose of the sessions is to obtain tribal input on: the Administrative Organizational Assessment Draft Report on the organization of the AS-IA; ways to streamline the organizations of the BIA and the BIE; Johnson-O'Malley student count update; and the draft SF-424B assurance statement—non-construction programs.

DATES: See the **SUPPLEMENTARY INFORMATION** section of this notice for dates of the tribal consultation sessions. We will consider all comments received by close of business on May 25, 2012.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section of this notice for locations of the tribal consultation sessions. Submit comments by email to: consultation@bia.gov or by U.S. mail to: Organizational Streamlining Comments, Office of the Assistant Secretary—Indian Affairs, U.S. Department of the Interior, Mail Stop 4141 MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: For the Administrative Organizational Assessment Draft Report, contact: Paul Tsosie, Chief of Staff, Office of the Assistant Secretary—Indian Affairs, (202) 208-7163. For BIA Streamlining, contact: Bryan Rice, Deputy Bureau Director, Office of Trust Services, Bureau of Indian Affairs, (202) 208-7513. For BIE Streamlining, the Johnson-O'Malley Student Count Update, or Draft SF-424B Assurance Statement—Non-construction Programs, contact: Brian Drapeaux, Chief of Staff, Bureau of Indian Education, (202) 208-6123.

SUPPLEMENTARY INFORMATION: The AS-IA, BIA, and BIE will be hosting the following tribal consultation sessions and invite tribal leaders to participate:

Date	Location
Thursday, April 12–Friday, April 13, 2012	Miccosukee Resort and Gaming, 500 SW 177th Ave., Miami, FL 33194, (866) 599-6674. When booking use: “Bureau of Indian Affairs”.
Thursday, April 19–Friday, April 20, 2012	Radisson Fort McDowell Resort Hotel, 10438 N. Fort McDowell Road, Scottsdale/Fountain Hill, AZ 85264, (480) 789-5300. When booking use: “Bureau of Indian Affairs Streamline Consultation”.
Thursday, April 26–Friday, April 27, 2012	Northern Quest Resort & Casino, 100 N. Hayford Road, Airway Heights, WA 99001, (509) 481-6166.
Thursday, May 3–Friday, May 4, 2012	Holiday Inn Rapid City-Rushmore Plaza, 505 N. 5th Street, Rapid City, SD 57701, (605) 348-4000.
Thursday, May 10–Friday, May 11, 2012	Choctaw Casino Resort, 4216 S. Hwy 69/75, Durant, OK 74701, (580) 931-8340.
Thursday, May 17–Friday, May 18, 2012	Thunder Valley Casino Resort, 1200 Athens Avenue, Lincoln, CA 95648, (877) 468-8777. When booking use: “120516BURE”.

The agenda for each of the sessions will be as follows (all times are local):

Day 1 Agenda

8 a.m.–10 a.m.	Administrative Organizational Assessment Draft Report	AS-IA
10 a.m.–12:30 p.m.	BIA Streamlining Plan	BIA
12:30 p.m.–1:30 p.m.	Lunch (on your own)	
1:30 p.m.–2:30 p.m.	BIA Streamlining Plan (continued)	BIA
2:30 p.m.–5 p.m.	BIE Streamlining Plan	BIE

Day 2 Agenda

8 a.m.–12 p.m.	Johnson-O'Malley Student Count Update	BIE
	Draft SF-424B Assurance Statement—Non-construction Programs.	

A brief description of each of the topics is provided below. Further information is available at: <http://www.indianaffairs.gov/WhoWeAre/AS-IA/Consultation/index.htm>.

The Administrative Organizational Assessment Draft Report—The AS-IA is seeking input on the results of the Administrative Organizational Assessment Draft Report. The Assessment was conducted by an impartial third-party contractor, the Bronner Group, LLC, to evaluate the administrative support structures for BIA and BIE. The Draft Report includes a number of recommendations in the following functional areas: budget and financial management; acquisition and contract management; property management and building maintenance; human resources; safety management; and communications. More information on the Draft Report is available at: <http://www.indianaffairs.gov/WhoWeAre/AS-IA/Consultation/index.htm>.

The BIA Streamlining Plan—The BIA is seeking tribal input on ways to streamline its organization to meet budgetary constraints and increase efficiency in the delivery of services to tribes and Indian beneficiaries. The BIA is particularly interested in tribes’ perspectives on consolidation of agency

or field offices with minimal staffing and/or services, and consolidation of regional office programs or services where efficiencies may be achieved.

The BIE Streamlining Plan—The BIE is seeking tribal input on ways to streamline its organization to meet imminent budgetary constraints and to improve the quality of education provided to students served by BIE-funded schools.

The Johnson-O'Malley Student Count Update—The BIE is seeking tribal input on updating its count of students eligible for Johnson-O'Malley Program funding. As part of the Fiscal Year 2012 appropriations, Congress directed the BIE, in consultation with tribes and the U.S. Department of Education, to update its count of students eligible for the Johnson-O'Malley Program funding, and to report the results to Congress.

The Draft SF-424B Assurance Statement—Non-Construction Programs—The BIE is seeking tribal input on revision of provisions of the SF-424B Assurance Statement for Public Law 100-297 Tribally Controlled Grant Schools. The assurance statement accompanies the transfer of funds from the BIE to tribally controlled grant schools. The BIE is particularly interested in tribes’ perspectives on adding the following to the assurance

statement: “Will comply with all applicable statutory and regulatory requirements of the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind (NCLB) Act of 2001, and Individuals with Disabilities Education Act (IDEA).”

Dated: March 6, 2012.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

[FR Doc. 2012-5870 Filed 3-9-12; 8:45 am]

BILLING CODE 4310-6W-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R5-FHC-2012-N045; FXFR1334050000L4-123-FF05F24400]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Horseshoe Crab Tagging Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the

collection and the estimated burden and cost. This information collection is scheduled to expire on March 31, 2012. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before April 11, 2012.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or

OIRA_DOCKET@OMB.eop.gov (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *INFOCOL@fws.gov* (email). Please include “1018–0127” in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *INFOCOL@fws.gov* (email) or 703–358–2482 (telephone). You may review the ICR online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0127.

Title: Horseshoe Crab Tagging Program.

Service Form Number(s): FWS Forms 3–2310 and 3–2311.

Type of Request: Extension of currently approved collection.

Description of Respondents: Tagging agencies include Federal and State agencies, universities, and biomedical companies. Members of the general public provide recapture information.

Respondent’s Obligation: Voluntary.

Frequency of Collection: On occasion. When horseshoe crabs are tagged and when horseshoe crabs are found or captured.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
FWS Form 3–2310	950	2,250	5 minutes	188
FWS Form 3–2311	18	18	95 hours*	1,710
Totals	968	2,268	.....	1,898

* Average time required per response is dependent on the number of tags applied by an agency in 1 year. Agencies tag between 25 and 9,000 horseshoe crabs annually, taking between 2 to 5 minutes per crab to tag, record, and report data. Each agency determines the number of tags it will apply.

Abstract: Horseshoe crabs play a vital role commercially, biomedically, and ecologically along the Atlantic coast. Horseshoe crabs are commercially harvested and used as bait in eel and conch fisheries. Biomedical companies along the coast also collect and bleed horseshoe crabs at their facilities. *Limulus Amoebocyte Lysate* is derived from crab blood, which has no synthetic substitute, and is used by pharmaceutical companies to test sterility of products. Finally, migratory shorebirds also depend on the eggs of horseshoe crabs to refuel on their migrations from South America to the Arctic. One bird in particular, the red knot, feeds primarily on horseshoe crab eggs during its stopover. That bird is currently listed as a candidate for protection under the Endangered Species Act.

In 1998, the Atlantic States Marine Fisheries Commission (ASMFC), a management organization with representatives from each State on the Atlantic Coast, developed a horseshoe crab management plan. The ASMFC plan and its subsequent addenda established mandatory State-by-State harvest quotas, and created the 1,500-square-mile Carl N. Shuster, Jr., Horseshoe Crab Sanctuary off the mouth of Delaware Bay.

Although restrictive measures have been taken in recent years, populations are increasing slowly. Because

horseshoe crabs do not breed until they are 9 years or older, it may take some time before the population measurably increases. Federal and State agencies, universities, and biomedical companies participate in a Horseshoe Crab Cooperative Tagging Program. The Maryland Fishery Resources Office, Fish and Wildlife Service, maintains the information that we collect under this program and uses it to evaluate migratory patterns, survival, and abundance of horseshoe crabs.

Agencies that tag and release the crabs complete FWS Form 3–2311 (Horseshoe Crab Tagging) and provide the Service with:

- Organization name.
 - Contact person name.
 - Tag number.
 - Sex of crab.
 - Prosomal width.
 - Capture site, latitude, longitude, waterbody, State, and date.
- Members of the public who recover tagged crabs provide the following information using FWS Form 3–2310 (Horseshoe Crab Recapture Report):
- Tag number.
 - Whether or not tag was removed.
 - Whether or not the tag was circular or square.
 - Condition of crab.
 - Date captured/found.
 - Crab fate.
 - Finder type.
 - Capture method.
 - Capture location.

- Reporter information.
- Comments.

If the public participant who reports the tagged crab requests information, we send data pertaining to the tagging program and tag and release information on the horseshoe crab that was found or captured.

Comments: On September 26, 2011, we published in the **Federal Register** (76 FR 59422) a notice of our intent to ask OMB to renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on November 25, 2011. We received comments from 10 individuals/organizations.

Commenter 1 appreciated the opportunity to tag horseshoe crabs and suggested that public outreach is an important component of the program and that increased public outreach would be useful.

Commenter 2 said that the public outreach component has been very useful and the tagging program has benefited horseshoe crab management and increased public awareness of management issues.

Commenter 3 said that both the scientific merit and public outreach components of the program have been very useful. The tagging program has benefited horseshoe crab management and increased public awareness of management issues.

Commenter 4 discussed the scientific merit of the tagging program and said

that it has been very useful. The tagging program has benefited horseshoe crab management and has had impacts on management of associated shorebird species whose population levels are of concern. The commenter had concerns on the effort of tag recoveries, and suggested that we provide higher incentives to commercial fishermen to report crab tags, increase efforts on spawning beaches to recover tags, record time searching for tags to determine catch-per-unit-effort, that online reporting can be done in a batch system, and that we increase efforts to collect tag data from commercial fishermen. While we recognize that all of these suggestions would make a stronger program with more significant scientific data, some come with substantial cost. At this time we do not have any additional funds to provide increased incentives to fishermen, increase tag recovery efforts on beaches (done by our cooperators at this time), or increase efforts to solicit tag data from commercial fishermen. Through our cooperators in the future, we can attempt to get an estimate of catch-per-unit-effort and we will discuss this issue with the Atlantic States Marine Fisheries Commission to determine if those data would be useful. We will also explore providing a batch-type data entry program on our Web site to report recaptured tags. We will explore collecting catch-per-unit-effort and online batch reporting in the future.

Commenter 5 was supportive of the information collection, and commented that the scientific data provided by the program has been very useful for horseshoe crab management. Information was collected efficiently and the burden estimates were accurate.

Commenter 6 opposed the use of horseshoe crabs by biomedical companies and proposed a ban on the use of horseshoe crabs for any purpose.

Commenter 7 said that the tagging program is not necessary and the data generated by the program is not useful. The commenter also opposed the commercial harvest of horseshoe crabs and the use of horseshoe crabs by biomedical companies. The commenter proposed a ban on the use of horseshoe crabs for any purpose.

Commenter 8 discussed the scientific merit of the tagging program and said that it has been very useful for horseshoe crab management purposes. The commenter suggested that the Fish and Wildlife Service increase efforts in resighting tagged crabs outside the Delaware Bay area. While we recognize that increasing effort for resighting tagged crabs would increase the quality of the scientific data, there is substantial

cost associated with increasing that effort. At this time, we do not have any additional funds to increase tag recovery efforts on beaches (done by our cooperators at this time). We will encourage our cooperators to increase efforts in tag recovery outside the Delaware Bay area. The commenter also suggested we develop an application for smart phones in addition to the online reporting system that we currently offer. We will explore the development of an app for smart phones to provide another method for tag reporting.

Commenter 9 discussed the scientific merit of the tagging program and said that it has been very useful to horseshoe crab and shorebird management (whose population levels are of concern). The commenter suggested that we increase efforts on spawning beaches of Maryland and Virginia to recover tags, record time searching for tags to determine catch-per-unit-effort, and use formal models to determine survival of bled crabs from the Lysate industry. As with previous comments, we will encourage our cooperators to increase tag recovery efforts on the Maryland and Virginia beaches; however, without increased funding, we will not be able to increase tag recovery efforts without the assistance of cooperators. Some formal studies are being done by our cooperators using the Service tagging program to evaluate impacts of both tagging and of the Lysate bleeding programs. We will continue to support the tagging programs that are evaluating crab survival. The commenter also suggested that we should facilitate batch reporting of crabs on the phone and to encourage tag reporting by commercial fishermen. At this time we do not have any additional funds to provide increased incentives to fishermen, increase tag recovery efforts on beaches (done by our cooperators at this time), or increase efforts to solicit tag data from commercial fishermen. We will work with our cooperators to attempt to get better distribution of tag recovery efforts.

Commenter 10 provided comments similar in nature to Commenters 4 and 9.

We did not make any changes to our information collection requirements based on the above comments.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;

- Ways to enhance the quality, utility, and clarity of the information to be collected; and

- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: March 6, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012-5879 Filed 3-9-12; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-MB-2012-N0059; FF09M21200-123-FXMB1231099BPP0L2]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Approval Procedures for Nontoxic Shot and Shot Coatings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on April 30, 2012. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before April 11, 2012.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-5806 (fax) or OIRA_DOCKET@OMB.eop.gov (email).

Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042-PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or INFOCOL@fws.gov (email). Please include "1018-0067" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at INFOCOL@fws.gov (email) or 703-358-2482 (telephone). You may review the ICR online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018-0067.

Title: Approval Procedures for Nontoxic Shot and Shot Coatings, 50 CFR 20.134.

Service Form Number(s): None.

Type of Request: Extension of currently approved collection.

Description of Respondents:

Businesses that produce and/or market approved nontoxic shot types or nontoxic shot coatings.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Number of Annual Responses: 1.

Completion Time per Response: 3,200 hours.

Estimated Total Annual Burden Hours: 3,200 hours.

Estimated Annual Nonhour Cost Burden: \$25,000.

Abstract: The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*) prohibits the unauthorized take of migratory birds and authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. On January 1, 1991, we banned lead shot for hunting waterfowl and coots in the United States.

The regulations at 50 CFR 20.134 outline the application and approval process for new types of nontoxic shot. When considering approval of a candidate material as nontoxic, we must ensure that it is not hazardous in the environment and that secondary exposure (ingestion of spent shot or its components) is not a hazard to migratory birds. To make that decision, we require each applicant to provide information about the solubility and toxicity of the candidate material. Additionally, for law enforcement purposes, a noninvasive field detection device must be available to distinguish

candidate shot from lead shot. This information constitutes the bulk of an application for approval of nontoxic shot. The Director uses the data in the application to decide whether or not to approve a material as nontoxic.

Comments: On September 26, 2011, we published in the **Federal Register** (76 FR 59421) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on November 25, 2011. We received one comment. The commenter opposed expending funds to support the approval of nontoxic shot, and stated that a survey is not needed. This information collection is not a survey. It consists of risk assessments, toxicity tests, and background information that an applicant must submit in order for us to determine whether or not a proposed shot is nontoxic. We did not make any changes to our information collection requirements.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: March 6, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012-5878 Filed 3-9-12; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R7-R-2012-N046;
FXRS12630700004A-FF07R08000]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Alaska Guide Service Evaluation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on March 31, 2012. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before April 11, 2012.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-5806 (fax) or OIRA_DOCKET@OMB.eop.gov (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042-PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or INFOCOL@fws.gov (email). Please include "1018-0141" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at INFOCOL@fws.gov (email) or 703-358-2482 (telephone). You may review the ICR online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018-0141.

Title: Alaska Guide Service Evaluation.

Service Form Number(s): 3-2349.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Clients of permitted commercial guide service providers.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time following use of commercial guide services.

Estimated Annual Number of Respondents: 396.

Estimated Annual Number of Responses: 396.

Estimated Completion Time per Response: 15 minutes.

Estimated Annual Burden Hours: 99.

Abstract: We collect information on FWS Form 3–2349 (Alaska Guide Service Evaluation) to help us evaluate commercial guide services on our national wildlife refuges in the State of Alaska (State). The National Wildlife Refuge Administration Act of 1966, as amended (16 U.S.C. 668dd–ee), authorizes us to permit uses, including commercial visitor services, on national wildlife refuges when we find the activity to be compatible with the purposes for which the refuge was established. With the objective of making available a variety of quality visitor services for wildlife-dependent recreation on National Wildlife Refuge System lands, we issue permits for commercial guide services, including big game hunting, sport fishing, wildlife viewing, river trips, and other guided activities. We use FWS Form 3–2349 as a method to:

- (1) Monitor the quality of services provided by commercial guides.
- (2) Gauge client satisfaction with the services.
- (3) Assess the impacts of the activity on refuge resources.

The client is the best source of information on the quality of commercial guiding services. We collect:

- (1) Client name.
- (2) Guide name(s).
- (3) Type of guided activity.
- (4) Dates and location of guided activity.

(5) Information on the services received such as the client's expectations, safety, environmental impacts, and client's overall satisfaction.

We encourage respondents to provide any additional comments that they wish regarding the guide service or refuge experience, and ask whether or not they wish to be contacted for additional information.

The above information, in combination with State-required guide activity reports and contacts with guides and clients in the field, provides a comprehensive method for monitoring permitted commercial guide activities. A regular program of client evaluation helps refuge managers detect potential problems with guide services so that we can take corrective actions promptly. In

addition, we use this information during the competitive selection process for big game and sport fishing guide permits to evaluate an applicant's ability to provide a quality guiding service.

Comments: On September 26, 2011, we published in the **Federal Register** (76 FR 59420) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on November 25, 2011. We did not receive any comments.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: March 6, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012–5882 Filed 3–9–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX12RN000DSA200]

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request on Extension of Existing Information Collection

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of extension of an existing information collection (1028–0048).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) for the revision of the currently approved paperwork requirements for the *USGS Earthquake Report*. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB. This notice provides the public and other Federal agencies an opportunity to comment on the nature of this collection which is scheduled to expire on March 31, 2012.

DATES: You must submit comments on or before April 11, 2012.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via email to OIRA_DOCKET@omb.eop.gov or fax at 202–395–5806; and reference Information Collection 1028–0048 in the subject line.

Please submit a copy of your comments to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7199 (fax); or smbaloch@usgs.gov (email). Use Information Collection Number 1028–0048 in the subject line.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jim Dewey at (303) 273–8419.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1028–0048.

Title: USGS Earthquake Report.

Type of Request: Extension of a currently approved collection.

Affected Public: General Public.

Respondent Obligation: Voluntary.

Frequency of Collection: On occasion, after an earthquake.

Estimated Completion Time: 6 minutes.

Estimated Annual Number of Respondents: 300,000

Estimated Annual Burden Hours: 30,000 hours.

Abstract: The collection of information applies to a World-Wide Web site questionnaire that permits individuals to report on the effects of the shaking from an earthquake—on themselves personally, buildings, other man-made structures, and ground

effects such as faulting or landslides. The USGS may use the information to provide qualitative, quantitative, or graphical descriptions of earthquake damage. We will release data collected on these forms only in a summary format.

Comments: To comply with the public consultation process, on December 6, 2011, we published a **Federal Register** notice (76 FR 76177) announcing our intent to submit this information collection to OMB for approval. In that notice we solicited public comments for 60 days, ending on February 6, 2012. We did not receive any comments concerning the notice.

We again invite comments concerning this information collection on: (1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden for this collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: March 5, 2012.

Jill McCarthy,

Geologic Hazards Science Center, Chief Scientist.

[FR Doc. 2012-5867 Filed 3-9-12; 8:45 am]

BILLING CODE 4311-AM-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT030000-L17110000-PH0000-24-1A]

Notice of Grand Staircase-Escalante National Monument Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory

Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM), Grand Staircase-Escalante National Monument Advisory Committee (GSENMAC) will meet as indicated below.

DATES: The GSENMAC will meet Tuesday, April 17, 2012, (1 p.m.–6 p.m.); Wednesday, April 18, 2012, (8 a.m.–5 p.m.); and Thursday, April 19, 2012, (8 a.m.–12 p.m.) in Escalante, Utah.

ADDRESSES: The Committee will meet at the Escalante Interagency Visitor Center, 755 West Main, Escalante, Utah.

FOR FURTHER INFORMATION CONTACT: Larry Crutchfield, Public Affairs Officer, Grand Staircase-Escalante National Monument, Bureau of Land Management, 669 South Highway 89A, Kanab, Utah, 84741; phone (435) 644-1209.

SUPPLEMENTARY INFORMATION: The 15-member GSENMAC was appointed by the Secretary of Interior on August 2, 2011, pursuant to the Monument Management Plan, the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA). As specified in the Monument Management Plan, the GSENMAC will have several primary tasks (1) Review evaluation reports produced by the Management Science Team and make recommendations on protocols and projects to meet overall objectives. (2) Review appropriate research proposals and make recommendations on project necessity and validity. (3) Make recommendations regarding allocation of research funds through review of research and project proposals as well as needs identified through the evaluation process above. (4) Could be consulted on issues such as protocols for specific projects.

Topics to be discussed by the GSENMAC during this meeting include approval of committee by-laws, review of the draft GSENM Science Plan, MAC participation in development of a Hole-In-The-Rock corridor management strategy, future meeting dates and other matters as may reasonably come before the GSENMAC. A field trip is planned for the morning of April 18 to familiarize GSENMAC members with the Hole-In-The-Rock corridor.

The entire meeting is open to the public. Members of the public are welcome to address the committee at 5 p.m., local time on April 17, 2012. Depending on the number of persons wishing to speak, a time limit could be established. Interested persons may make oral statements to the GSENMAC

during this time or written statements may be submitted for the GSENMAC's consideration. Written statements can be sent to: Grand Staircase-Escalante National Monument, Attn: Larry Crutchfield, 669 South Highway 89A, Kanab, Utah, 84741. Information to be distributed to the GSENMAC is requested 10 days prior to the start of the GSENMAC meeting.

All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

Rene C. Berkhoudt,

Grand Staircase-Escalante National Monument Manager.

[FR Doc. 2012-5892 Filed 3-9-12; 8:45 am]

BILLING CODE 4310-DQ-P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan/ Environmental Impact Statement for the Ice Age Complex at Cross Plains, Cross Plains, Wisconsin

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Under the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability and requests comments on a draft General Management Plan/ Environmental Impact Statement for the Ice Age Complex at Cross Plains, Wisconsin

DATES: The draft General Management Plan/Environmental Impact Statement (GMP/EIS) will remain available for public review and comment for 60 days following the Environmental Protection Agency's publication in the "**Federal Register**" of a notice of availability. Public meetings will be held during the 60-day review period on the GMP/EIS in the Cross Plains, Wisconsin area.

ADDRESSES: Copies of the draft GMP/EIS are available from the Superintendent, 700 Rayovac Drive, Suite 100, Madison, Wisconsin 53711.

Meeting times and locations will be announced in the local press, sent out to the mailing list for this project, and uploaded to the plan Web site at www.parkplanning.nps.gov/iatr.

You may submit your comments by any one of several methods. You may comment via the Internet through the Web site above. You may also send comments to Superintendent, Ice Age National Scenic Trail, 700 Rayovac Drive, Suite 100, Madison, Wisconsin 53711. You may contact the

Superintendent by phone at 402-441-5610 or by facsimile at 608-441-5606. Finally, you may hand-deliver comments to the Ice Age National Scenic Trail headquarters at the address above.

FOR FURTHER INFORMATION CONTACT:

Superintendent, Ice Age National Scenic Trail, 700 Rayovac Drive, Suite 100, Madison, Wisconsin 53711. Telephone 402-441-5610.

SUPPLEMENTARY INFORMATION: This GMP/EIS is a joint state and federal effort addressing lands within the Cross Plains Unit of the Ice Age National Scientific Reserve as well as the Interpretive Site for the Ice Age National Scenic Trail; these lands are referred to as the "Ice Age Complex at Cross Plains" for the purpose of this planning effort. This plan will guide the management of the Ice Age Complex at Cross Plains for the next 25 years.

The draft GMP/EIS considers five draft conceptual alternatives—a no-action and four action alternatives, including the NPS-preferred alternative. The draft GMP/EIS assesses impacts of the alternatives on soil resources, water quality, soundscapes, vegetation and wildlife, socioeconomics, and visitor use and experience. The preferred alternative focuses on providing visitors with interpretation of the evolution of the complex from the last glacial retreat to the present and opportunities to enjoy appropriate low-impact outdoor recreation. Ecological resources would largely be managed to reveal the glacial landscape. The most sensitive ecological areas would be carefully protected, and visitor access would be highly controlled in these areas. Visitors would experience a wide variety of indoor and outdoor interpretive programming. Under this alternative, the Ice Age Complex would serve as the headquarters for the Ice Age National Scenic Trail.

Before including your address, telephone number, electronic mail address, or other personal identifying information in your comments, 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: February 17, 2012.

Michael T. Reynolds,

Regional Director, Midwest Region.

[FR Doc. 2012-5889 Filed 3-9-12; 8:45 am]

BILLING CODE 4312-KN-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-PWR-PWRO-0105-9223; 9082-P704-409]

Environmental Impact Statement for Proposed General Management Plan, Pinnacles National Monument, San Benito and Monterey Counties, CA

AGENCY: National Park Service, Interior.

ACTION: Notice of Termination of Environmental Impact Statement.

SUMMARY: The National Park Service is terminating the preparation of an Environmental Impact Statement (EIS) for the General Management Plan, Pinnacles National Monument, California. A Notice of Intent to prepare an EIS for the General Management Plan (GMP) was published in the **Federal Register** on April 6, 2007. Based in part on the minimal nature of public response to the Notice of Intent, the National Park Service has since determined that an Environmental Assessment (EA) rather than an EIS will suffice as the documentation for the environmental analysis for this general management planning effort.

SUPPLEMENTARY INFORMATION: This new GMP will update the overall direction for the national monument, setting broad goals for managing the area over the next 15 to 20 years. As noted above, the GMP was originally scoped as an EIS. However, few substantive comments were received during the public scoping process, and no issues having potential for significant or controversial impacts were identified. The current Master Plan was approved in 1975.

In the general management planning process to date, the NPS planning team developed four preliminary alternatives for the management of the monument, none of which would result in substantial changes in the operation and management of the area. The three "action" alternatives define desired future conditions for new lands recently acquired, and address parkwide cultural and natural resource protection, wilderness stewardship, administration and operations, and opportunities for expanding interpretation and visitor opportunities where appropriate. Preliminary analysis of the alternatives has revealed no potential for major (nor

significant) effects on the quality of the human environment, nor any potential for impairment of monument resources and values. Most of the impacts which could result from the alternatives are expected to be negligible to minor in magnitude, with the remainder being of a minor to moderate level.

For these reasons the NPS has determined that the requisite conservation planning and environmental impact analysis necessary for developing the GMP may be completed through preparation of an EA. For further information about this determination or other aspects of the GMP process, please contact: Karen Beppler-Dorn, Superintendent, Pinnacles National Monument, 5000 Highway 146, Paicines, CA 95043 (telephone: (831) 389-4486x222; email: PINN_Superintendent@nps.gov).

Decision Process: The draft general management plan/EA is expected to be distributed for public comment in the spring of 2012. The NPS will notify the public about release of the draft general management plan/EA by mail, local and regional media, Web site postings, and other means. All announcements will include information on where and how to obtain a copy of the EA, how to comment on the EA, and the inclusive dates of the public comment period. Following due consideration of public comments and agency consults, at this time a decision is expected to be made in the fall of 2012. The official responsible for the final decision on the GMP is the Regional Director; subsequently the responsible official for implementing the approved GMP is the Superintendent, Pinnacles National Monument.

Dated: February 28, 2012.

Christine S. Lehnertz,

Acting Regional Director, Pacific West Region.

[FR Doc. 2012-5852 Filed 3-9-12; 8:45 am]

BILLING CODE 4312-EP-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-503]

Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic, Third Annual Review

AGENCY: U.S. International Trade Commission.

ACTION: Notice of opportunity to provide written comments in connection with the Commission's third annual review.

SUMMARY: The U.S. International Trade Commission (Commission) has announced its schedule, including deadlines for filing written submissions, in connection with the preparation of its third annual review in investigation No. 332–503, *Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic, Third Annual Review*.

DATES: April 12, 2012: Deadline for filing written submissions.

July 26, 2012: Transmittal of third report to House Committee on Ways and Means and Senate Committee on Finance.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Project Leader Laura Rodriguez (202–205–3499 or laura.rodriguez@usitc.gov) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

BACKGROUND: Section 404 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (DR–CAFTA Act) (19 U.S.C. 4112) required the Secretary of Commerce to establish an Earned Import Allowance Program (EIAP) and directed the Commission to conduct annual reviews of the program for the purpose of evaluating its effectiveness and making recommendations for

improvements. Section 404 of the DR–CAFTA Act authorizes certain apparel articles wholly assembled in an eligible country to enter the United States free of duty if accompanied by a certificate that shows evidence of the purchase of certain U.S. fabric. The term “eligible country” is defined to mean the Dominican Republic. More specifically, the program allows producers (in the Dominican Republic) that purchase a certain quantity of qualifying U.S. fabric for use in the production of certain bottoms of cotton in the Dominican Republic to receive a credit that can be used to ship a certain quantity of eligible apparel using third country fabrics from the Dominican Republic to the United States free of duty.

Section 404(d) directs the Commission to conduct an annual review of the program for the purpose of evaluating the effectiveness of the program and making recommendations for improvements. The Commission is required to submit its reports containing the results of its reviews to the House Committee on Ways and Means and the Senate Committee on Finance. The Commission submitted its report on its first annual review (USITC Publication 4175) on July 28, 2010, its report on its second annual review (USITC Publication 4246) on July 22, 2011, and it expects to submit its report on its third annual review by July 26, 2011.

The Commission instituted this investigation pursuant to section 332(g) of the Tariff Act of 1930 to facilitate docketing of submissions and also to facilitate public access to Commission records through the Commission's EDIS electronic records system.

Submissions: Interested parties are invited to file written submissions concerning this third annual review. All written submissions should be addressed to the Secretary and must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. If confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/

[handbook_on_electronic_filing.pdf](#)). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the “confidential” or “non-confidential” version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission intends to publish only a public report in this review. Consequently, the report that the Commission sends to the committees will not contain any confidential business information. Any confidential business information received by the Commission in this investigation and used in preparing its report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: March 7, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–5916 Filed 3–9–12; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (12–021)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent To Grant 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 an exclusive license in the United States to practice the invention described and claimed in Patent No. US 6,706,549, Multi-Functional Micro Electromechanical Devices and Method of Bulk Manufacturing Same, LEW 17,170–1; and Patent No. US 6,845,664, MEMS Direct Chip Attach Packaging Methodologies and Apparatuses for Harsh Environments, LEW 17,256–1, to Spectre Corporation, having its

principal place of business in Elyria, Ohio. The fields of use may be limited to mining; farming; undersea exploration; seismic and environmental monitoring; heating, ventilating, and air-conditioning; chemical and petrochemical process control and process automation; water and wastewater processing; power transmission and power distribution; calibration and test equipment; semiconductor manufacturing; material manufacturing such as metallurgy, refractory processes, and steel, aluminum, copper, polymers, composites, and glass and ceramic production and processing; pharmaceutical production; and food and beverage production. The patent rights in these inventions as applicable have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective 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 Intellectual Property Counsel, Office of Chief Counsel, MS 21-14, NASA Glenn Research Center, 21000 Brookpark Rd, Cleveland, OH 44135. Phone (216) 433-5754. Facsimile (216) 433-6790.

FOR FURTHER INFORMATION CONTACT: Kaprice Harris, Intellectual Property Counsel, Office of Chief Counsel, MS 21-14, NASA Glenn Research Center, 21000 Brookpark Rd, Cleveland, OH 44135. Phone (216) 433-5754. Facsimile (216) 433-6790. Information about other NASA inventions available for licensing

can be found online at <http://techtracs.nasa.gov/>.

Richard W. Sherman,
Deputy General Counsel.
[FR Doc. 2012-5860 Filed 3-9-12; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10 a.m., Thursday, March 15, 2012.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314-3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Final Rule—Parts 701, 760 and 790 of NCUA's Rules and Regulations, Technical Amendments.
2. NCUA's Diversity and Inclusion Strategic Plan.
3. Quarterly Insurance Fund Report.

RECESS: 10:45 a.m.

TIME AND DATE: 11 a.m., Thursday, March 15, 2012.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Creditor Claim Appeal. Closed pursuant to exemptions (6) and (8).
2. Consideration of Supervisory Activities. Closed pursuant to exemptions (8), (9)(i)(B) and 9(ii).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703-518-6304.

Mary Rupp,
Board Secretary.

[FR Doc. 2012-6005 Filed 3-8-12; 4:15 pm]

BILLING CODE 7535-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Public Availability of the National Endowment for the Humanities FY 2011 Service Contract Inventory

AGENCY: National Endowment for the Humanities.

ACTION: Notice of public availability of FY 2011 service contract inventory.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111-117), the National Endowment for the Humanities (NEH) is publishing this

notice to advise the public of the availability of the FY 2011 Service Contract Inventory. This inventory provides information on service contract actions over \$25,000 that were made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 and December 19, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at <http://www.whitehouse.gov/omb/procurement-service-contract-inventories>. NEH has posted its inventory and a summary of the inventory on the NEH homepage at the following link: <http://www.neh.gov/whoweare/administrative.html>.

FOR FURTHER INFORMATION CONTACT: Barry Maynes, Director, Administrative Services Office at 202-606-8233 or bmaynes@neh.gov.

Dated: March 6, 2012.

Michael P. McDonald,
General Counsel and Federal Register Liaison Officer.

[FR Doc. 2012-5836 Filed 3-9-12; 8:45 am]

BILLING CODE 7537-01-P

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Integrative Activities, #1373; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Ad Hoc Advisory Committee on the Merit Review Process (MRPAC).

Date/Time: March 28, 2012; 12 p.m.-4 p.m., EDT.

Place: National Science Foundation, 4201 Wilson Boulevard, Room I-360 Arlington, VA.

Type of Meeting: Open.

Contact Person: Ms. Victoria Fung, National Science Foundation 4201 Wilson Boulevard, Arlington, VA, 22230. Email: vfung@nsf.gov.

If you plan to attend the meeting, please send an email with your name and affiliation to the individual listed above, by the day before the meeting, so that a visitor badge can be prepared.

Purpose of Meeting: To provide advice concerning issues related to NSF's merit review process.

Agenda

- Welcome.
- Update on outreach activities.
- Discussion of potential pilots of enhancements to the merit review process.

For latest details information, please check with this following link: <http://www.nsf.gov/>

od/oia/additional_resources/AC-MeritReview/index.jsp.

Dated: March 7, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012-5861 Filed 3-9-12; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Waste Regulation

AGENCY: National Science Foundation.

ACTION: Correction to notice of permit modification request received under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: On March 5, 2012, the **Federal Register** published a notice from the National Science Foundation (NSF) regarding a permit modification request to transfer the permit from the incumbent support contractor, Raytheon Polar Services Company to Lockheed Martin Corporation.

DATES: The public notice period ends March 22, 2012.

ADDRESSES: Comments should be addressed to the Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale, Environmental Officer, at the above address or (703) 292-8030.

SUPPLEMENTARY INFORMATION: A notice of a permit modification request was published in the **Federal Register** on March 5, 2012. The Public Comment period was incorrectly identified as 30 days and this Notice corrects the period to 10 days. The permit holder's address for the Notice was incorrectly identified as: Lockheed Martin Corporation, Information Systems & Global Solutions (I&GS) Engineering Services Segment, 700 N. Frederick Avenue, Gaithersburg, MD 20879-3328. This Notice corrects the permit holder's address to: Lockheed Corporation, Information Systems & Global Solutions (I&GS) Engineering Services Segment, Ms. Celia Lang, Program Director, 7400 South Tucson Way, Centennial, CO 80112.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2012-5874 Filed 3-9-12; 8:45 am]

BILLING CODE 7555-01-P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act; Board of Directors Meeting, March 29, 2012

TIME AND DATE: Thursday, March 29, 2012, 10 a.m. (Open Portion) 10:15 a.m. (Closed Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Meeting open to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report.
 2. Confirmations:
 - Roberto R. Herencia as a member of the Board Audit Committee.
 - Allen Villabroza as Vice President & Chief Financial Officer.
 3. Minutes of the Open Session of the December 8, 2011 Board of Directors Meeting.
- FURTHER MATTERS TO BE CONSIDERED:**
(Closed to the Public 10:15 a.m.):
1. Finance Project—India.
 2. Finance Project—Global.
 3. Finance Project—Turkey.
 4. Insurance Project—Ghana.
 5. Minutes of the Closed Session of the December 8, 2011 Board of Directors Meeting.
 6. Reports.
 7. Pending Major Projects.

Written summaries of the projects to be presented will be posted on OPIC's Web site on or about March 9, 2012.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336-8438.

Dated: March 9, 2012.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 2012-6043 Filed 3-8-12; 4:15 pm]

BILLING CODE 3210-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

Extension:

Rule 6c-7, SEC File No. 270-269, OMB Control No. 3235-0276.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995

(44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 6c-7 (17 CFR 270.6c-7) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("1940 Act") provides exemption from certain provisions of Sections 22(e) and 27 of the 1940 Act for registered separate accounts offering variable annuity contracts to certain employees of Texas institutions of higher education participating in the Texas Optional Retirement Program. There are approximately 50 registrants governed by Rule 6c-7. The burden of compliance with Rule 6c-7, in connection with the registrants obtaining from a purchaser, prior to or at the time of purchase, a signed document acknowledging the restrictions on redeemability imposed by Texas law, is estimated to be approximately 3 minutes of professional time per response for each of approximately 2400 purchasers annually (at an estimated \$67 per hour),¹ for a total annual burden of 120 hours (at a total annual cost of \$8,040).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms. The Commission does not include in the estimate of average burden hours the time preparing registration statements and sales literature disclosure regarding the restrictions on redeemability imposed by Texas law. The estimate of burden hours for completing the relevant registration statements are reported on the separate PRA submissions for those statements. (See the separate PRA submissions for Form N-3 (17 CFR 274.11b) and Form N-4 (17 CFR 274.11c).)

The Commission requests written comments on: (a) 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) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity

¹ \$67/hour figure for a Compliance Clerk is from SIFMA's Office Salaries in the Securities Industry 2010, modified by Commission staff to account for an 1800-hour work year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: PRA_Mailbox@sec.gov.

Dated: March 6, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-5854 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available

From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

Extension:

Rule 15g-5, OMB Control No. 3235-0394, SEC File No. 270-348.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in the following rule: Rule 15g-5—Disclosure of compensation to associated persons in connection with penny stock transactions (17 CFR 240.15g-5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 15g-5 requires brokers and dealers to disclose to customers the amount of compensation to be received by their sales agents in connection with penny stock transactions. The purpose of the rule is to increase the level of disclosure to investors concerning penny stocks generally and specific penny stock transactions.

The Commission estimates that approximately 209 broker-dealers will spend an average of 87 hours annually to comply with the rule. Thus, the total compliance burden is approximately 18,183 burden-hours per year.

Written 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 will 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 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The commission may not conduct or sponsor collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to PRA_Mailbox@sec.gov.

Dated: March 6, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-5855 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available

From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

Extension:

Form 12b-25, OMB Control No. 3235-0058, SEC File No. 270-71.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The purpose of Form 12b-25 (17 CFR 240.12b-25) is to provide notice to the Commission and the marketplace that a public company will be unable to timely file a required periodic report or transition report pursuant to the Securities Exchange Act of 1934 (15 U.S.C 78a *et seq.*). If all the filing conditions of the form are satisfied, the company is granted an automatic filing extension. Approximately 7,799 registrants file Form 12b-25 and it takes approximately 2.5 hours per response for a total of 19,498 burden hours.

Written comments are invited on: (a) Whether this 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) the accuracy of the agency’s estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312; or send an email to: PRA_Mailbox@sec.gov.

Dated: March 6, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-5856 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66521; File No. SR-MSRB-2012-03]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Consisting of Establishment of a Subscription to Historical Information and Documents Submitted to the MSRB’s Short-Term Obligation Rate Transparency System

March 6, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Exchange Act”) ¹ and Rule 19b-4

¹ 15 U.S.C. 78s(b)(1).

thereunder,² notice is hereby given that on February 27, 2012, the Municipal Securities Rulemaking Board (“MSRB”) 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 MSRB. 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 MSRB is hereby filing with the Commission a proposed rule change to establish a subscription to historical information and documents submitted to the MSRB’s Short-Term Obligation Rate Transparency System (“SHORT System”). The SHORT System collects and disseminates information and documents for municipal Auction Rate Securities and municipal Variable Rate Demand Obligations.

The text of the proposed rule change is available on the MSRB’s Web site at <http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2012-Filings.aspx>, at the MSRB’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 MSRB 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 MSRB 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

In January 2009, the MSRB implemented an electronic system to collect and disseminate information about securities bearing interest at short-term rates and making such information and documents publicly available through a dissemination service (“SHORT System”). In May 2011, MSRB enhanced the SHORT System to add documents to the information collected and disseminated. Information and documents collected by the SHORT

System are made available for free on the MSRB’s Electronic Municipal Market Access (EMMA[®]) Web site pursuant to the EMMA short-term obligation rate transparency service.³ MSRB also makes the information and documents collected by the SHORT System available through a subscription service, which is available for an annual fee of \$10,000. The proposed rule change would clarify that subscribers to the SHORT subscription service would be able to access historical data for the most recent six months on a daily rolling basis and establish purchase agreements for historical products consisting of twelve consecutive complete month data sets of the documents and related indexing information collected by the SHORT System (the “SHORT Historical Data Product”) dating to January 30, 2009.⁴ The purpose of the proposed rule change is to provide another avenue for obtaining the information and documents provided through the SHORT subscription service, which is currently only available on a current basis through the real-time data stream.

The SHORT Historical Data Product would be made available to purchasers in electronic format using a physical medium (such as an optical disc, flash memory card or external hard drive),⁵ pursuant to the terms of the MSRB Historical Transaction Data Purchase Agreement, which would be executed by purchasers prior to delivery of the historical data product.⁶ The MSRB proposes to charge \$5,000 for any twelve consecutive complete month data set of information and documents collected by the SHORT System.⁷ In

³ See Exchange Act Release No. 59212 (January 7, 2009).

⁴ The SHORT Subscriber Manual provides a complete, up-to-date listing of all data elements made available through the SHORT Subscription Service. The information provided in the SHORT Historical Data Product are the same as those currently provided in the SHORT Subscription Service.

⁵ The MSRB will choose an appropriate physical medium for delivering the EMMA SHORT historical data product based upon the quantity of data included in a data set and technological advances in physical media.

⁶ Purchasers would be subject to all of the terms of the MSRB Historical Transaction Data Purchase Agreement to be entered into between the MSRB and each purchaser, including terms relating to the proprietary and intellectual property rights of third parties in information provided by such third parties that is made available through the products.

⁷ The purchase price does not include sales tax as required by Virginia state law. The purchase price is a one-time charge for the SHORT Historical Data Products, as applicable, and will not include any future additions or enhancements that may be added to the data. The MSRB could, in its discretion, waive or reduce the purchase price for not-for-profit organizations that desire the product for non-profit or research purposes consistent with their stated charitable or other public purpose.

general, no smaller data sets will be made available.⁸ A one-time set-up fee of \$2,000 (the “set-up fee”) would be charged to new purchasers of the SHORT Historical Data Products, unless the purchaser is a current subscriber to an MSRB Subscription Service, including, but not limited to, the MSRB Real-Time Transaction Data Subscription Service, Comprehensive Transaction Data Subscription Service, SHORT Subscription Service, Primary Market Disclosure Subscription Service, or the Continuing Disclosure Subscription Service or has previously purchased a historical product.⁹

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Exchange Act, which provides that MSRB’s rules shall:

Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest; and

The MSRB has also adopted the proposed rule change pursuant to Section 15B(b)(3)(B)(ii) of the Exchange Act, which provides that the MSRB shall:

Not be prohibited from charging commercially reasonable fees for automated subscription-based feeds or similar services, or for charging for other data or document-based services customized upon request of any person, made available to commercial enterprises, municipal securities market professionals, or the general public, whether delivered through the Internet or any other means, that contain all or part of the documents or information, subject to approval of the fees by the Commission under section 19(b).

The MSRB believes that the proposed rule change is consistent with the Exchange Act. The proposed rule change would establish a subscription service that would make information collected by the SHORT System available to market participants as an

⁸ The SHORT system became effective January 30, 2009. Accordingly, a purchaser of all historical information and documents will be charged \$5,000 for each twelve consecutive month data set and a prorated amount for any remaining months.

⁹ The MSRB could, in its discretion, waive or reduce the product set-up fee(s) for not-for-profit organizations that desire the product for non-profit or research purposes consistent with their stated charitable or other public purpose.

² 17 CFR 240.19b-4.

additional avenue for obtaining information that is submitted to the EMMA short-term obligation rate transparency service. Broad access to the information collected by the SHORT System, in addition to the public access through the EMMA short-term obligation rate transparency service web portal, should further assist in preventing fraudulent and manipulative acts and practices by improving the opportunity for public investors to access material information about SHORT System disclosure information. The proposed rule change also provides for commercially reasonable fees to partially offset costs associated with operating the SHORT System and producing and disseminating information products to purchasers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB 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 Exchange Act since it will apply equally to all persons who choose to purchase¹⁰ the SHORT Historical Data Product, and those who choose not to pay the charge may view the same information for free on the EMMA Web site.

C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an email to rule-comments@sec.gov. Please include File Number SR-MSRB-2012-03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-MSRB-2012-03. 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 MSRB's offices. 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-MSRB-2012-03 and should be submitted on or before April 2, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-5906 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

¹¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66522; File No. SR-MSRB-2012-02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Consisting of Establishment of Historical Data Subscription from Submissions to the MSRB Electronic Municipal Market Access System ("EMMA")

March 6, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 27, 2012, the Municipal Securities Rulemaking Board ("MSRB") 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 MSRB. 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 MSRB has filed with the SEC a proposed rule change to establish a subscription containing historical documents and data obtained from submissions to the MSRB Electronic Municipal Market Access System (EMMA®).³

The text of the proposed rule change is available on the MSRB's Web site at <http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2012-Filings.aspx>, at the MSRB'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 MSRB 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 MSRB has prepared summaries, set forth in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ EMMA is a facility of the MSRB for receiving electronic submissions of municipal securities disclosure and other key documents and related information and for making such documents and information available to the public, at no charge on a Web portal or by paid subscription feed.

¹⁰ The MSRB notes that purchasers may be subject to proprietary rights of third parties in information provided by such third parties that is made available through the purchase agreement.

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

In June 2009, the MSRB implemented an electronic system for free public access to primary market disclosure documents and related information for the municipal securities market through EMMA (the "Primary Market Disclosure Service").⁴ In July 2009, the MSRB implemented a permanent continuing disclosure service to receive electronic submissions of, and make publicly available access to, continuing disclosure documents and related information through EMMA (the "Continuing Disclosure Service").⁵ EMMA provides subscription services, including the Primary Market Disclosure Subscription Service⁶ and the Continuing Disclosure Subscription Service, that make documents and related indexing information available on a current basis to subscribers through a real-time data stream.⁷ The proposed rule change would clarify that subscribers to the Primary Market Disclosure Service and Continuing Disclosure Service would be able to access historical data for the most recent six months on a daily rolling basis and establish purchase agreements for historical products consisting of twelve consecutive complete month data sets of the documents and related indexing information obtained through submissions to the Primary Market Disclosure Service (the "Primary Market Disclosure Historical Product") received since June 1, 2009⁸ and submissions to

the Continuing Disclosure Service (the "Continuing Disclosure Historical Product") received since July 1, 2009.⁹ The purpose of the proposed rule change is to provide historical products for the Primary Market Disclosure and Continuing Disclosure Subscription Services, which are currently only available on a current basis through the real-time data stream.

The Primary Market Disclosure Historical Product and the Continuing Disclosure Historical Product would be made available to purchasers in electronic format using a physical medium (such as an optical disc, flash memory card or external hard drive),¹⁰ pursuant to the terms of the MSRB Historical Product Purchase Agreement, which would be executed by purchasers prior to delivery of either historical product.¹¹ The MSRB proposes to charge \$10,000 for any twelve consecutive complete month data set for the Primary Market Disclosure Historical Data Product and \$22,500 for any twelve consecutive complete month data set for the Continuing Disclosure Historical Data Product.¹² In general, no smaller data sets for either historical product will be made available. A one-time set-up fee of \$2,000 (the "set-up fee") would be charged to new purchasers of the Primary Market Disclosure and Continuing Disclosure Historical Products, unless the purchaser subscribes to an MSRB Subscription Service, including, but not limited to, the MSRB Real-Time Transaction Data Subscription Service, Comprehensive Transaction Data Subscription Service, Short-Term

Obligation Rate Transparency Subscription Service, Primary Market Disclosure Subscription Service, or the Continuing Disclosure Subscription Service, or has previously purchased a historical product.¹³

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Exchange Act, which provides that MSRB's rules shall:

Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest; and

The MSRB has also adopted the proposed rule change pursuant to Section 15B(b)(3)(B)(ii) of the Exchange Act, which provides that the MSRB shall:

Not be prohibited from charging commercially reasonable fees for automated subscription-based feeds or similar services, or for charging for other data or document-based services customized upon request of any person, made available to commercial enterprises, municipal securities market professionals, or the general public, whether delivered through the Internet or any other means, that contain all or part of the documents or information, subject to approval of the fees by the Commission under section 19(b).

The MSRB believes that the proposed rule change is consistent with the Exchange Act. The proposed rule change would establish a subscription service that would make information collected by EMMA's Primary Market Disclosure Service and the Continuing Disclosure Service available to market participants through an additional avenue. Broad access to the information collected by EMMA, in addition to the public access through the EMMA Web portal, should further assist in preventing fraudulent and manipulative acts and practices by improving the opportunity for public investors to access material information about primary market disclosure information and continuing disclosure information. The proposed rule change also provides for commercially reasonable fees to

⁴ See Exchange Act Release No. 59966 (May 21, 2009).

⁵ See Exchange Act Release No. 59061 (December 5, 2008).

⁶ The Primary Market Disclosure Subscription Service provides subscribers all primary market disclosure documents, including official statements, preliminary official statements, advance refunding documents ("primary market disclosure documents"), and any amendments thereto, together with related indexing information, provided by submitters through EMMA, for an annual fee of \$20,000.

⁷ The Continuing Disclosure Subscription Service provides subscribers all continuing disclosure documents, together with related indexing information, provided by submitters through EMMA, for an annual fee of \$45,000.

⁸ The EMMA Primary Market Subscriber Manual provides a complete, up-to-date listing of all data elements made available through the EMMA Primary Market Disclosure Subscription Service. The primary market disclosure documents and data elements provided in the Primary Market Disclosure Historical Product are the same as those currently provided in the EMMA Primary Market Disclosure Subscription Service.

⁹ The EMMA Continuing Disclosure Subscriber Manual provides a complete, up-to-date listing of all data elements made available through the EMMA Continuing Disclosure Subscriber Manual. The continuing disclosure documents and data elements provided in the Continuing Disclosure Historical Product are the same as those currently provided in the EMMA Continuing Disclosure Subscription Service.

¹⁰ The MSRB will choose an appropriate physical medium for delivering the EMMA primary market disclosure historical product based upon the quantity of data included in a data set and technological advances in physical media.

¹¹ Purchasers would be subject to all of the terms of the MSRB Historical Product Purchase Agreement to be entered into between the MSRB and each purchaser, including terms relating to the proprietary and intellectual property rights of third parties in information provided by such third parties that is made available through the products.

¹² The purchase price does not include sales tax as required by Virginia state law. The purchase price is a one-time charge for the Primary Market Disclosure and Continuing Disclosure Historical Products, as applicable, and will not include any future additions or enhancements that may be added to the data. The MSRB could, in its discretion, waive or reduce the purchase price for not-for-profit organizations that desire the product for non-profit or research purposes consistent with their stated charitable or other public purpose.

¹³ The MSRB could, in its discretion, waive or reduce the product set-up fee(s) for not-for-profit organizations that desire the product for non-profit or research purposes consistent with their stated charitable or other public purpose.

partially offset costs associated with operating the Primary Market and Continuing Disclosure Services of EMMA and producing and disseminating information products to purchasers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB 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 Exchange Act since it will apply equally to all persons who choose to purchase¹⁴ the Primary Market Disclosure Historical Product and the Continuing Disclosure Historical Product, and those who choose not to pay the charge may view the same information for free on the EMMA Web portal.

C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File

Number SR-MSRB-2012-02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-MSRB-2012-02. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the MSRB's offices. 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-MSRB-2012-02 and should be submitted on or before April 2, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-5907 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66520; File No. SR-CBOE-2012-021]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make an Amendment Regarding the Administrative Fee Related to the Marketing Fee

March 6, 2012.

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 1, 2012, the 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 and II below, which Items have been prepared by the Exchange. The Exchange has filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(3) thereunder,⁴ which renders the proposal 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 proposes to make an amendment regarding the administrative fee related to the marketing fee. 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

¹⁴ The MSRB notes that purchasers may be subject to proprietary rights of third parties in information provided by such third parties that is made available through the purchase agreement.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(3).

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In SR-CBOE-2007-95, the Exchange imposed an administrative fee of 0.45% of the Exchange's marketing fee in order to offset the costs of administering the marketing fee program and also to provide funds to an association of members (now Trading Permit Holders) (the "Association")⁵ for its costs and expenses in supporting CBOE's marketing fee program and in seeking to bring flow to CBOE.⁶ In that filing, the Exchange stated that it intended to "allocate each month approximately 40% of the funds collected through the administrative fee to CBOE to offset CBOE's overall costs in administering the (marketing fee) program; the balance (approximately 60%) collected by this fee would be allocated to the Association."⁷ The Exchange also noted that it intended to monitor the funds raised by the administrative fee, and may propose amendments to the fee as appropriate, so that the fee provides funds to the Association to cover its costs and expenses.⁸

In recent months, the amounts collected for the marketing fee have dropped, and as a result, the amount collected through the administrative fee has dropped as well. As such, the amount of the administrative fee allocated to the Association has also dropped, to a level below which the Association requires to operate effectively. At current collection levels for the administrative fee, the Association requires greater than approximately 60% of the administrative fee in order to continue to operate effectively. The Exchange therefore proposes to revise its previous statement that the Exchange intends to "allocate each month approximately 40% of the funds collected through the administrative fee to CBOE to offset CBOE's overall costs in administering the (marketing fee) program" and allocate the remainder (approximately

60%) to the Association. Instead, the Exchange hereby proposes to allocate to the Association the amount of the funds collected through the administrative fee that is necessary to effectively operate the Association (which may, in a given month, include all of the funds collected through the administrative fee), and allocate the remainder of the funds collected through the administrative fee to offset CBOE's overall costs in administering the marketing fee program. The proposed possible re-allocations considered in this proposal will of course not affect the Exchange's ability to continue to fund its regulatory services or engage in its self-regulatory responsibilities.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁹ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁰ which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. The proposed change is reasonable because there is no change to the actual amount of the administrative fee. The proposed change is equitable and not unfairly discriminatory because ensuring that the Association has enough funds to operate effectively will allow the Association to engage in business development activities to bring order flow to the Exchange. Such order flow provides greater liquidity and more trading opportunities for all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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.

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 proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹¹ and subparagraph (f)(3) of Rule 19b-4¹² thereunder because it is concerned solely with the administration of the Exchange. 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-CBOE-2012-021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2012-021. 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

⁵ The Association is technically known as the DPM (Designated Primary Market-Maker) Association; however, its activities are not limited to assisting only DPM organizations. Through its business development activities, the Association seeks to bring order flow to CBOE for the benefit of all CBOE liquidity providers.

⁶ See Securities Exchange Act Release No. 56289 (August 20, 2007), 72 FR 49030 (August 27, 2007) (SR-CBOE-2007-95).

⁷ Id.

⁸ Id.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 C.F.R. 240.19b-4(f)(3).

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 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-2012-021 and should be submitted on or before April 2, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-5905 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66517; File No. SR-ICC-2012-02]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Provide for a T+1 Settlement of the Initial Payment Related to the CDS Contracts Cleared by ICE Clear Credit LLC

March 6, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder² notice is hereby given that on March 1, 2012, the ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

ICC proposes rule amendments that are intended to modify the terms of each of the various CDS Contracts cleared by ICC (CDX.NA Untranchured Contracts, Standard North American Corporate (“SNAC”) Single Name Contracts and Standard Emerging Sovereign (“SES”) Single Name Contracts) to make the

Initial Payment³ date the first business day immediately following the trade date, provided that with respect to CDS Contracts that are accepted for clearing after the trade date, the Initial Payment date will be the date that is the first business day following the date when the CDS Contract is accepted for clearing.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.⁴

(A) Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

As noted above, the proposed rule changes amend the timing of Initial Payments on a cleared CDS Contract. The Initial Payment under a CDS Contract is established at the time the contract is executed and may be payable from either the protection buyer to the protection seller or vice versa. Under the current ICC Rules (by way of the incorporated ISDA Credit Derivatives Definitions), and consistent with practice in the market for uncleared credit default swaps, the Initial Payment is required to be made on the third business day following the trade date (the execution date). ICC proposes to add the definition of Initial Payment Date to its Clearing Rules to provide instead that the Initial Payment is to be made on the first business day following the trade date (or, if the transaction is accepted for clearing after the trade date, the initial payment is to be made on the first business day following the date of acceptance for clearing). After consultation with the Buy-side, ICC believes that this change from “T+3” settlement to “T+1” settlement for the Initial Payment will facilitate customer-related clearing. In addition, this change will improve margin efficiency (as margin requirements will no longer need to take into account the additional

risk from a T+3 as opposed to a T+1 settlement rule).

The other proposed changes in the ICC Rules reflect updates to cross-references and defined terms and similar drafting clarifications, and do not affect the substance of the ICC Rules or cleared products.

(B) Self-Regulatory Organization’s Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve or disapprove the proposed rule change or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or send an email to rule-comments@sec.gov. Please include File Number SR-ICC-2012-02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ICC-2012-02. This file number should be included on the

¹³ 17 CFR 200.30-3(a)(12).

¹⁴ 15 U.S.C. 78s(b)(1).

¹⁵ 17 CFR 240.19b-4.

³ The Initial Payment is an obligation by either counterparty to make an upfront payment established at the time the contract is executed. See ICE Clear Credit Clearing Rules, Section 301(b).

⁴ The Commission has modified the text of the summaries prepared by ICC.

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 Section, 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 filings will also be available for inspection and copying at the principal office of ICC and on ICC's Web site at https://www.theice.com/publicdocs/regulatory_filings/ICEclearCredit_022912.pdf.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICC-2012-02 and should be submitted on or before April 2, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁵

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2012-5872 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66518; File No. SR-NYSEAmex-2012-15]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing Changes to the NYSE Amex Options Fee Schedule To Add Fees for Reserve Floor Market Maker Amex Trading Permits

March 6, 2012.

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 28, 2012, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to [sic] amend the NYSE Amex Options Fee Schedule ("Fee Schedule") to add fees for Reserve Floor Market Maker Amex Trading Permits ("Reserve ATPs"). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and www.nyse.com.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to add fees for Reserve ATPs.

Under the current Fee Schedule, an ATP Holder³ acting as a Market Maker must pay \$5,000 per month per Amex Trading Permit ("ATP").⁴ In order to act as a Floor Market Maker, an individual must be specifically named on the relevant Market Maker's ATP. On some occasions, a Floor Market Maker may be absent from the floor due to illness or other unexpected absence, in which

case the ATP Holder may wish to have a Market Maker Authorized Trader ("MMAT")⁵ employee engage in open outcry trading to cover for the absent Floor Market Maker. If the ATP Holder activates an individual on an ATP for any portion of a month, even as little as one day, the ATP Holder is charged the full \$5,000 monthly ATP fee.

To provide an option to Market Maker firms to address the short-term absence of an employee in a more economical way, the Exchange recently added NYSE Amex Options Rule 902NY(j) to create a Reserve ATP under which an ATP Holder would be permitted to have a qualified MMAT employee cover for the absent Floor Market Maker under the firm's ATP, effectively empowering the individual acting as a qualified MMAT to act as a Floor Market Maker in lieu of the absent individual until such time as he or she returns.⁶

The fee for a Reserve ATP will be \$175 per month. The fee will be assessed to an ATP Holder that notifies the Exchange that it wishes to obtain a Reserve ATP, such that MMATs in its employ will be eligible to be named to the ATP to act as a Floor Market Maker to cover for another Floor Market Maker who is otherwise unable to be at work that day. The fee change will be implemented on March 1, 2012.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),⁷ in general, and Section 6(b)(4) of the Act,⁸ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the proposed change is equitably allocated and not unfairly discriminatory because it will apply equally to all ATP Holders that choose to use the Reserve ATP alternative. The Exchange believes that the proposed change is reasonable because it provides a method for ATP Holders to have fully qualified personnel step in to handle other

⁵ A "Market Maker Authorized Trader" is an authorized trader who performs market making activities pursuant to Rule 920NY on behalf of an ATP Holder registered as a Market Maker. See NYSE Amex Rule 900.2NY(37). A Market Maker Authorized Trader must meet the same registration requirements as Floor Market Maker before they can be designated as a Market Maker Authorized Trader. See NYSE Amex Rule 921.1NY.

⁶ See Securities Exchange Act Release No. 66237 (January 25, 2012), 77 FR 4848 (January 31, 2012) (SR-NYSEAmex-2012-02).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ An "ATP Holder" is a natural person, sole proprietorship, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an Amex Trading Permit. See NYSE Amex Rule 900.2NY(5).

⁴ The fee is calculated based on the maximum number of ATPs held by the ATP Holder during the calendar month.

employees' absences without requiring the ATP Holders to pay the full fee every month for the ATPs used by such substitute persons, thereby contributing to the efficient use of ATP Holder personnel and resources, and fair and orderly markets.

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.

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)⁹ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁰ thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

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.

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-NYSEAmex-2012-15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEAmex-2012-15. 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 NW., 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 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-NYSEAmex-2012-15 and should be submitted on or before April 2, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-5853 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66514]

Order Granting Temporary Exemption of Morningstar Credit Ratings, LLC From the Conflict of Interest Prohibition in Rule 17g-5(c)(1) of the Securities Exchange Act of 1934

March 5, 2012.

I. Introduction

Rule 17g-5(c)(1) of the Securities Exchange Act of 1934 ("Exchange Act") prohibits a nationally recognized

statistical rating organization ("NRSRO") from issuing or maintaining a credit rating solicited by a person that, in the most recently ended fiscal year, provided the NRSRO with net revenue equaling or exceeding 10% of the total net revenue of the NRSRO for the fiscal year. In adopting this rule, the Commission stated that such a person would be in a position to exercise substantial influence on the NRSRO, which in turn would make it difficult for the NRSRO to remain impartial.¹

II. Application and Exemption Request of Morningstar Credit Ratings, LLC

Morningstar Credit Ratings, LLC ("Morningstar"), formerly known as Realpoint LLC ("Realpoint"), is a credit rating agency registered with the Commission as an NRSRO under Section 15E of the Exchange Act for the classes of credit ratings described in clauses (i) through (v) of Section 3(a)(62)(B) of the Exchange Act. Morningstar traditionally has operated mainly under the "subscriber-paid" business model, in which the NRSRO derives its revenue from restricting access to its ratings to paid subscribers. After Morningstar acquired Realpoint in the spring of 2010, Morningstar began to expand the scope of its business and initiated an issuer-paid ratings service for initial ratings on commercial mortgage-backed securities. In connection with this expansion, Morningstar has requested a temporary and limited exemption from Rule 17g-5(c)(1) on the grounds that the restrictions imposed by Rule 17g-5(c)(1) would pose a substantial constraint on the firm's ability to compete effectively with large rating agencies offering comparable ratings services. Specifically, Morningstar argues that because the fees typically associated with issuer-paid engagements tend to be relatively high when compared to the fees associated with its existing subscriber-based business, in the early stages of its expansion the fees associated with a single issuer-paid engagement have exceeded ten percent of its total net revenue for the fiscal year. Accordingly, Morningstar has requested that the Commission grant it an exemption from Rule 17g-5(c)(1) for any revenues derived from non-subscription based business during calendar years 2012 and 2013, which are the end of Morningstar's 2011 and 2012 fiscal years, respectively.

¹ Release No. 34-55857 (June 5, 2007), 72 FR 33564, 33598 (June 18, 2007).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹¹ 17 CFR 200.30-3(a)(12).

III. Discussion

The Commission, when adopting Rule 17g-5(c)(1), noted that it intended to monitor how the prohibition operates in practice, particularly with respect to asset-backed securities, and whether exemptions may be appropriate.² The Commission has previously granted three temporary exemptions from Rule 17g-5(c)(1), including one on June 28, 2008 to Realpoint, as Morningstar was formerly known, in connection with its initial registration as an NRSRO ("Realpoint Exemptive Order").³ The Commission noted several factors in granting that exemption, including the fact that the revenue in question was earned prior to the adoption of the rule, the likelihood of smaller firms such as Realpoint being more likely to be affected by the rule, Realpoint's expectation that the percentage of total revenue provided by the relevant client would decrease, and the increased competition in the asset-backed securities class that could result from Realpoint's registration. In granting the Realpoint Exemptive Order, the Commission also noted that an exemption would further the primary purpose of the Credit Rating Agency Reform Act of 2006 ("Rating Agency Act") as set forth in the Report of the Senate Committee on Banking, Housing, and Urban Affairs accompanying the Rating Agency Act: To "improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating industry".⁴ Previously, on February 11, 2008, the Commission, citing the same factors it later set forth in the Realpoint Exemptive Order, issued a similar order granting LACE LLC ("LACE") a temporary exemption from the requirements of Rule 17g-5(c)(1) in connection with LACE's registration as an NRSRO ("LACE Exemptive Order").⁵ Most recently, the Commission issued an order granting Kroll Bond Rating Agency, Inc. ("Kroll"), formerly known as LACE, a temporary, limited and conditional exemption from Rule 17g-5(c)(1) allowing Kroll to enter the market for rating structured finance products ("Kroll Exemptive Order").⁶ In

this order, the Commission noted that an exemption is consistent with the Commission's goal of improving ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating industry.

The Commission believes that a temporary, limited and conditional exemption allowing Morningstar to expand in the market for rating structured finance products on an issuer-paid basis is consistent with the Commission's goal of improving ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating industry. In order to maintain this exemption, Morningstar will be required to publicly disclose in Exhibit 6 to Form NRSRO, as applicable, that the firm received more than 10% of its net revenue in fiscal years 2011 and 2012 from a client or clients that paid it to rate asset-backed securities. This disclosure is designed to alert users of credit ratings to the existence of this specific conflict and is consistent with exemptive relief the Commission has previously granted to Realpoint, LACE and Kroll. In addition to Morningstar's existing obligations as an NRSRO to maintain policies, procedures, and internal controls, by the terms of this order, Morningstar will also be required to maintain policies, procedures, and internal controls specifically designed to address the conflict created by exceeding the 10% threshold. Furthermore, the exemption would also require that revenue from a single client does not exceed 25% of Morningstar's total net revenue for either fiscal year 2011 or 2012.

Section 15E(p) of the Exchange Act, as added by Section 932(a)(8) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, requires Commission staff to conduct an examination of each NRSRO at least annually. As part of this annual examination regimen for NRSROs, Commission staff will closely review Morningstar's activities with respect to managing this conflict and meeting the conditions set forth below and will consider whether to recommend that the Commission take additional action, including administrative or other action.

The Commission therefore finds that a temporary, limited and conditional exemption allowing Morningstar to expand in the market for rating structured finance products on an issuer-paid basis is consistent with the Commission's goal, as established by the Rating Agency Act, of improving ratings

quality by fostering accountability, transparency, and competition in the credit rating industry, and is necessary and appropriate in the public interest and is consistent with the protection of investors, subject to Morningstar's making public disclosure of the conflict created by exceeding the 10% threshold; its maintenance of policies, procedures and internal controls to address that conflict; and that revenue from a single client does not exceed 25% of Morningstar's total net revenue for either the fiscal year ending December 31, 2011 or the fiscal year ending December 31, 2012.

IV. Conclusion

Accordingly, pursuant to Section 36 of the Exchange Act,

It is hereby ordered that Morningstar Credit Ratings, LLC, formerly known as Realpoint LLC, is exempt from the conflict of interest prohibition in Exchange Act Rule 17g-5(c)(1) until January 1, 2013, with respect to any revenue derived from issuer-paid ratings, provided that: (1) Morningstar Credit Ratings, LLC publicly discloses in Exhibit 6 to Form NRSRO, as applicable, that the firm received more than 10% of its total net revenue in fiscal year 2011 or 2012 from a client or clients; (2) in addition to fulfilling its existing obligations as an NRSRO to maintain policies, procedures, and internal controls, Morningstar Credit Ratings, LLC also maintains policies, procedures, and internal controls specifically designed to address the conflict created by exceeding the 10% threshold; and (3) revenue from a single client does not exceed 25% of Morningstar's total net revenue for either the fiscal year ending December 31, 2011 or the fiscal year ending December 31, 2012.

By the Commission.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2012-5830 Filed 3-9-12; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 7767; Guatemala Docket No. DOS-2012-0011; Mali Docket No. DOS-2012-0012]

Notice of Meeting of the Cultural Property Advisory Committee

There will be a meeting of the Cultural Property Advisory Committee April 24-27, 2012, at the Department of State, Annex 5, 2200 C Street NW., Washington, DC. Portions of this

² Release No. 34-55857 (June 5, 2007), 72 FR 33564, 33598 (June 18, 2007).

³ Release No. 34-58001 (June 23, 2008), 73 FR 36362 (June 26, 2008).

⁴ See Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 3850, Credit Rating Agency Reform Act of 2006, S. Report No. 109-326, 109th Cong., 2d Sess. (Sept. 6, 2006).

⁵ Release No. 34-57301 (Feb. 11, 2008), 73 FR 8720 (Feb. 14, 2008).

⁶ Release No. 34-65339 (Sept. 14, 2011), 76 FR 58319 (Sept. 20, 2011).

meeting will be closed to the public, as discussed below.

During the closed portions of the meeting, the Committee will review the proposal to extend the *Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Guatemala Concerning the Imposition of Import Restrictions on Archaeological Objects and Materials from the Pre-Columbian Cultures of Guatemala (MOU)* [Docket No. DOS-2012-0011] and the *Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Paleolithic Era (Stone Age) to Approximately the Mid-Eighteenth Century* [Docket No. DOS-2012-0012]. Additionally, the Government of Guatemala has asked that the MOU be amended to include ethnological ecclesiastical material representing the Colonial Period of its cultural heritage.

An open session to receive oral public comment on these two proposals will be held on Tuesday, April 24, 2012, 2:30 p.m. EDT.

Also during the closed portions of the meeting, the Committee will continue its review of a new cultural property request from the Government of the Republic of Bulgaria seeking import restrictions on archaeological and ethnological material. Please see the link to the Public Summary of this request at <http://exchanges.state.gov/heritage/whatsnew.html>.

The Committee's responsibilities are carried out in accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*). The text of the Act and the subject MOU and Agreement, as well as related information, may be found at <http://exchanges.state.gov/heritage/culprop.html>.

If you wish to attend the open session on April 24, 2012, you should notify the Cultural Heritage Center of the Department of State at (202) 632-6301 no later than 5 p.m. (EDT) April 3, 2012, to arrange for admission. Seating is limited. When calling, please specify if you have special accommodation needs. The open session will be held at 2200 C St. NW., Washington, DC 20037. Please plan to arrive 15 minutes before the beginning of the open session.

If you wish to make an oral presentation at the open session, you must request to be scheduled and must submit a written text of your oral comments, ensuring that it is received no later than April 3, 2012, 11:59 p.m.

(EDT), via the eRulemaking Portal (see below), to allow time for distribution to Committee members prior to the meeting. Oral comments will be limited to allow time for questions from members of the Committee. All oral and written comments must relate specifically to the determinations under Section 303(a)(1) (19 U.S.C. 2602) of the Convention on Cultural Property Implementation Act, pursuant to which the Committee must make findings. This statute can be found at the Web site noted above.

If you do not wish to make oral comment, but still wish to make your views known, you may send written comments for the Committee to consider. Again, your comments must relate specifically to the determinations under Section 303(a)(1) (19 U.S.C. 2602) of the Convention on Cultural Property Implementation Act, pursuant to which the Committee must make findings. Submit all written materials electronically through the eRulemaking Portal (see below), ensuring that they are received no later than April 3, 2012, 11:59 p.m. (EDT). Our adoption of this procedure facilitates public participation, implements Section 206 of the E-Government Act of 2002, Public Law 107-347, 116 Stat. 2915, and supports the Department of State's "Greening Diplomacy" initiative which aims to reduce the State Department's environmental footprint and reduce costs.

Confidential written comments: If you wish to submit information that is privileged or confidential in your comments, pursuant to 19 U.S.C. 2605(i)(1), do so via regular mail, commercial delivery, or hand delivery. Only comments reasonably asserted to be confidential will be accepted via those methods.

As a general reminder comments submitted by fax or by email are not accepted. In the past, twenty copies of texts over five pages in length were requested. Please note that this is no longer necessary; all comments, other than confidential comments, should now be submitted via the eRulemaking Portal only. Please submit comments only one time.

- **Electronic Delivery.** To submit comments electronically, go to the Federal eRulemaking Portal (<http://www.regulations.gov>), enter the Docket No. DOS-2012-0011 for Guatemala or Docket No. DOS-2012-0012 for Mali, and follow the prompts to submit a comment. For further information, see <http://exchanges.state.gov/heritage/whatsnew.html>.

- **Comments submitted in confidence only: Regular Mail or Commercial**

Delivery. Cultural Heritage Center (ECA/P/C), SA-5, Fifth Floor, Department of State, Washington, DC 20522-0505.

Hand Delivery. Cultural Heritage Center (ECA/P/C), Department of State, 2200 C Street NW., Washington, DC 20522-0505.

Are Comments Private? No. Comments submitted in electronic form will be posted on the site <http://www.regulations.gov>. Because the comments cannot be edited to remove any identifying or contact information, the Department of State cautions against including any information in an electronic submission that one does not want publicly disclosed (including trade secrets and commercial or financial information that is privileged or confidential pursuant to 19 U.S.C. 2605(i)(1)). The Department of State requests that any party soliciting or aggregating comments received from other persons for submission to the Department of State inform those persons that the Department of State will not edit their comments to remove any identifying or contact information, and that they therefore should not include any information in their comments that they do not want publicly disclosed.

On Closed Meetings: As noted above, portions of the meeting will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h), the latter of which stipulates that "The provisions of the Federal Advisory Committee Act shall apply to the Cultural Property Advisory Committee except that the requirements of subsections (a) and (b) of section 10 and 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the government's negotiation objectives or bargaining positions on the negotiations of any agreement authorized by this title." The President's designee has made such a determination.

Dated: February 29, 2012.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012-5909 Filed 3-9-12; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 7766]

Proposal To Extend the Agreement Between the Government of the United States of America and the Government of the Republic of Mali

Notice of Proposal to Extend the Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Paleolithic Era (Stone Age) to Approximately the Mid-Eighteenth Century.

The Government of the Republic of Mali has informed the Government of the United States of America of its interest in an extension of the Agreement between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Paleolithic Era (Stone Age) to Approximately the Mid-Eighteenth Century.

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this Agreement is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of the Agreement, the Designated List of restricted categories of material, and related information can be found at the following Web site: <http://exchanges.state.gov/heritage/culprop.html>.

Dated: February 29, 2012.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012-5910 Filed 3-9-12; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 7765]

Proposal To Extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Guatemala

Notice of Proposal to Extend the Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Guatemala

Concerning the Imposition of Import Restrictions on Archaeological Objects and Materials from the Pre-Columbian Cultures of Guatemala.

The Government of the Republic of Guatemala has informed the Government of the United States of America of its interest in an extension of the Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Guatemala Concerning the Imposition of Import Restrictions on Archaeological Objects and Materials from the Pre-Columbian Cultures of Guatemala (MOU).

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this MOU is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of the MOU, the Designated List of restricted categories of material, and related information can be found at the following Web site: <http://exchanges.state.gov/heritage/culprop.html>.

Dated: February 29, 2012.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012-5911 Filed 3-9-12; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Notice to Manufacturers of Alternative Fuel Vans**

AGENCY: Federal Aviation Administration (FAA), U.S. DOT.

ACTION: Notice to Manufacturers of Alternative Fuel Vans.

SUMMARY: Projects funded under the Airport Improvement Program (AIP) must meet the requirements of 49 U.S.C. 50101, Buy American Preferences. The Federal Aviation Administration (FAA) is considering issuing waivers to foreign manufacturers of alternative fuel vans. This notice requests information from manufacturers of alternative fuel vans meeting Vehicle 1 Category requirements established in the Voluntary Airport Low Emission Program (VALE) to determine whether a waiver to the Buy American Preferences should be issued.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Favaruolo, Airports Financial Assistance, APP 520, Room 619, FAA, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267-8826.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) manages a federal grant program for airports called the Airport Improvement Program (AIP). AIP grant recipients must follow 49 U.S.C. 50101, Buy American Preferences. Under 49 U.S.C. 50101(b)(3), the Secretary of Transportation may waive the Buy American Preference requirement if the goods are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality.

The purpose of this notice is to request foreign as well as domestic manufacturers of alternative fuel vans to advise the FAA if they manufacture vans meeting Vehicle Category 1 requirements under the FAA's Voluntary Airport Low Emission Program (VALE). The detailed instructions for submitting the qualifications statement, including forms, may be found on the FAA Web site at: <http://www.faa.gov/airports/aip/procurement/> at the Buy American Requirements Web page. The FAA wants to determine if there is sufficient quantity of domestic alternative fuel van manufacturers capable of meeting the requirements under Vehicle Category 1 of the FAA's Voluntary Airport Low Emission Program (VALE). If the FAA cannot find that there is sufficient quantity of domestic manufacturers, it will issue a nationwide waiver to the foreign manufacturers identified as being capable of meeting the Vehicle Category 1 requirements.

Technical Requirements: The FAA's Voluntary Airport Low Emission Program (VALE) Technical Report Version 7.0 Section 3.1.1, *AIP Eligible Fuels*, defines the eligible alternative fuels. In addition, the FAA's Voluntary Airport Low Emission Program (VALE) Technical Report Version 7.0, Section 5.2, defines the requirements for Vehicle Category 1.

After review, the FAA may issue a nationwide waiver to Buy American Preferences for foreign manufacturers or United States manufacturers that do not meet the Buy American Preference requirements. Waivers will not be issued for manufacturers that do not fully meet the technical requirements. This "nationwide waiver" allows equipment to be used on airport projects without having to receive separate project waivers. Having a nationwide waiver allows projects to start quickly

without have to wait for the Buy American analysis to be completed for every project, while still assuring the funds used for airport projects meet the requirements of the Act. Items that have been granted a “nationwide waiver” can be found on the FAA Web site at: http://www.faa.gov/airports/aip/procurement/federal_contract_provisions/ at the tab entitled, Equipment Meeting Buy American Requirements.

Issued in Washington, DC on March 5, 2012.

Frank J. San Martin,

Manager, Airports Financial Assistance Division.

[FR Doc. 2012-5806 Filed 3-9-12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eleventh Meeting: RTCA Special Committee 217, Joint With EUROCAE Working Group—44, Terrain and Airport Mapping Databases

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

ACTION: Notice of meeting RTCA Special Committee 217, Joint with EUROCAE Working Group—44, Terrain and Airport Mapping Databases.

SUMMARY: The FAA is issuing this notice to advise the public of the Eleventh meeting of RTCA Special Committee 217, Joint with EUROCAE Working Group—44, Terrain and Airport Mapping Databases.

DATES: The meeting will be held April 2–5, 2012, from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at SESAR A6 Brussels Office, Avenue de Kortenberg 100, Brussels, Belgium. Contact information, John Kasten, email: john.kasten@jeppesen.com, or telephone: 303-328-4535 or mobile phone: 303-260-9652, alternate contact information: Stephane Dubet: stephane.dubet@aviation-civile.grouv.fr, or telephone: 33-5-57-92-57-81 or mobile, 33-5-57-92-55-55 1150.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833-9339, fax at (202) 833-9434, or Web site at <http://www.rtca.org>.

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 217. The agenda will include the following:

April 2–5, 2012

- Chairmen’s remarks and introductions
- Housekeeping
- Approve minutes from previous meeting
- Review and approve meeting agenda
- Schedule for this week
- PMC Meeting, March 21, 2012
- March PMC Materials from March 21st Meeting Will Be Provided
- Working Group Reports (Activity Status)
- Working Group Leads are to report on activities that have occurred since the September meeting.
 - For Working Groups and Leads, See Last Page
 - Full Committee Working Group ASRN V&V Document (DO-xxxx)
 - Terms of Reference (ToR) for SC-217/WG-44 include the preparation of a new RTCA Document on the Verification and Validation of Airport Surface Routing Networks.
 - Discuss progress made since the Phoenix Meeting and review any action items
 - Terrain and Obstacle Working Group Report
 - Continue working towards document publication.
 - High level committee review of items from work programs that have been finalized and have or will be provided for document(s) update within the current schedule.
 - Finalize the draft for release to the FRAC process.
 - Other Working Group Reports
 - Working Group Leads presentations on work in progress with Committee Participation
 - Continue to prioritize in terms of “next document release or later”.
 - Leadership Report on the status of ToR updates.
 - Guidance Material Working Group
 - Determine the future of the Efforts of This Working Group.
 - Terrain and Obstacle Working Group Session
 - Working Group Lead will provide full committee assistance on outstanding issues
 - Discussion the differences between AIXM and the Modeling Effort for Terrain and Obstacles within the Committee
 - Decided on a method for addressing the use of the term “obstacle” in DO-276 and “vertical structure” in DO-272.
 - Determine if and how to re-write Appendix E.
 - Review work on Temporality.

- ASRN V&V Full Committee Working Group
 - Co-Chairs will present continuation of the drafting work discussed in Phoenix.

- Action Item results completed
- Working Group Road Map Review
- The existing Road Map will be addressed within the appropriate Working Group.
 - Action Item Review
 - New items from December 2011 Meeting
 - Closing Plenary Session Joint RTCA SC-217/EUROCAE WG-44
 - Assignment/Review of Future Work
 - Other Business
 - Date and Place of Next Meeting
 - 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 5, 2012.

John Raper,

Manager, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012-5808 Filed 3-9-12; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In January 2012, there were four applications approved. This notice also includes information on two other applications, one approved in June 2011 and one approved in December 2011, inadvertently left off the June 2011 and December 2011 notices, respectively. Additionally, two approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14

CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: County of Marquette, Gwinn, Michigan.

Application Number: 11-10-C-00-SAW.

Application Type: Impose and use a PFC.

PFC Level: \$4.50.

Total PFC Revenue Approved in This Decision: \$451,329.

Earliest Charge Effective Date: March 1, 2012.

Estimated Charge Expiration Date: July 1, 2013.

Class of Air Carriers Not Required To Collect PFCs:

Non-scheduled/on-demand operators filing FAA Form 1800-31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Sawyer International Airport.

Brief Description of Projects Approved For Collection and Use

Fuel farm improvements.

Asbestos abatement and demolition of hangar 668.

Insulation of hangars 423, 424, and 425. Insulation of hangars 661, 662, 663, 665, and 666.

Hangar tail dock; 665 electrical/insulation; water study.

Electrical/insulation of hangars 661, 663, 664, 666, and 667.

Hangar improvements: hangars 664, 665, 667, and 661-667.

Decision Date: June 17, 2011.

FOR FURTHER INFORMATION CONTACT:

Diane Morse, Detroit Airports District Office, (734) 229-2929.

Public Agency: City of Minot, North Dakota.

Application Number: 11-07-C-00-MOT.

Application Type: Impose and use a PFC.

PFC Level: \$4.50.

Total PFC Revenue Approved in This Decision: \$1,683,019.

Earliest Charge Effective Date: August 1, 2012.

Estimated Charge Expiration Date: January 1, 2015.

Class of Air Carriers Not Required To Collect PFCs:

Non-scheduled/on-demand air carriers filing FAA Form 1800-31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class

accounts for less than 1 percent of the total annual enplanements at Minot International Airport.

Brief Description of Projects Approved For Collection and Use:

Construct taxiway to new hangar area.

Construct apron to new hangar area.

Procure snow removal equipment—

runway sander and plow loader.

Reconstruct a portion of the west terminal apron.

Replace west terminal apron lights.

Reconstruct a portion of the east terminal apron (approximately 18,256 square yards).

Modify supplemental wind cones.

Runway 8/26 pavement rejuvenation.

Purchase snow removal equipment—

high-speed snow plow.

Master plan/land use.

Design passenger terminal remodel.

Install runway guard lights and

enhanced taxiway markings.

Acquire snow removal equipment with attachments.

Acquire security vehicle.

Runway 8/26 runway protection zone environmental assessment—phase 1.

Rehabilitate taxiway C lighting (phase 1—specifications).

Upgrade security system (phase 1—specifications).

Taxiway C lighting and cable

rehabilitation.

Construct improvements of terminal building.

Design reconstruction of taxiway C from taxiway B to runway 8/26.

Design passenger terminal doors.

Expand aircraft rescue and firefighting building (phase 1—design).

Construct rehabilitation of taxiway C from taxiway B to runway 8/26.

Construct expansion of aircraft rescue and firefighting building (phase 2—construction).

Acquire aircraft rescue and firefighting vehicle (phase 2—construction).

Acquire runway/taxiway high-speed snow plow.

Acquire snow sweeper.

Construction of security access control system.

PFC application and administration.

Decision Date: December 29, 2011.

FOR FURTHER INFORMATION CONTACT:

David Anderson, Bismarck Airports District Office, (701) 323-7385.

Public Agency: Port of Oakland, Oakland, California.

Application Number: 11-06-U-00-OAK.

Application Type: Use PFC revenue.

PFC Level: \$3.00.

Total PFC Revenue Approved for Use in This Decision: \$70,259,000.

Earliest Charge Effective Date: April 1, 2021.

Estimated Charge Expiration Date: May 1, 2023.

Class of Air Carriers Not Required To Collect PFCs:

No change from previous decision.

Brief Description of Project Approved For Use:

Bay Area rapid transit airport connector.

Decision Date: January 11, 2012.

FOR FURTHER INFORMATION CONTACT:

Samuel Iskander, Western Pacific Region Airports Division, (310) 725-3623.

Public Agency: County of Outagamie, Appleton, Wisconsin.

Application Number: 12-07-C-00-ATW.

Application Type: Impose and use a PFC.

PFC Level: \$4.50.

Total PFC Revenue Approved in This Decision: \$4,914,710.

Earliest Charge Effective Date: January 1, 2013.

Estimated Charge Expiration Date: May 1, 2017.

Class of Air Carriers Not Required To Collect PFCs: Non-scheduled/on-

demand air carriers filing FAA Form 1800-31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Outagamie County Regional Airport.

Brief Description of Projects Approved for Collection and Use

Aircraft rescue and firefighting access road.

Terminal apron expansion.

Hertz property acquisition.

Airfield snow removal tractor.

Friction measuring equipment and tow vehicle.

Plow truck with broom and deicing equipment.

Sand truck replacement.

Airfield loader.

Fire truck replacement.

Aircraft deicing truck (1 of 2).

Aircraft deicing truck (2 of 2).

Runway deicing truck.

Glycol mixing building.

Flight and gate information display system.

PFC administration costs—September 2008 to August 2009.

PFC administration costs—July 2010 to July/August 2011.

Decision Date: January 11, 2012.

FOR FURTHER INFORMATION CONTACT:

Daniel Millenacker, Minneapolis Airports District Office, (612) 253-4635.

Public Agency: County of Houghton, Calumet, Michigan.

Application Number: 11-12-C-00-CMX.
Application Type: Impose and use a PFC.
PFC Level: \$4.50.
Total PFC Revenue Approved in This Decision: \$355,300.
Earliest Charge Effective Date: February 1, 2013.
Estimated Charge Expiration Date: January 1, 2017.
Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use

Reimbursement of PFC application fees. PFC account audit cost reimbursement. Topping trees in runway 25 approach. Electrical rehabilitation of building 10. Reimbursement of prior land purchase. Aircraft rescue and firefighting vehicle procurement. Snow removal equipment—front end loader procurement. Improve wildlife fence and gates. Reconstruct runway 7/25. Snow removal equipment—snow sweeper procurement. Terminal study—phase II. Runway 25 approach land acquisition—parcel 34. Crack sealing runway 13/31. Airport pickup truck/snow plow procurement.

Wildlife hazard assessment. Reconstruct taxiway Alpha. Shotgun procurement. Crack sealing taxiway Charlie.
Decision Date: January 20, 2012.
FOR FURTHER INFORMATION CONTACT: Diane Morse, Detroit Airports District Office, (734) 229-2929.
Public Agency: City and County of Twin Falls, Idaho.
Applications Number: 12-04-C-00-TVVF.
Application Type: Impose and use a PFC.
PFC Level: \$4.50.
Total PFC Revenue Approved in This Decision: \$543,523.
Earliest Charge Effective Date: October 1, 2012.
Estimated Charge Expiration Date: March 1, 2017.
Class of Air Carriers Not Required To Collect PFCs: Non-scheduled air taxi/commercial operators, utilizing aircraft having a seating capacity of less than 20 passengers.
Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Magic Valley Regional Airport.

Brief Description of Projects Approved for Collection and Use

Taxiway Delta extension. Runway 7/25 lighting and signage rehabilitation. Apron rehabilitation—northeast. Access road rehabilitation—gate 1. Conduct miscellaneous study—alternate crosswind runway. Taxiways rehabilitation—pavement rehabilitation. Access road rehabilitation—gates 5, 15, and 16. Parking lot rehabilitation. Runway 12/30 reconstruction. Taxiways A2 and K reconstruction. Apron reconstruction—west, phase 1. Runway 7/25 rehabilitation—seeding, phase 1. Wildlife hazard assessment plan. Runway 12/30 rehabilitation. Taxiways rehabilitation—pavement maintenance. Airport master plan update. Snow removal equipment building construction—design. Terminal study. PFC administration.
Decision Date: January 26, 2012.
FOR FURTHER INFORMATION CONTACT: Trang Tran, Seattle Airports District Office, (425) 227-1662.

AMENDMENTS TO PFC APPROVALS

| Amendment No., city, state | Amendment approved date | Original approved net PFC revenue | Amended approved net PFC revenue | Original estimated charge expiration date | Amended estimated charge expiration date |
|-----------------------------------|-------------------------|-----------------------------------|----------------------------------|---|--|
| 09-07-C-01-PSC, Pasco, WA | 01/25/12 | \$2,884,950 | \$2,818,172 | 10/01/21 | 08/01/21 |
| 05-07-C-02-ME, Meridian, MS | 01/27/12 | 673,197 | 58,424 | 10/01/10 | 10/01/10 |

Issued in Washington, DC on March 5, 2012.
Joe Hebert,
Manager, Financial Analysis and Passenger Facility Charge Branch.
 [FR Doc. 2012-5826 Filed 3-9-12; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION
Federal Highway Administration
Supplemental Environmental Impact Statement; Kittitas County, WA

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a limited scope supplemental environmental impact statement (EIS) will be prepared for a proposed design change to an

interstate highway improvement project in western Kittitas County, Washington.
FOR FURTHER INFORMATION CONTACT: Liana Liu, Area Engineer, South Central Region, Federal Highway Administration, 711 South Capital Way, Suite 501, Olympia, WA 98501-0943, telephone: (360) 753-9553; or Jason Smith, Environmental Manager, South Central Region, Washington State Department of Transportation, P.O. Box 12560, Yakima, WA 98909, telephone: (509) 577-1750.
SUPPLEMENTARY INFORMATION: FHWA, in cooperation with the Washington State Department of Transportation (WSDOT), prepared a Draft EIS (FHWA-WA-EIS-05-01-D approved May 23, 2005) and Final EIS (FHWA-WA-EIS-05-01-F approved July 31, 2008) for proposed improvements to a 15 mile portion of Interstate 90 (I-90) immediately east of Snoqualmie Pass in the Cascade Mountains, from Hyak at Milepost 55.1

(MP 55.1) to Easton Hill at MP 70.3. Consistent with National Environmental Policy Act (NEPA) regulations, the Forest Service (Department of Agriculture) and Bureau of Reclamation (Department of Interior) were cooperating agencies in preparing the EISs. Following the Record of Decision by FHWA and the cooperating agencies, WSDOT designed a series of construction projects which start at Hyak and proceed eastward.
 The contractor selected to construct the portion of the project from MP 57.34 to MP 60.23 along Keechelus Lake proposes a design change that meets the purpose and need for the highway improvements while reducing maintenance and operation costs. FHWA and WSDOT re-evaluated the NEPA analysis and documents for the I-90 improvements and determined that a Supplemental EIS (SEIS) is needed for this proposed change. The cooperating

agencies concurred with this conclusion, and they will cooperate in preparing the SEIS.

The scope of the SEIS is limited to the social, economic, and environmental effects of constructing and operating a bridge instead of a snowshed at MP 58.15 to meet avalanche protection and control needs in an area where I-90 currently experiences road closures in winter for avalanche control. Since issues and concerns related to the I-90 improvements are well known from the extensive public involvement previously conducted as part of the original Draft and Final EIS, formal scoping will not be conducted.

The proposed design change and associated SEIS will be incorporated into the ongoing series of communications and meetings that keep agencies, tribes, organizations, and individuals informed on the I-90 improvements. Written and verbal comments on the Draft SEIS will be taken by mail, on the project Web site, and at hearings. Public notice will be given on the time and place of the future open houses.

Questions concerning this proposed design change and the SEIS should be directed to both Liana Liu (FHWA) and Jason Smith (WSDOT) at the addresses or phone numbers provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 6, 2012.

Daniel Mathis,

Division Administrator, Olympia, Washington.

[FR Doc. 2012-5865 Filed 3-9-12; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FY 2012 Discretionary Livability Funding Opportunity: Alternatives Analysis Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of funding availability for FTA Alternatives Analysis Program: Solicitation of Project Proposals.

SUMMARY: The Federal Transit Administration (FTA) announces the availability of Section 5339 Alternatives Analysis program discretionary funds for Fiscal Year (FY) 2012. FTA will distribute these funds in accordance

with the mission of this program, consistent with the eligibility requirements of this program, and in support of the U.S. Department of Transportation's (DOT) livability efforts.

The Surface and Air Transportation Programs Extension Act of 2011 (Temporary Authorization, 2012), Public Law 112-30, continues the authorization of the Federal transit programs of the U.S. DOT through March 31, 2012. Subject to action by Congress, FTA will fund the Alternatives Analysis program with approximately \$25 million of unallocated Section 5339 funds made available by the Temporary Authorization.

This notice solicits proposals to compete for FY 2012 funding under the aforementioned program and livability initiative. Contingent on subsequent appropriations by Congress, FTA may also award FY 2013 funds to proposals submitted pursuant to this notice.

This notice includes priorities established by FTA for these discretionary funds, the criteria FTA will use to identify meritorious projects for funding, and describes how to apply for funding. This announcement is available on the FTA Web site at: <http://www.fta.dot.gov>. A synopsis of the funding opportunity will be posted in the FIND module of the government-wide electronic grants Web site at <http://www.GRANTS.GOV>. FTA will announce final selections on the FTA Web site and may also announce selections in the **Federal Register**.

DATES: Complete proposals must be submitted by 11:59 p.m. EDT on April 19, 2012. All proposals must be submitted electronically through the *GRANTS.GOV* "APPLY" function. Any prospective proposer intending to apply should initiate the process of registering on the *GRANTS.GOV* site immediately to ensure completion of registration before the submission deadline. Instructions for applying can be found on FTA's Web site at <http://www.fta.dot.gov/alternativesanalysis> and in the "FIND" module of *GRANTS.GOV*.

FOR FURTHER INFORMATION: Contact the appropriate FTA Regional Office found at <http://www.fta.dot.gov> for proposal-specific information and issues. For program-specific questions about applying to the Alternatives Analysis program outlined in this notice, please contact Kenneth Cervenka, Office of Planning and Environment, (202) 493-0512, email: kenneth.cervenka@dot.gov. A TDD is available at 1-800-877-8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Overview of FTA Discretionary Program
 - A. Authority
 - B. Policy Priorities
- II. Discretionary Program Information
 - A. Description and Purpose
 - B. Eligibility Information
 - C. Evaluation Criteria, Review, and Selection
- III. Proposal and Submission Information
- IV. Award Administration
- V. Agency Contacts and Technical Assistance

I. Overview of FTA Discretionary Program

A. Authority

Section 5339(a) of Title 49, United States Code authorizes the Secretary to make awards for FTA's Alternatives Analysis program and states:

The Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities to develop alternatives analyses as defined by section 5309(a)(1).

Section 5309(a)(1) defines "alternatives analysis" as:

A study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

(A) An assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

(B) Sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

(C) The selection of a locally preferred alternative; and

(D) The adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.

B. Policy Priorities

Maintaining transit assets in a state of good repair, fostering livable communities and promoting sustainable development, and improving our Nation's environment through investments in clean energy resources, have been key strategic goals of the Department of Transportation (DOT) and FTA. Studies funded as a result of this notice will further the Department's livability efforts by supporting the study of tangible livability improvements within the existing Alternatives Analysis program while demonstrating the feasibility and value of such improvements.

Livable Communities and Sustainable Development

FTA has long fostered livable communities and sustainable development through its various transit

programs and activities. Public transportation supports the development of communities, providing effective and reliable transportation options that increase access to jobs, recreation, health and social services, entertainment, educational opportunities, and other activities of daily life, while also improving mobility within and among these communities. Through various initiatives and legislative changes over the last fifteen years, FTA has allowed and encouraged projects that help integrate transit into a community through neighborhood improvements and enhancements to transportation facilities or services; make improvements to areas adjacent to public transit facilities that may facilitate mobility needs of transit users; or support other infrastructure investments that enhance the use of transit and other transportation options for the community.

On June 16, 2009, U.S. DOT Secretary Ray LaHood, U.S. Department of Housing and Urban Development (HUD) Secretary Shaun Donovan, and U.S. Environmental Protection Agency (EPA) Administrator Lisa Jackson announced a new partnership to help American families in all communities—rural, suburban and urban—gain better access to affordable housing, more transportation options, and lower transportation costs. DOT, HUD, and EPA created this high-level interagency partnership to better coordinate federal transportation, environmental protection, and housing investments.

The Alternatives Analysis program will invest in studies that fulfill the following six livability principles that serve as the foundation for the DOT–HUD–EPA Partnership for Sustainable Communities:

- *Provide more transportation choices:* Develop safe, reliable, and economical transportation choices to decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.

- *Promote equitable, affordable housing:* Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation.

- *Enhance economic competitiveness:* Improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets.

- *Support existing communities:* Target Federal funding toward existing communities—through such strategies as transit-oriented, mixed-use development and land recycling—to increase community revitalization, improve the efficiency of public works investments, and safeguard rural landscapes.

- *Coordinate policies and leverage investment:* Align policies and funding to remove barriers to collaboration, leverage funding and increase the accountability and effectiveness of all levels of government to plan for future growth, including making smart energy choices such as locally generated renewable energy.

- *Value communities and neighborhoods:* Enhance the unique characteristics of all communities by investing in healthy, safe and walkable neighborhoods—rural, urban or suburban.

II. Discretionary Program Information

A. Description and Purpose

As defined in 49 U.S.C. 5309(a)(1), an alternatives analysis is a study conducted as part of the transportation planning process required under Sections 5303 and 5304 which includes: (1) An assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea; (2) the development of sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under Section 5309; (3) the selection of a locally preferred alternative; and (4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under Section 5303.

The funds available through this notice includes assistance to potential sponsors of New Starts and Small Starts projects in the evaluation of all reasonable transportation alternatives and general alignment options to address transportation needs in a defined travel corridor. Information about FTA's New Starts and Small Starts program can be found on FTA's web site at http://fta.dot.gov/12347_5221.html. FTA will invest in studies that are performed in accordance with the mission of the Alternatives Analysis program and support the six livability principles that serve as the foundation for the DOT–HUD–EPA Partnership for Sustainable Communities.

FTA advises potential proposers that current provisions of the New Starts and Small Starts program are subject to change. On January 25, 2012, FTA

published a Notice of Proposed Rulemaking (NPRM) that proposes changes in the measurement of the existing statutory New Starts and Small Starts project evaluation criteria. Additionally, FTA's current program authorizations expire on March 31, 2012, and any new authorizing legislation may prescribe modifications to FTA's programs. However, the effective dates of a final rule and any new authorizing legislation are uncertain, and the contents of either are subject to change from current proposals. Moreover, changes to the Federal process will not remove the need for sponsors of major transit capital projects to assess costs and benefits of alternative project modes and alignments. FTA therefore encourages potential sponsors of New Starts and Small Starts projects to maintain their focus on conducting a technically sound analysis of alternatives that evaluate solutions to transportation problems and facilitate informed decision-making.

B. Eligibility Information

1. Eligible Proposers

Section 5339 authorizes FTA to award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities to develop alternatives analyses as defined by Section 5309(a)(1).

2. Eligible Proposals and Expenses

FTA will award available discretionary funds to eligible proposers to conduct a new alternatives analysis or to support additional technical tasks in an on-going alternatives analysis that will improve and expand the information available to decision-makers considering major transit improvements. FTA will consider proposals for all areas of technical work that can better develop information about the costs and benefits of potential major transit improvements. These funds are not available for systems planning work that leads to the selection of a particular corridor for conducting an alternatives analysis, or for work performed after the Locally Preferred Alternative (LPA) has been selected. There is no blanket pre-award authority for studies to be funded under this notice before FTA's public announcement of the selections.

3. Cost Sharing or Matching

The total federal share (Section 5339 funds plus other federal funds) of the cost of studies or technical tasks selected for funding may not exceed 80 percent. Section 5339 requests may range between \$50,000 and \$2 million.

Funds remain available for three fiscal years, including the fiscal year in which the award is made. FTA will not approve deferred local share requests under this program.

C. Evaluation Criteria, Review, and Selection

1. Evaluation Criteria

The submitted proposals will be evaluated according to the following criteria. Each proposer is encouraged to demonstrate the responsiveness of their proposal to any and all of the selection criteria with the most relevant information that the proposer can provide, regardless of whether such information has been specifically requested, or identified, in this notice. FTA will assess the extent to which the proposal addresses each of the three criteria below.

a. Demonstrated Need

Proposers must demonstrate a need for these funds by identifying a transportation problem in the study corridor that warrants an evaluation of major transit improvements, including alternatives that may be suitable for New Starts or Small Starts funding. For both new and ongoing alternatives analyses, higher scores will be assigned to studies in areas that have been prioritized in the metropolitan planning process as having a significant transportation need, particularly through inclusion of conceptual corridor improvements in fiscally constrained long-range transportation plans. Proposals for both new and ongoing studies must show there is a need for these funds to support a meaningful future analysis of alternative modes and alignments, as opposed to efforts aimed at justifying largely predefined projects.

b. Advancing Livability

Proposers must describe the proposed study's role in broader efforts to advance the six DOT-HUD-EPA Livability Principles. Higher scores will be assigned to proposals that are linked to a history of concrete actions as well as ongoing planning efforts to enhance livability.

c. Study Approach and Outcomes

Proposers must outline a study approach that is likely to provide decision-makers with actionable information about the costs and benefits of investment alternatives while meaningfully involving project stakeholders. Higher scores will be assigned to proposals that demonstrate successful outcomes from prior alternatives analyses, a robust public

involvement plan, evidence of partnerships with related organizations (such as housing- and environment-focused public agencies), and demonstration of technical capacity to complete all work.

2. Review and Selection Process

In addition to other FTA staff that may review the proposals, a technical evaluation committee will review proposals based on the evaluation criteria. Members of the technical evaluation committee and other involved FTA staff reserve the right to screen the proposals and seek clarification from any proposer about any statement in the proposal that FTA finds ambiguous and/or request additional documentation to be considered during the evaluation process to clarify information contained within the proposal. After consideration of the findings of the technical evaluation committee, the FTA Administrator will determine the final selection and amount of funding for each study. Geographic diversity and other discretionary awards may be considered in FTA's award decisions. FTA expects to announce the selected studies and notify successful proposers in August 2012.

III. Proposal and Submission Information

A. Proposal Submission Process

Proposals must be submitted electronically through <http://www.GRANTS.GOV> by 11:59 p.m. EDT, April 19, 2012. Mail and fax submissions will not be accepted.

A complete proposal submission will consist of at least three files: (1) The SF 424 Mandatory form (downloaded from GRANTS.GOV); (2) the supplemental form found on the FTA Alternatives Analysis program Web site: <http://fta.dot.gov/alternativesanalysis>; and (3) a map of the study corridor. The supplemental form, titled Applicant and Proposal Profile, provides guidance and a consistent format for proposers to respond to the criteria outlined in this NOFA. Once completed, the supplemental form and the study corridor map must be placed in the attachments section of the SF 424 Mandatory form. Letters of support and materials referenced in the supplemental form may also be submitted as attachments; however, FTA will not consider narrative beyond the text that can be accommodated within the supplemental form's character limits.

Within 24–48 hours after submitting an electronic application, the proposer

should receive three email messages from GRANTS.GOV: (1) Confirmation of successful transmission to GRANTS.GOV, (2) confirmation of successful validation by GRANTS.GOV, and (3) confirmation of successful validation by FTA. If confirmations of successful validation are not received and a notice of failed validation or incomplete materials is received, the proposer must address the reason for the failed validation or incomplete materials and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

Complete instructions on the application process can be found at <http://www.fta.dot.gov/alternativesanalysis>. Important: FTA urges proposers to submit their applications at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. Submissions after the stated submission deadline will not be accepted. GRANTS.GOV scheduled maintenance and outage times are announced on the GRANTS.GOV Web site <http://www.GRANTS.GOV>. Deadlines will not be extended due to scheduled maintenance or outages.

B. Proposal Content

Information such as applicant name, federal amount requested, match amount, description of areas served, etc. are requested in varying degrees of detail on both the SF 424 Mandatory form and supplemental "Applicant and Proposal Profile" form. All fields are required unless stated otherwise on the forms. Use both the "Check Package for Errors" and the "Validate Form" validation buttons on both forms to check all required fields on the forms. Ensure that the "Federal" amount identified on the SF 424 Mandatory form is the same as the "5339 Request" total amount calculated on the supplemental form. For up-to-date guidance on the completion of all forms, refer to FTA's Alternatives Analysis Web site: <http://fta.dot.gov/alternativesanalysis>. The supplemental form has three sections:

1. Applicant Information

This section contains basic proposer identification information: organization legal name, FTA Recipient ID number, and transit services provided.

2. Project (Study) Information

This section contains background information about the project (study): title, proposed scope of work, map of the study corridor (map attachment to SF 424 application is required), descriptions of the corridor, project budget allocated into major tasks, including the source of local match, and time-line for beginning and ending the major tasks.

3. Evaluation Criteria

This section contains information for direct use in the evaluation process: demonstrated need, advancing livability, and study approach and outcomes.

C. Submission Dates and Times

Complete proposals for the Alternatives Analysis program must be submitted electronically through GRANTS.GOV by 11:59 p.m. EDT on April 19, 2012. Proposers are encouraged to begin the process of registration on the GRANTS.GOV site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before a proposal can be submitted. Registered proposers may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) registration in the Central Contractor Repository (CCR) is renewed annually and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in GRANTS.GOV by the AOR to make submissions.

IV. Award Administration

A. Award Notices

At the time the project (study) selections are announced, FTA will extend pre-award authority for the selected projects awarded to current grantees. There is no blanket pre-award authority for these projects before announcement.

B. Administrative and National Policy Requirements

1. Grant Requirements

If selected, applicants will apply for a grant through TEAM and adhere to the customary FTA grant requirements of the Section 5339 Alternatives Analysis program, including those of FTA Circular 9300.1B, Circular 5010.1D, and the labor protections of 49 U.S.C. Section 5333(b). These grants will be administered and managed by the FTA regional offices. The Alternatives Analysis must be documented in the Unified Planning Work Program

(UPWP) of the MPO for the area before these funds can be used. All discretionary grants, regardless of award amount, will be subject to the Congressional Notification and release process. Technical assistance regarding these requirements is available from each FTA regional office.

2. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any activity supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

3. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone reports in TEAM on a quarterly basis for all projects. Documentation is required for payment. In addition, project sponsors receiving grants for innovative approaches may be required to report on the performance of these approaches.

V. Agency Contacts and Technical Assistance

Contact the appropriate FTA Regional Office at <http://www.fta.dot.gov> for proposal-specific information and issues. For general program information, please use the contact identified in the front of this notice. During the application period, FTA may post answers to commonly asked questions about the Alternatives Analysis program at www.fta.dot.gov/alternativesanalysis.

Issued in Washington, DC, this 7th day of March, 2012.

Peter Rogoff,
Administrator.

[FR Doc. 2012-5895 Filed 3-9-12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0021]

National Emergency Medical Services Advisory Council (NEMSAC); Correction to the Notice of Federal Advisory Committee Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Correction to notice of the National Emergency Medical Services Advisory Council Meeting on March 29, 2012, to alter the start time from 1 p.m. EST to 10 a.m. EDT and to adjust other times from Eastern Standard Time to Eastern Daylight Time.

SUMMARY: NHTSA is issuing a correction to a published notice of a meeting of the NEMSAC to be held in the Metropolitan Washington, DC area on March 28-30, 2012. This notice announces the correct date, time, and location of the meeting, which will be open to the public. The purpose of NEMSAC is to provide a nationally recognized council of emergency medical services (EMS) representatives and consumers to provide advice and recommendations regarding EMS to DOT's National Highway Traffic Safety Administration.

DATES: The NEMSAC meeting will take place over two and a half days and be held on

- Wednesday March 28, 2012, from 9 a.m. to 5:30 p.m. EDT;
- Thursday March 29, 2012, from 10 a.m. to 5:30 p.m. EDT; and
- Friday March 30, 2012, from 8 a.m. to 12 p.m. EDT.

NEMSAC committees will meet from 8 a.m. to 10 a.m. EDT on March 29, 2012. Public comment periods will be scheduled throughout the day of March 28, 2012, as well as from 3:30 p.m. to 4:30 p.m. EDT on March 29, 2012.

ADDRESSES: The meeting will be held on the 8th floor of the FHI 360 Conference Center at 1825 Connecticut Avenue NW., Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT:

Drew Dawson, Director, U.S. Department of Transportation, Office of Emergency Medical Services, 1200 New Jersey Avenue SE., NTI-140, Washington, DC 20590, telephone number (202) 366-9966; email Drew.Dawson@dot.gov.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App.). NEMSAC will meet on March 28-30,

2012, at the FHI 360 Conference Center at 1825 Connecticut Avenue NW., Washington, DC 20009.

Agenda of National EMS Advisory Council Meeting, March 28–30, 2012

The tentative agenda includes the following:

Wednesday, March 28, 2012

- (1) Opening Remarks
- (2) History and Overview of the EMS Education Agenda for the Future
- (3) Panel Discussion #1—Successes and Challenges in Implementing the Current Agenda
- (4) Panel Discussion #2—Opportunities and Challenges in Revising the Agenda
- (5) Panel Discussion #3—The Process to Revise the Agenda
- (6) Next Steps

Thursday, March 29, 2012

- (1) Opening Remarks
- (2) Review and Approval of Minutes of Last Meeting
- (3) Update from NHTSA Office of EMS
- (4) Federal Partner Update
- (5) Request for Input from the Federal Interagency Committee on EMS (FICEMS)
- (6) Presentations from NEMSAC Committees
- (7) Public Comment Period

Friday, March 30, 2012

- (1) Deliberations of Committee Documents
- (2) Discussion of New and Emerging Issues
- (3) Unfinished Business/Continued Discussion from Previous Day
- (4) Next Steps and Adjourn

Public comment periods will be scheduled throughout the day of March 28, 2012, as well as from 3:30 p.m. to 4:30 p.m. EDT on March 29, 2012. Written comments or requests to make oral presentations must be received by March 21, 2012, by emailing nemsac@dot.gov. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 5 minutes.

Public Attendance: This meeting will be open to the public. There will not be a teleconference option for this meeting. Individuals wishing to attend must register online at www.regonline.com/NEMSAC no later than March 26, 2012.

Minutes of the NEMSAC Meeting will be available to the public online through www.EMS.gov.

Issued on: March 6, 2012.

Jeffrey P. Michael,

Associate Administrator for Research and Program Development.

[FR Doc. 2012–5839 Filed 3–9–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 6 (Sub–No. 479X)]

BNSF Railway Company— Abandonment Exemption—in Page and Fremont Counties, Iowa

On February 21, 2012, BNSF Railway Company (BNSF) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 5.95-mile rail line between milepost 20.05 in Shenandoah and milepost 26.0 in Farragut, in Page and Fremont Counties, Iowa.¹ The line traverses United States Postal Service Zip Codes 51601, 51602, 51603, and 51639, and includes the station of Farragut.

According to BNSF, the line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 8, 2012.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,500 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than April 2, 2012. Each trail use request must be accompanied

¹ BNSF states that there is one customer on the line, Green Plains Shenandoah LLC (GPS). After abandonment, BNSF intends to convert a portion of the line between mileposts 20.05 and 21.90 to industry track and sell the track to GPS to stage trains.

by a \$250 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 6 (Sub–No. 479X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Karl Morell, Suite 225, 655 15th Street NW., Washington, DC 20005. Replies to the petition are due on or before April 2, 2012.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its presentation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: March 6, 2012.

By the Board, Rachel D. Campbell,
Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2012–5780 Filed 3–9–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Federal Advisory Committee on Insurance

AGENCY: Departmental Offices, Treasury.
ACTION: Notice of Open Meeting.

SUMMARY: This notice sets forth the proposed topics to be discussed for a meeting of the Department of the Treasury's Federal Advisory Committee on Insurance. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. The FACI will convene its first meeting on Friday,

March 30, 2012, in the Cash Room, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC, 20220, beginning at 1 p.m. Eastern Time.

DATES: The meeting will be held on Friday, March 30, 2012, commencing at 1 p.m. Eastern Time.

ADDRESSES: The Federal Advisory Committee on Insurance meeting will be held in the Cash Room, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The meeting will be open to the public. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must contact the Federal Insurance Office (Office), at (202) 622-6910, by 5 p.m. Eastern Time on Monday, March 26, 2012, to inform the Office of the desire to attend the meeting and to provide the information required to enter the building.

FOR FURTHER INFORMATION CONTACT:

James P. Brown, Senior Policy Advisor to the Federal Insurance Office, Department of the Treasury, Room 2100 New York Avenue NW., Washington, DC 20220, at (202) 622-6910 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. II, 10(a)(2), through implementing regulations at 41 CFR 102-3.150.

Public Comment: Members of the public wishing to comment on the business of the Federal Advisory Committee on Insurance are invited to submit written statements by any of the following methods:

Electronic Statements

- Use the Department of the Treasury's Internet designated official by emailing james.brown@treasury.gov.

Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, Room 2100, Department of the Treasury, 1425 New York Avenue NW., Washington, DC 20220.

The Department of the Treasury will post all statements on its Web site <http://www.treasury.gov/about/organizational-structure/offices/Pages/Federal-Insurance.aspx> without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the

Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's library, Room 1428, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622-0990. All statements, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: This is the first meeting of the Federal Advisory Committee on Insurance. In this meeting Committee members will be introduced and briefed on applicable ethics standards as well as the Committee Charter and Bylaws. The Committee will discuss topics of interest to the Committee and the work of the Committee in relation to any topic of interest or focus. The Committee will also receive a report on the work to date of the Federal Insurance Office.

Lance Auer,

Deputy Assistant Secretary Financial Institutions Policy.

[FR Doc. 2012-5935 Filed 3-9-12; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF THE TREASURY

Identification of an Entity Pursuant to Executive Order 13582 of August 17, 2011, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria."

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the name of an entity identified on March 5, 2012, as an entity whose property and interests in property are blocked pursuant to Executive Order 13582 of August 17, 2011, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria."

FOR FURTHER INFORMATION CONTACT:

Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622-2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (www.treasury.gov/ofac) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622-0077.

Background

On August 18, 2011, the President issued Executive Order 13582 of August 17, 2011, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria," ("the Order") pursuant to, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701-06). In the Order, the President took additional steps with respect to the national emergency declared in Executive Order 13338 of May 11, 2004.

Section 1 of the Order blocks all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, of the Government of Syria, which is defined to include its agencies, instrumentalities, and controlled entities.

On March 5, 2012, the Director of OFAC identified, pursuant to Section 1 of the Order, an entity whose property and interests in property are blocked. The listing for this entity is below.

Entity:

GENERAL ORGANIZATION OF RADIO AND TV (a.k.a. SYRIAN DIRECTORATE GENERAL OF RADIO & TELEVISION EST, a.k.a. GENERAL RADIO AND TELEVISION CORPORATION, a.k.a. RADIO AND TELEVISION CORPORATION, a.k.a. RTV SYRIA, a.k.a. GORT), Al Oumaween Square, P.O. Box 250, Damascus, Syria [Syria]

Dated: March 5, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012-5814 Filed 3-9-12; 8:45 am]

BILLING CODE 4811-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of one individual and two entities whose property and interests in property have

been blocked pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the one individual and two entities identified in this notice pursuant to section 805(b)(2) and (3) of the Kingpin Act is effective on March 6, 2012.

FOR FURTHER INFORMATION CONTACT:

Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220. Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at <http://www.treasury.gov/ofac> or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the

Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On March 6, 2012, the Director of OFAC designated the following individual and two entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individual

1. ZAMBADA GARCIA, Jesus Reynaldo (a.k.a. "EL REY ZAMBADA"), DOB 13 Aug 1961; POB Culiacan, Sinaloa, Mexico; citizen Mexico; nationality Mexico; C.U.R.P. ZAGJ610813HSLMRS05 (Mexico) (individual) [SDNTK]

Entities

2. ZARKA DE MEXICO S.A. DE C.V., Miguel Hidalgo No. 348 Pte., Colonia Centro, Donato Guerra y Carrasco, Culiacan, Sinaloa, Mexico; Folio Mercantil No. 73894–1 (Mexico); R.F.C. ZME–040520–VD7 (Mexico) [SDNTK]

3. ZARKA DE OCCIDENTE S.A. DE C.V., Calle Jose Diego Valadez Rios No. 1676, Colonia Proyecto Urbano Tres Rios, Culiacan, Sinaloa, Mexico; Folio Mercantil No. 72191–1 (Mexico) [SDNTK]

Dated: March 6, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–5833 Filed 3–9–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is publishing the names of 18 individuals whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, "Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers."

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons ("SDN List") of the 18 individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on March 6, 2012.

FOR FURTHER INFORMATION CONTACT:

Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220. Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (www.treasury.gov/ofac) or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the "Order"). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The foreign persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and the Secretary of State: (a) to play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On March 6, 2012, the Director of OFAC removed from the SDN List the 18 individuals listed below, whose property and interests in property were blocked pursuant to the Order:

1. ALVAREZ DE LA TORRE, Mario Andres, c/o AMERICANA DE COSMETICOS S.A., Bogota, Colombia; c/o COSMEPOP, Bogota, Colombia; DOB 6 Mar 1972; Cedula No. 232594 (Colombia) (individual) [SDNT]

2. CARRERO BURBANO, Emma Alexandra, c/o DROMARCA Y CIA. S.C.S., Bogota, Colombia; c/o FARMACOOOP, Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; Cedula No. 52362326 (Colombia) (individual) [SDNT]
3. CASQUETE VARGAS, Orlando, c/o ALFA PHARMA S.A., Bogota, Colombia; c/o LABORATORIOS GENERICOS VETERINARIOS, Bogota, Colombia; c/o LABORATORIOS KRESSFOR, Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; DOB 7 Jan 1957; Cedula No. 19270159 (Colombia) (individual) [SDNT]
4. LEON REYES, German, c/o COLPHAR S.A., Bogota, Colombia; Cedula No. 79273729 (Colombia); Passport 79273729 (Colombia) (individual) [SDNT]
5. LOPEZ SANDOVAL, Fernando Alberto, c/o DISTRIBUIDORA SANAR DE COLOMBIA S.A., Cali, Colombia; c/o DISTRIEXPORT S.A., Bogota, Colombia; c/o FARMACOOOP, Bogota, Colombia; c/o INCOMMERCE S.A., Cali, Colombia; DOB 12 Oct 1975; Cedula No. 94450287 (Colombia); Passport 94450287 (Colombia) (individual) [SDNT]
6. MANJARRES FORERO, Baudelino, c/o CAJA SOLIDARIA, Bogota, Colombia; c/o CREDISOL, Bogota, Colombia; c/o FOMENTAMOS, Bogota, Colombia; DOB 24 May 1949; Cedula No. 19073383 (Colombia); Passport 19073383 (Colombia) (individual) [SDNT]
7. MEDINA FAJARDO, Yovany (a.k.a. MEDINA FAJARDO, Yovani), c/o CODISA, Bogota, Colombia; c/o FARMACOOOP, Bogota, Colombia; DOB 21 Nov 1969; Cedula No. 11317493 (Colombia); Passport 11317493 (Colombia) (individual) [SDNT]
8. MOSCOSO MONTES, Nelly Fabiola, c/o ADMACOOOP, Bogota, Colombia; c/o CODISA, Bogota, Colombia; c/o FARMACOOOP, Bogota, Colombia; DOB 5 May 1964; Cedula No. 51740771 (Colombia); Passport 51740771 (Colombia) (individual) [SDNT]
9. NINO VALBUENA, Luis German, c/o COLPHAR S.A., Bogota, Colombia; Cedula No. 19423011 (Colombia); Passport 19423011 (Colombia) (individual) [SDNT]
10. OSPINA LIZALDA, Marina, c/o ADMINISTRADORA DE SERVICIOS VARIOS CALIMA S.A., Cali, Colombia; c/o CHAMARTIN S.A., Cali, Colombia; Cedula No. 31838118 (Colombia); Passport 31838118 (Colombia) (individual) [SDNT]

11. PAREDES GONZALEZ, Nohora, c/o COPSERVIR LTDA., Bogota, Colombia; DOB 6 Aug 1963; Cedula No. 36376456 (Colombia) (individual) [SDNT]

12. PUERTO, Luis Alfredo, c/o ADMACOOOP, Bogota, Colombia; c/o CODISA, Bogota, Colombia; DOB 17 Dec 1955; Cedula No. 79113154 (Colombia); Passport 79113154 (Colombia) (individual) [SDNT]

13. RAMOS BONILLA, Blanca Clemencia, c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o COSMEPOP, Bogota, Colombia; c/o LATINA DE COSMETICOS Y DISTRIBUCIONES S.A., Bogota, Colombia; DOB 19 Mar 1959; Cedula No. 41767311 (Colombia); Passport 41767311 (Colombia) (individual) [SDNT]

14. RICUARTE FLOREZ, Gilma Leonor, c/o LABORATORIOS GENERICOS VETERINARIOS, Bogota, Colombia; DOB 20 Apr 1961; Cedula No. 51640309 (Colombia) (individual) [SDNT]

15. SANCHEZ DE VALENCIA, Dora Gladys, c/o INMOBILIARIA U.M.V. S.A., Cali, Colombia; DOB 7 AUG 1955; Cedula No. 31273248 (Colombia) (individual) [SDNT]

16. SALAZAR, Jose Leonel, c/o INMOBILIARIA U.M.V. S.A., Cali, Colombia; c/o COMERCIALIZADORA INTERNACIONAL VALLE DE ORO S.A., Cali, Colombia; DOB 14 Mar 1956; Cedula No. 10529253 (Colombia) (individual) [SDNT]

17. SOLAQUE SANCHEZ, Alfredo Alfonso, c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o ALFA PHARMA S.A., Bogota, Colombia; c/o PENTACOOOP LTDA., Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; DOB 18 Dec 1962; Cedula No. 79261845 (Colombia) (individual) [SDNT]

18. VARGAS VASQUEZ, Jorge Alberto, c/o AMERICANA DE COSMETICOS S.A., Bogota, Colombia; c/o DISTRIEXPORT S.A., Bogota, Colombia; DOB 30 Jun 1960; Cedula No. 19401630 (Colombia); Passport 19401630 (Colombia) (individual) [SDNT]

Dated: March 6, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012-5834 Filed 3-9-12; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additions to the Identifying Information for an Individual Previously Designated Pursuant to the Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing additions to the identifying information for an individual who was previously designated pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901-1908, 8 U.S.C. 1182).

DATES: The additions made by the Director of OFAC to the identifying information for an individual who was previously designated pursuant to the Kingpin Act are effective on March 6, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220 Tel: (202) 622-2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at <http://www.treasury.gov/ofac> or via facsimile through a 24-hour fax-on-demand service at (202) 622-0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central

Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On March 6, 2012, the Director of OFAC made additions to the identifying information for the following individual who was previously designated pursuant to the Kingpin Act:

CIFUENTES VILLA, Jorge Milton (a.k.a. LOPEZ SALAZAR, Elkin de Jesus), c/o BIO FORESTAL S.A., Medellin, Colombia; c/o C.I. DISTRIBUIDORA DE SERVICIOS COMBUSTIBLES Y MINERIA S.A., Bogota, Colombia; c/o C.I. METALURGIA EXTRACTIVA DE COLOMBIA S.A.S., Bogota, Colombia; c/o C.I. OKCOFFEE COLOMBIA S.A., Bogota, Colombia; c/o C.I. OKCOFFEE INTERNATIONAL S.A., Bogota, Colombia; c/o CUBICAFE S.A., Bogota, Colombia; c/o CUBI CAFE CLICK CUBE MEXICO, S.A. DE C.V., Mexico City, Distrito Federal, Mexico; c/o DESARROLLO MINERO RESPONSABLE C.I. S.A.S., Bogota, Colombia; c/o DOLPHIN DIVE SCHOOL S.A., Cartagena, Colombia; c/o FUNDACION OKCOFFEE COLOMBIA, Bogota, Colombia; c/o FUNDACION PARA EL BIENESTAR Y EL PORVENIR, Medellin, Colombia; c/o FUNDACION SALVA LA SELVA, Bogota, Colombia; c/o GANADERIA LA SORGUITA S.A., Medellin, Colombia; c/o GESTORES DEL ECUADOR GESTORUM S.A., Quito, Ecuador; c/o GRUPO MUNDO MARINO, S.A., Panama; c/o HOTELES Y BIENES S.A., Bogota, Colombia; c/o INVERPUNTO DEL VALLE S.A., Cali, Colombia; c/o INVERSIONES CIFUENTES Y CIA. S. EN C., Medellin, Colombia; c/o LE CLAUDE, S.A. DE C.V., Mexico City, Distrito Federal, Mexico; c/o LINEA AEREA PUEBLOS AMAZONICOS S.A.S., Bogota, Colombia; c/o OPERADORA NUEVA GRANADA, S.A. DE C.V., Mexico City, Distrito Federal, Mexico; c/o PARQUES TEMATICOS S.A., Medellin, Colombia; c/o PROMO RAIZ S.A., Medellin,

Colombia; c/o RED MUNDIAL INMOBILIARIA, S.A. DE C.V., Huixquilucan, Estado de Mexico, Mexico; c/o R D I S.A., Bogota, Colombia; Avenida Carrera 9 No. 113–52 Of. 401, Bogota, Colombia; Calle 6 No. 33–29 Apto. 801, Medellin, Colombia; Calle 74 No. 10–33 Apto. 806, Bogota, Colombia; Calle Blas Pascal No. 106, Colonia Los Morales, Delegacion Miguel Hidalgo, Mexico City, Distrito Federal C.P. 11510, Mexico; Calle Eje J No. 999 Pasaje Santa Fe, Departamento No. 301, Colonia Ciudad Santa Fe, Delegacion Alvaro Obregon, Mexico City, Distrito Federal C.P. 01210, Mexico; Camino del Remanso, No. 80 A, Planta Baja, Colonia Lomas Country Club, Huixquilucan, Estado de Mexico C.P. 52779, Mexico; Camino del Remanso No. 80 Interior 2, Colonia Lomas Country Club, Huixquilucan, Estado de Mexico C.P. 52779, Mexico; Carrera 8 No. 10–56 Of. 201, Cali, Colombia; Carrera 68D No. 25–10, Lote 41 E/S Terminal, Bogota, Colombia; Carrera 68D No. 25B–86 Of. 504, Bogota, Colombia; Miguel Schultz No. 127, Colonia San Rafael, Delegacion Cuauhtemoc, Mexico City, Distrito Federal C.P. 06470, Mexico; DOB 13 May 1965; alt. DOB 13 Apr 1968; POB Medellin, Colombia; alt. POB Marinilla, Antioquia, Colombia; C.U.R.P. CIVJ650513HNEFLR06 (Mexico); Cedula No. 7548733 (Colombia); alt. Cedula No. 70163752 (Colombia); alt. Cedula No. 172489729–1 (Ecuador); Matricula Mercantil No 181301–1 Cali (Colombia); alt. Matricula Mercantil No 405885 Bogota (Colombia); Passport AL720622 (Colombia); R.F.C. CIVJ650513LJA (Mexico) (individual) [SDNTK]

The listing now appears as follows:

CIFUENTES VILLA, Jorge Milton (a.k.a. LOPEZ SALAZAR, Elkin de Jesus; a.k.a. OSUNA VILLARREAL, Sergio), c/o BIO FORESTAL S.A., Medellin, Colombia; c/o C.I. DISTRIBUIDORA DE SERVICIOS COMBUSTIBLES Y MINERIA S.A., Bogota, Colombia; c/o C.I. OKCOFFEE COLOMBIA S.A., Bogota, Colombia; c/o C.I. OKCOFFEE INTERNATIONAL S.A., Bogota, Colombia; c/o CUBICAFE S.A., Bogota, Colombia; c/o CUBI CAFE CLICK CUBE MEXICO, S.A. DE C.V., Mexico City, Distrito Federal, Mexico; c/o DOLPHIN DIVE SCHOOL S.A., Cartagena, Colombia; c/o GANADERIA LA SORGUITA S.A., Medellin, Colombia; c/o GESTORES DEL ECUADOR GESTORUM S.A., Quito, Ecuador; c/o HOTELES Y BIENES S.A., Bogota, Colombia; c/o INVERPUNTO DEL VALLE S.A., Cali, Colombia; c/o INVERSIONES CIFUENTES Y CIA. S. EN C., Medellin, Colombia; c/o LE CLAUDE, S.A. DE C.V., Mexico City,

Distrito Federal, Mexico; c/o OPERADORA NUEVA GRANADA, S.A. DE C.V., Mexico City, Distrito Federal, Mexico; c/o PARQUES TEMATICOS S.A., Medellin, Colombia; c/o PROMO RAIZ S.A., Medellin, Colombia; c/o RED MUNDIAL INMOBILIARIA, S.A. DE C.V., Huixquilucan, Estado de Mexico, Mexico; Avenida Carrera 9 No. 113–52 Of. 401, Bogota, Colombia; Calle 6 No. 33–29 Apto. 801, Medellin, Colombia; Calle 74 No. 10–33 Apto. 806, Bogota, Colombia; Calle Blas Pascal No. 106, Colonia Los Morales, Delegacion Miguel Hidalgo, Mexico City, Distrito Federal C.P. 11510, Mexico; Calle Eje J No. 999 Pasaje Santa Fe, Departamento No. 301, Colonia Ciudad Santa Fe, Delegacion Alvaro Obregon, Mexico City, Distrito Federal C.P. 01210, Mexico; Camino del Remanso, No. 80 A, Planta Baja, Colonia Lomas Country Club, Huixquilucan, Estado de Mexico C.P. 52779, Mexico; Camino del Remanso No. 80 Interior 2, Colonia Lomas Country Club, Huixquilucan, Estado de Mexico C.P. 52779, Mexico; Carrera 8 No. 10–56 Of. 201, Cali, Colombia; Carrera 68D No. 25–10, Lote 41 E/S Terminal, Bogota, Colombia; Carrera 68D No. 25B–86 Of. 504, Bogota, Colombia; Miguel Schultz No. 127, Colonia San Rafael, Delegacion Cuauhtemoc, Mexico City, Distrito Federal C.P. 06470, Mexico; c/o FUNDACION OKCOFFEE COLOMBIA, Bogota, Colombia; c/o FUNDACION PARA EL BIENESTAR Y EL PORVENIR, Medellin, Colombia; c/o FUNDACION SALVA LA SELVA, Bogota, Colombia; c/o LINEA AEREA PUEBLOS AMAZONICOS S.A.S., Bogota, Colombia; c/o C.I. METALURGIA EXTRACTIVA DE COLOMBIA S.A.S., Bogota, Colombia; c/o DESARROLLO MINERO RESPONSABLE C.I. S.A.S., Bogota, Colombia; c/o R D I S.A., Bogota, Colombia; c/o GRUPO MUNDO MARINO, S.A., Panama; Paseo de las Gacelas No. 550, Fraccionamiento Ciudad Bugambillas, Guadalajara, Jalisco, Mexico; DOB 13 May 1965; alt. DOB 13 Apr 1968; alt. DOB 7 Jul 1964; POB Medellin, Colombia; alt. POB Marinilla, Antioquia, Colombia; alt. POB Ciudad Victoria, Tamaulipas, Mexico; C.U.R.P. CIVJ650513HNEFLR06 (Mexico); alt. C.U.R.P. OUVS640707HTSSLR07 (Mexico); Cedula No. 7548733 (Colombia); alt. Cedula No. 70163752 (Colombia); alt. Cedula No. 172489729–1 (Ecuador); Matricula Mercantil No 181301–1 Cali (Colombia); alt. Matricula Mercantil No 405885 Bogota (Colombia); Passport AL720622 (Colombia); R.F.C. CIVJ650513LJA (Mexico); alt. R.F.C. OUSV–640707 (Mexico) (individual) [SDNTK]

Dated: March 6, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012-5829 Filed 3-9-12; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Supplemental Identification Information for Thirteen Individuals and One Entity Designated Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing supplemental information for the names of thirteen individuals and one entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism."

DATES: The publishing of updated identification information by the Director of OFAC of the thirteen individuals and one entity in this notice, pursuant to Executive Order 13224, is effective on March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622-2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (www.treas.gov/ofac) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the "Order") pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701-1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have

committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On March 2, 2012 the Director of OFAC supplemented the identification information for thirteen individuals and one entity whose property and interests in property are blocked pursuant to Executive Order 13224.

The supplemental identification information for the thirteen individuals and one entity is as follows:

Individuals

1. ABDAOUI, Youssef (a.k.a. ABDAOUI, Youssef Ben Abdul Baki Ben Youcef; a.k.a. "ABDELLAH"; a.k.a. "ABDULLAH"; a.k.a. "ABU ABDULLAH"), Piazza Giovane Italia n.2, Varese, Italy; Number 8/B Via Torino, Cassano Magnago (VA), Italy; DOB 4 Jun 1966; POB Kairouan, Tunisia; nationality Tunisia; Identification Number AO 2879097 (Italy) expires 30 Oct 2012; Passport G025057 issued 23 Jun 1999 expires 5 Feb 2004 (individual) [SDGT]

2. AL-LIBI, Abd al-Muhsin (a.k.a. ABU BAKR, Ibrahim Ali Muhammad; a.k.a. SABRI, Abdel Ilah; a.k.a. TANTOUCHE, Ibrahim Abubaker; a.k.a. TANTOUSH, Ibrahim Ali Abu Bakr; a.k.a. TANTOUSH, Ibrahim Abubaker; a.k.a. "ABD AL-MUHSI"; a.k.a. "ABD AL-RAHMAN"; a.k.a. "ABU ANAS"), Johannesburg, South Africa; DOB 1966; alt. DOB 27 Oct 1969; nationality Libya; Passport 203037 (Libya) (individual) [SDGT]

3. AMDOUNI, Mehrez (a.k.a. AL-AMDOUNI, Mehrez Ben Mahmoud Ben Sassi; a.k.a. AMDOUNI, Mehrez ben Tah; a.k.a. AMDOUNI, Mehrez ben Ahdoud ben; a.k.a. FUSCO, Fabio; a.k.a. HAMDOUNI, Mehrez; a.k.a. HASSAN, Mohamed; a.k.a. "ABU THALE"); DOB 18 Dec 1969; alt. DOB 25 May 1968; alt. DOB 18 Dec 1968; alt. DOB 14 Jul 1969; POB Tunis, Tunisia; alt. POB Naples, Italy; alt. POB Algeria; nationality Tunisia; Passport G737411 (Tunisia) issued 24 Oct 1990 expires 20 Sep 1997; alt. Passport 0801888 (Bosnia and Herzegovina) (individual) [SDGT]

4. KAHIE, Abdullahi Hussein, Bakara Market, Dar Salaam Buildings, Mogadishu, Somalia; 26 Urtegata Street, Oslo 0187, Norway; DOB 22 Sep 1959; POB Mogadishu, Somalia; nationality Norway; National ID No. 22095919778 (Norway); Passport 26941812 (Norway) issued 23 Nov 2008; alt. Passport 27781924 (Norway) issued 11 May 2011 expires 11 May 2020 (individual) [SDGT]

5. ASHRAF, Haji Muhammad (a.k.a. ASHRAF, Haji M.; a.k.a. MANSHA, Muhammad Ashraf; a.k.a. MANSHAH, Muhammad Ashraf; a.k.a. MUNSHA, Muhammad Ashraf); DOB 1955; POB Faisalabad, Pakistan; National ID No. 6110125312507 (Pakistan); alt. National ID No. 24492025390 (Pakistan); Passport A-374184 (Pakistan); alt. Passport AT0712501 (Pakistan) issued 12 Mar 2008 expires 11 Mar 2013 (individual) [SDGT]

6. BAHAZIQ, Mahmoud Mohammad Ahmed (a.k.a. BAHADHIQ, Mahmud; a.k.a. BAHADHIQ, Mahmud Muhammad Ahmad; a.k.a. BAHAZIQ,

Mahmoud; a.k.a. "ABU 'ABD AL-'AZIZ"; a.k.a. "ABU ABDUL AZIZ"; a.k.a. "SHAYKH SAHIB", Jeddah, Saudi Arabia; DOB 17 Aug 1943; alt. DOB 1943; alt. DOB 21 Jun 1944; POB India; citizen Saudi Arabia; nationality Saudi Arabia; National ID No. 1004860324 (Saudi Arabia); Passport C284181 (Saudi Arabia) issued 12 Aug 2000 expires 19 Jun 2005; Registration ID 4-6032-0048-1 (Saudi Arabia) (individual) [SDGT]

7. KHAN, Mohammad Naushad Alam (a.k.a. KHAN, Naushad Aalam; a.k.a. KHAN, Rahat Hasan; a.k.a. KHAN, Muhammad Nowshad Alam; a.k.a. KHAN, Muhammad Nawshad Alam); DOB 10 Aug 1971; alt. DOB Dec 1970; POB Karachi, Pakistan; National ID No. 4200004347195 (Pakistan); alt. National ID No. 50492460414 (Pakistan); Passport YZ4107191 (Pakistan) issued 15 Apr 2008 expires 14 Apr 2013; alt. Passport Booklet: A6169832 (Pakistan); alt. Passport YZ4107192 (Pakistan) issued 19 Feb 2009 expires 18 Feb 2014; alt. Passport Booklet: A8235074 (Pakistan); Holder of a Pakistan passport; Holder of a Bangladesh passport (individual) [SDGT]

8. LAKHVI, Zaki-ur-Rehman (a.k.a. ARSHAD, Abu Waheed Irshad Ahmad; a.k.a. LAKVI, Zakir Rehman; a.k.a. LAKVI, Zaki Ur-Rehman; a.k.a. REHMAN, Zakir; a.k.a. UR-REHMAN, Zaki; a.k.a. "CHACHAJEE"), Barahkoh, P.O. DO, Tehsil and District Islamabad, Pakistan; Chak No. 18/IL, Rinala Khurd, Tehsil Rinala Khurd, District Okara, Pakistan; DOB 30 Dec 1960; POB Okara, Pakistan; nationality Pakistan; National ID No. 61101-9618232-1 (Pakistan); alt. National ID No. 33960047268 (Pakistan); Passport AC8342321 (Pakistan) issued 22 Aug 2007 expires 20 Aug 2012; alt. Passport Booklet A4827048 (Pakistan) (individual) [SDGT]

9. MAKKI, Hafiz Abdul Rahman (a.k.a. MAKI, HAFAZ ABDUL RAHMAN; a.k.a. MAKKI, HAFIZ ABDUL REHMAN; a.k.a. MAKKI, ABDULRAHMAN; a.k.a. REHMAN, Hafiz Abdul), Muridke, Punjab Province, Pakistan; DOB 10 Dec 1954; alt. DOB 1948; POB Bahawalpur, Punjab Province, Pakistan; National ID No. 6110111883885 (Pakistan); alt. National ID No. 34454009709 (Pakistan); Passport CG9153881 (Pakistan) issued 2 Nov 2007 expires 31 Oct 2012; alt. Passport Booklet: A5199819 (Pakistan) (individual) [SDGT]

10. MUJAHID, Mohammed Yahya (a.k.a. AZIZ, Mohammad Yahya; a.k.a. MUJAHID, Muhammad Yahya; a.k.a. MUJAHID, Yahya); DOB 12 Mar 1961; POB Lahore, Punjab Province, Pakistan; alt. POB Sheikhpura, Pakistan; National ID No. 35404-1577309-9

(Pakistan); alt. National ID No. 26961341469 (Pakistan) (individual) [SDGT]

11. RAUF, Hafiz Abdur (a.k.a. RAOUF, Hafiz Abdul; a.k.a. RAUF, Hafiz Abdul), 4 Lake Road, Room No. 7, Choburji, Lahore, Pakistan; Dola Khurd, Lahore, Pakistan; 129 Jinnah Block, Awan Town, Multan Road, Lahore, Pakistan; 33 Street No. 3, Jinnah Colony, Tehsil Kabir Wala, District Khanewal, Pakistan; 5-Chamberlain Road, Lahore, Pakistan; DOB 25 Mar 1973; POB Sialkot, Punjab Province, Pakistan; National ID No. CNIC: 35202-540013-9 (Pakistan); alt. National ID No. NIC: 277-93-113495 (Pakistan); alt. National ID No. 27873113495 (Pakistan); Passport CM1074131 (Pakistan) issued 29 Oct 2008 expires 29 Oct 2013; alt. Passport Booklet: A7523531 (Pakistan) (individual) [SDGT]

12. SAEED, Muhammad (a.k.a. SAEED, Hafiz Muhammad; a.k.a. SAEED, Hafiz; a.k.a. SAEED, Hafiz Mohammad; a.k.a. SAEED HAFIZ, Muhammad; a.k.a. SAYED, Hafiz Mohammad; a.k.a. SAYEED, Hafez Mohammad; a.k.a. SAYID, Hafiz Mohammad; a.k.a. SYEED, Hafiz Mohammad; a.k.a. "HAFIZ SAHIB"; a.k.a. "TATA JI"), House No. 116 E, Mohalla Johar, Town: Lahore, Tehsil:, Lahore City, Lahore District, Pakistan; DOB 5 Jun 1950; POB Sargodha, Punjab, Pakistan; nationality Pakistan; National ID No. 3520025509842-7 (Pakistan); alt. National ID No. 23250460642 (Pakistan); Passport BE5978421 (Pakistan) issued 14 Nov 2007 expires 12 Nov 2012; alt. Passport Booklet A5250088 (Pakistan) (individual) [SDGT]

13. JIM'ALE, Ahmed Nur Ali (a.k.a. JIMALE, Ahmad Ali; a.k.a. JIMALE, Ahmed Ali; a.k.a. JIMALE, Shaykh Ahmed Nur; a.k.a. JIMALE, Sheikh Ahmed; a.k.a. JIM'ALE, Ahmad Nur Ali; a.k.a. JUMALE, Ahmed Nur; a.k.a. JUMALE, Ahmed Ali; a.k.a. JUMALI, Ahmed Ali), P.O. Box 3312, Dubai, United Arab Emirates; Mogadishu, Somalia; Djibouti, Djibouti; DOB 1954; POB Eilbur, Somalia; citizen Somalia; alt. citizen Djibouti; nationality Somalia; Passport A0181988 (Somalia) issued 1 Oct 2001 expires 23 Jan 2011; Additional Djiboutian passport issued in 2010. (individual) [SDGT]

Entity

1. AL RASHID TRUST (a.k.a. AL AMEEN TRUST; a.k.a. AL AMIN TRUST; a.k.a. AL AMIN WELFARE TRUST; a.k.a. AL MADINA TRUST; a.k.a. AL RASHEED TRUST; a.k.a. AL-AMEEN TRUST; a.k.a. AL-MADINA TRUST; a.k.a. AL-RASHEED TRUST; a.k.a. AL-RASHID TRUST; a.k.a. MAIMAR TRUST; a.k.a. MAYMAR

TRUST; a.k.a. MEYMAR TRUST; a.k.a. MOMAR TRUST), Kitab Ghar, 4 Dar-el-Iftah, Nazimabad, Karachi, Pakistan; Office Dha'rb-i-M'unin, Room no. 3, Third Floor, Moti Plaza, near Liaquat Bagh, Murree Road, Rawalpindi, Pakistan; Jamia Masjid, Sulaiman Park, Begum Pura, Lahore, Pakistan; Office Dha'rb-i-M'unin, Z.R. Brothers, Katchehry Road, Chowk Yadgaar, Peshawar, Pakistan; Office Dha'rb-i-M'unin, Top Floor, Dr. Dawa Khan Dental Clinic Surgeon, Main Baxar, Mingora, Swat, Pakistan; Office Dha'rb-i-M'unin, opposite Khyber Bank, Abbottabad Road, Mansehra, Pakistan; University Road, Opposite Baitul Mukaram, Gulshan-e Iqbal, Karachi, Pakistan; Opposite Jang Press, I.I. Chundrigar Road, Karachi, Pakistan; TE-365, 3rd Floor, Deans Trade Centre, Peshawar Cantt., Pakistan; Operations in Afghanistan: Herat, Jalalabad, Kabul, Kandahar, Mazar Sharif. Also operations in: Kosovo, Chechnya [SDGT]

Dated: March 2, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012-5821 Filed 3-9-12; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of One Individual Pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism"

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the name of 1 individual whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism."

DATES: The designation by the Director of OFAC of the 1 individual in this notice, pursuant to Executive Order 13224, is effective on March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622-2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (www.treas.gov/ofac) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the "Order") pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701-1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems

appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On March 2, 2012 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, 1 individual whose property and interests in property are blocked pursuant to Executive Order 13224.

The listing for this individual on OFAC's list of Specially Designated Nationals and Blocked Persons appears as follows:

Individual

1. ACHEKZAI, Abdul Samad (a.k.a. SAMAD, Abdul), Balochistan Province, Pakistan; DOB 1970; nationality Afghanistan (individual) [SDGT].

Dated: March 2, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012-5828 Filed 3-9-12; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before May 11, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 622-3179, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at Elaine.H.Christophe@irs.gov.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and the Internal Revenue Service, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the 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 the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collections Open for Comment

Currently, the IRS is seeking comments concerning the following

forms, and reporting and record-keeping requirements:

Title: Underpayment of Estimated Tax by Individuals, Estate, and Trusts (Form 2210), and Underpayment of Estimated Tax by Farmers and Fishermen (Form 2210-F).

OMB Number: 1545-0140.

Form Number: 2210 AND 2210-F.

Abstract: Internal Revenue Code section 6654 imposes a penalty for failure to pay estimated tax. Form 2210 is used by individuals, estates, and trusts and Form 2210-F is used by farmers and fisherman to determine whether they are subject to the penalty and to compute the penalty if it applies. The Service uses this information to determine whether taxpayers are subject to the penalty, and to verify the penalty amount.

Current Actions: There is no change to these existing forms.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 599,999.

Estimated Time per Respondent: 4 hrs.

Estimated Total Annual Burden Hours: 2,405,663.

Title: Guidance Regarding Charitable Remainder Trusts and Special Valuation Rules for Transfers of Interests and Trusts.

OMB Number: 1545-1536.

Regulation Project Number: REG-209823-96 (TD 8791 (Final)).

Abstract: This regulation provides guidance relating to charitable remainder trusts and to special valuation rules for transfers of interests in trusts. Section 1.664-1(a)(7) of the regulation provides that either an independent trustee or qualified appraiser using a qualified appraisal must value a charitable remainder trust's assets that do not have an objective, ascertainable value.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 150.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 75.

Title: Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.

OMB Number: 1545-2127.

Form Number: Form 8926.

Abstract: Pursuant to a Congressional directive to determine whether the earnings stripping limitation rule of Code section 163(j) was effective in curbing the erosion of the U.S. tax base, INTL, LMSB, and the Treasury sought to create Form 8926, Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 500,000.

Estimated Time per Respondent: 15 hours 12 minutes.

Estimated Total Annual Burden Hours: 7,560,000.

Title: Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business.

OMB Number: 1545-0805.

Form Number: 5472.

Abstract: Form 5472 is used to report information about transactions between a U.S. corporation that is 25% foreign owned or a foreign corporation that is engaged in a U.S. trade or business and related foreign parties. The IRS uses Form 5472 to determine if inventory or other costs deducted by the U.S. or foreign corporation are correct.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 103,784.

Estimated Time per Response: 24 hrs. 31 min.

Estimated Total Annual Burden Hours: 2,544,784.

Title: Conclusive Presumption of Worthlessness of Debts Held by Banks.

OMB Number: 1545-1254.

Regulation Project Number: FI-34-91 (TD 8390 (Final)).

Abstract: Section 1.166-2(d)(3) of this regulation allows a bank to elect to determine the worthlessness of debts by using a method of accounting that conforms worthlessness for tax purposes to worthlessness for regulatory purposes, and establish a conclusive presumption of worthlessness. An election under this regulation is treated as a change in accounting method.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 50.

Title: Reporting Requirements for Recipients of Points Paid on Residential Mortgages.

OMB Number: 1545-1380.

Regulation Project Number: IA-17-90 (TD 8571(Final)).

Abstract: These regulations require the reporting of certain information relating to payments of mortgage interest. Taxpayers must separately state on Form 1098 the amount of points and the amount of interest (other than points) received during the taxable year on a single mortgage and must provide to the payer of the points a separate statement setting forth the information being reported to the IRS.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 37,644.

Estimated Time per Respondent: 7 hrs., 31 minutes.

Estimated Total Annual Burden Hours: 283,056.

Title: Form 5310, Application for Determination for Terminating Plan, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

OMB Control Number: 1545-0202.

Form Number: Forms 5310 and 6088.

Abstract: Employers who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. Form 5310 is used to request an IRS determination letter about the plan's qualification status (qualified or non-qualified) under Internal Revenue Code section 401(a). Form 6088 is used to show the amounts of distributable benefits to participants in the plan.

Current Actions: The information collection, estimated number of respondents, and estimated total annual burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 30,000.

Estimated Time per Response: 60 hours, 46 minutes.

Estimated Total Annual Burden Hours: 1,813,650.

Title: Guidance on Passive Foreign (PFIC) Purging Elections.

OMB Number: 1545-1965.

Regulation Project Number: REG-133446-03.

Abstract: The IRS needs the information to substantiate the taxpayer's computation of the taxpayer's share of the PFIC's post-1986 earning and profits.

Current Actions: The information collection, estimated number of respondents, and estimated total annual burden hours remain unchanged.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations.

Estimated Number of Respondents: 250.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 250.

Title: Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business.

OMB Number: 1545-1225.

Form Number: 5310-A.

Abstract: Internal Revenue Code section 6058(b) requires plan administrators to notify IRS of any plan mergers, consolidations, spinoffs, or transfers of plan assets or liabilities to another plan. Code section 414(r) requires employers to notify IRS of separate lines of business for their deferred compensation plans. Form

5310-A is used to make these notifications.

Current Actions: The information collection, estimated number of respondents, and estimated total annual burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 15,000.

Estimated Time per Respondent: 10 hours, 35 minutes.

Estimated Total Annual Burden Hours: 158,800.

Title: Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations.

OMB Number: 1545-1099.

Form Number: 8811.

Abstract: Current regulations require real estate mortgage investment conduits (REMICs) to provide Forms 1099 to true holders of interests in these investment vehicles. Because of the complex computations required at each level and the potential number of nominees, the ultimate investor may not receive a Form 1099 and other information necessary to prepare their tax return in a timely fashion. Form 8811 collects information for publishing by the IRS so that brokers can contact REMICs to request the financial information and timely issue Forms 1099 to holders.

Current Actions: There are no changes being made to Form 8811 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 1,000.

Estimated Time per Response: 4 hr., 23 min.

Estimated Total Annual Burden Hours: 4,380.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless the collection of information displays a valid OMB control number.

Approved: March 5, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012-5831 Filed 3-9-12; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for 2012 Kennedy Half-Dollar Bags and Rolls, Bronze Medals, the First Spouse Bronze Medal Set and the Birth Set

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing 2012 pricing for Kennedy Half-Dollar bags and rolls, bronze medals, the First Spouse Bronze Medal Set and the Birth Set.

| Product | Retail price |
|--|--------------|
| Kennedy Half-Dollar Bags | 139.95 |
| Kennedy Half-Dollar Two-Roll Set | 32.95 |
| Large Bronze Medals | 39.95 |
| Small Bronze Medals | 6.95 |
| First Spouse Bronze Medal Set | 16.95 |
| Birth Set | 19.95 |

FOR FURTHER INFORMATION CONTACT: B. B. Craig, Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202-354-7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: March 6, 2012.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2012-5871 Filed 3-9-12; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Public Availability of the Department of Veterans Affairs Fiscal Year (FY) 2011 Service Contract Inventory

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Public Availability of FY 2011 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Public Law 111-117), Department of Veterans Affairs (VA) is publishing this notice to

advise the public of the availability of the FY 2011 Service Contract Inventory. The inventory provides information on VA service contract actions over \$25,000 made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010, and updated on December 19, 2011, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at <http://www.whitehouse.gov/sites/default/files/>

omb/procurement/memo/service-contract-inventory-guidance.pdf. VA posted its inventory and a summary of the inventory on the VA Web site at: <http://www.va.gov/oal/library/scaInventory.asp>.

FOR FURTHER INFORMATION CONTACT:

Questions regarding the service contract inventory should be directed to Marilyn Harris, Director, Procurement Policy and Warrant Management Service, in the Office of Acquisition, Logistics, and

Construction at (202) 461-6918, or email: marilyn.harris2@va.gov.

Approved: March 6, 2012.

John R. Gingrich,

Chief of Staff Department of Veterans Affairs.

[FR Doc. 2012-5927 Filed 3-9-12; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

Vol. 77

Monday,

No. 48

March 12, 2012

Part II

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Arkansas; Regional Haze State Implementation Plan; Interstate Transport State Implementation Plan To Address Pollution Affecting Visibility and Regional Haze; Final Rule

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 52
[EPA-R06-OAR-2008-0727; FRL-9637-4]
**Approval and Promulgation of
Implementation Plans; Arkansas;
Regional Haze State Implementation
Plan; Interstate Transport State
Implementation Plan To Address
Pollution Affecting Visibility and
Regional Haze**
AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is partially approving and partially disapproving a revision to the Arkansas State Implementation Plan (SIP) intended to address the regional haze (RH) requirements of the Clean Air Act (CAA or Act). In addition, EPA is partially approving and partially disapproving the portion of the Arkansas Interstate Transport SIP submittal that addresses the visibility requirement of section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone and 1997 fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS) that the Arkansas SIP contain adequate provisions to prohibit emissions from interfering with measures required in another state to protect visibility. EPA is approving certain core elements of the RH SIP including: identification of affected Class I areas; determination of baseline and natural visibility conditions; determination of Uniform Rate of Progress (URP); reasonable progress goal (RPG) consultation and long term strategy (LTS) consultation; coordination of RH and reasonably attributable visibility impairment (RAVI); regional haze monitoring strategy and other SIP requirements under 40 CFR 51.308(d)(4); commitment to submit periodic regional haze SIP revisions and periodic progress reports describing progress towards the RPGs; commitment to make a determination of the adequacy of the existing SIP at the time a progress report is submitted; and consultation and coordination with Federal land managers (FLMs). EPA is partially approving and partially disapproving portions of other core elements of the SIP including: identification of best available retrofit technology (BART) eligible sources and subject to BART sources; requirements for BART; Chapter 15 of the Air Pollution Control and Ecology Commission (APCEC) Regulation No. 19, also known as the State's RH Rule; and the LTS. EPA is disapproving

Arkansas's reasonable progress goals (RPGs) required under 40 CFR 51.308(d)(1). This action is being taken under section 110 and part C of the CAA.

DATES: This final rule is effective on April 11, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2008-0727. All documents in the docket are listed in the Federal e-Rulemaking portal index at <http://www.regulations.gov> and are available either electronically at <http://www.regulations.gov> or in hard copy at EPA Region 6, 1445 Ross Ave., Dallas, TX 75202-2733. 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. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Ms. Dayana Medina, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-7241; fax number 214-665-7263; email address medina.dayana@epa.gov.

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

Overview

The CAA requires that states develop and implement SIPs to reduce the pollution that causes visibility impairment over a wide geographic area, known as Regional Haze (RH). CAA sections 110(a) and 169A. Arkansas submitted a RH plan to us on September 23, 2008, and August 3, 2010, and submitted supplemental information on September 27, 2011. On October 17, 2011, we proposed to partially approve and partially disapprove certain elements of Arkansas's SIP.¹ Today, we are taking final action by partially approving and partially disapproving the elements of Arkansas's RH SIP addressed in our proposed rule.

In addition to the RH requirements, CAA section 110(a)(2)(D)(i)(II) requires that the Arkansas SIP ensure that emissions from sources within Arkansas do not interfere with the SIP of any other state under part C of the CAA to protect visibility. This requirement is commonly referred to as the visibility prong of "interstate transport," which is also called the "good neighbor"

provision of the CAA. Arkansas submitted a SIP to meet the requirements of interstate transport for the 1997 8-hour ozone and PM_{2.5} NAAQS on April 2, 2008, and supplemented it on September 27, 2011. On October 17, 2011, we proposed to partially approve and partially disapprove this submission as it relied upon the State's RH Rule that we were proposing to partially approve and partially disapprove. *Id.* Because the Interstate Transport SIP is conditioned upon the BART determinations in the RH SIP, we are also taking final action by partially approving and partially disapproving elements of Arkansas's Interstate Transport SIP addressed in our proposed rule.

Arkansas submitted Chapter 15 of APCEC Regulation No. 19, its State RH Rule that addresses Arkansas's RH program, to address the requirements in both its RH SIP and its Interstate Transport SIP. In both the RH SIP and the Interstate Transport SIP, Arkansas adopted BART emission limits for certain sources to meet the requirements of both SIPs as stated in the State RH Rule. Based upon public comment, we are disapproving the portion of the BART compliance provision found in the State's RH Rule, Chapter 15 of APCEC Regulation No. 19, at Reg. 19.1504 (B), which requires each source subject to BART to install and operate BART no later than six years after the effective date of Arkansas's RH Rule for both the RH SIP and the Interstate Transport SIP. Because of this disapproval, compliance with Arkansas's BART emission limitations is within five years of approval of Arkansas RH SIP by EPA.

For a RH SIP, the process of establishing BART emission limitations can be logically broken down into three steps. First, states identify those sources which meet the definition of "BART eligible source" set forth in 40 CFR 51.301. Second, states determine whether such sources "emit any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area" (a source which fits this description is "subject to BART"). Third, for each source subject to BART, states then identify the appropriate type and the level of control for reducing emissions by conducting a five-step analysis: *Step 1:* Identify All Available Retrofit Control Technologies, *Step 2:* Eliminate Technically Infeasible Options, *Step 3:* Evaluate Control Effectiveness of Remaining Control Technologies, *Step 4:* Evaluate Impacts and Document the Results, and *Step 5:* Evaluate Visibility Impacts.

¹ 76 FR 64186.

We agree with Arkansas's identification of sources that are BART eligible, with the exception of the 6A Boiler at the Georgia-Pacific Crossett Mill, which we find to be BART eligible. We also agree with Arkansas's identification of subject to BART sources, with the exception of the 6A and 9A Boilers at the Georgia-Pacific Crossett Mill, which we find to be subject to BART. In addition, we are approving a number of BART determinations from Arkansas's RH SIP. We are not able to approve the following BART determinations made by Arkansas: the sulfur dioxide (SO₂), nitrogen dioxide (NO_x), and particulate matter (PM) BART determinations for the Arkansas Electric Cooperative Corporation (AECC) Bailey Plant Unit 1 and the AECC McClellan Plant Unit 1; the SO₂ and NO_x BART determinations for the American Electric Power (AEP) Flint Creek Plant Boiler No. 1; the NO_x BART determination for the natural gas firing scenario and the SO₂, NO_x, and PM BART determinations for the fuel oil firing scenario for the Entergy Lake Catherine Plant Unit 4; the SO₂ and NO_x BART determinations for both the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2; the BART determination for the Entergy White Bluff Plant Auxiliary Boiler; the SO₂ and NO_x BART determinations for the Domtar Ashdown Mill Power Boiler No. 1; and the SO₂, NO_x and PM BART determinations for the Domtar Ashdown Mill Power Boiler No. 2. In reviewing the State's BART determinations for these pollutants and units, we found that the State did not satisfy all the regulatory and statutory requirements in making these BART determinations. We have therefore determined it is appropriate to finalize our proposed disapproval of the State's BART determinations for these units, because we conclude that the flaws and omissions in the State's BART analyses were significant, and that the State therefore lacked adequate record support and a reasoned basis for its analyses, as required by the RH Rule (RHR). As we previously noted, Arkansas submitted Chapter 15 of APCEC Regulation No. 19, also known as the State's RH Rule, as a SIP revision to address both RH and the visibility transport requirements. With respect to RH, we are partially approving and partially disapproving Chapter 15 of APCEC Regulation No. 19, such that our disapproval is of those portions of the State's RH Rule that correspond to portions of the Arkansas RH SIP we are disapproving. In particular, we note that

based upon public comment, we also are disapproving the portion of the BART compliance provision found in Chapter 15 of APCEC Regulation No. 19, at Reg. 19.1504(B), which requires each source subject to BART to install and operate BART requirements no later than six years after the effective date of the State's regulation. We are approving the portion of the BART compliance provision that requires each Arkansas subject to BART source to install and operate BART as expeditiously as practicable, but in no event later than five years after EPA approval of the Arkansas RH SIP, for those sources' BART determinations we are approving. We find that this is consistent with the requirements under 40 CFR 51.308(e)(iv). Arkansas's inclusion of the compliance provision that would require Arkansas subject to BART sources to install and operate BART no later than six years after the effective date of the State's regulation (if such date takes place before five years from EPA approval of the Arkansas RH SIP) is not a required element of the RH SIPs to be developed and submitted by states pursuant to section 169 of the CAA. We are also partially approving and partially disapproving the State's submitted LTS because it relies on portions of the RH SIP we are disapproving, including some of Arkansas's BART emission limits. We are disapproving the State's RPGs under 40 CFR 51.308(d)(1) because Arkansas did not consider the four factors that states are required to consider in establishing RPGs under the CAA and 40 CFR 51.308(d)(1)(A).

We are approving the remaining sections of the RH SIP submission. This includes certain core elements of the SIP, including Arkansas's (1) Identification of affected Class I areas; (2) determination of baseline and natural visibility conditions; (3) determination of the URP; (4) RPG consultation and LTS consultation; (5) coordination of regional haze and reasonably attributable visibility impairment; (6) monitoring strategy and other implementation requirements; (7) commitment to submit periodic RH SIP revisions and periodic progress reports describing progress towards the RPGs; (8) commitment to make a determination of the adequacy of the existing SIP at the time a progress report is submitted; (9) coordination with states and FLMs; and (10) the following BART determinations from Arkansas's RH SIP:

- The PM BART determination for the AEP Flint Creek Plant Boiler No. 1.
- The SO₂ and PM BART determinations for the natural gas firing

scenario for the Entergy Lake Catherine Plant Unit 4.

- The PM BART determinations for both the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2.
- The PM BART determination for the Domtar Ashdown Mill Power Boiler No. 1.

Arkansas stated in its April 2, 2008 submittal that it is relying on Chapter 15 of APCEC Regulation No. 19, also known as the State's RH Rule, to satisfy the requirements of section 110(a)(2)(D)(i)(II) that emissions from Arkansas sources not interfere with measures required in the SIP of any other state under part C of the CAA to protect visibility. The Arkansas Department of Environmental Quality (ADEQ) also stated in its April 2, 2008, submittal that it is not possible to assess whether there is any interference with the measures in the applicable SIP for another state designed to protect visibility for the 8-hour ozone and PM_{2.5} NAAQS until ADEQ submits and EPA approves Arkansas's RH SIP. We proposed to partially approve and partially disapprove this submission as it relied upon the State's RH Rule that we were proposing to partially approve and partially disapprove. In developing their RH SIP and RPGs, Arkansas and potentially impacted States collaborated through the Central Regional Air Planning (CENRAP) association. Each state developed its RH Plans and RPGs based on the CENRAP modeling. The CENRAP modeling was based in part on the emissions reductions each state intended to achieve by 2018. Some of the emissions reductions included in the CENRAP's modeling and thus relied upon by other states, were from BART controls on Arkansas subject to BART sources. Compliance with these BART requirements will ensure that Arkansas obtains its share of the emission reductions relied upon by other states to meet the RPGs for their Class I areas. As already previously discussed in this final rulemaking, Arkansas submitted Chapter 15 of APCEC Regulation No. 19, also known as the State's RH Rule, as a SIP revision to address both RH and the visibility transport requirements. With respect to the visibility interstate transport SIP, we are partially approving and partially disapproving the submitted Chapter 15 of APCEC Regulation No. 19, such that our disapproval is of those portions that correspond to the submitted BART determinations we are disapproving. In response to public comment, we note that we also are disapproving the portion of the BART compliance

provision found in the APCEC Regulation No. 19, at Reg. 19.1504(B), which requires each source subject to BART to install and operate BART no later than six years after the effective date of the State's regulation. Since compliance of Arkansas's subject to BART sources with BART requirements now is solely dependent upon our approval of the RH SIP, and since we are disapproving the portion of the RH SIP which includes some of Arkansas's BART determinations, a portion of the emission reductions committed to by Arkansas and relied upon by other states will not be realized.

Consequently, Arkansas's emissions will interfere with other states' SIPs to protect visibility. Therefore, we are partially approving and partially disapproving the portion of the Arkansas Interstate Transport SIP submittal that addresses the visibility requirement of section 110(a)(2)(D)(i)(II) that emissions from Arkansas sources not interfere with measures required in the SIP of any other state under part C of the CAA to protect visibility.

Under the CAA,² we must, within 24 months following a final disapproval, either approve a SIP or promulgate a Federal Implementation Plan (FIP). We will of course consider, and would prefer, approving a SIP if the state submits a revised plan that we can approve before the expiration of the mandatory FIP clock for the portions of the SIP we are disapproving in this rulemaking action.

We originally provided a 30 day public comment period for this action, which we extended after receiving several requests for an extension on the comment period. We held a 66 day public comment period for this action. Many public commenters disagreed with several aspects of our proposal, expressing the belief that we should approve either more portions of the Arkansas RH SIP or the SIP in its entirety. We also received public comments agreeing with several aspects of our proposal, expressing the belief that we should disapprove either more portions of the Arkansas RH SIP or the SIP in its entirety. All public comments and our responses are discussed in more detail in section III of this final rulemaking action.

This action is being taken under section 110 and part C of the CAA.

Table of Contents

- I. Summary of Our Proposal
 - A. Regional Haze
 - B. Interstate Transport of Pollutants and Visibility Protection

- II. Final Decision
 - A. Regional Haze
 - B. Interstate Transport of Pollutants and Visibility Protection
- III. Public Comments Received and Our Responses
 - A. Comments on Presumptive Emission Limits
 - B. Comments on Reasonable Progress Goals and Long Term Strategy
 - C. Comments on BART
 - 1. Evaluation of the Most Stringent Level of Control in the BART Analysis
 - 2. Evaluation of Post-Combustion Controls in the BART Analysis
 - 3. Comments on the State's PM BART Emission Limits We Proposed to Approve
 - 4. Comments on the Capacity Factor Used in the State's BART Analyses for Entergy Lake Catherine and White Bluff
 - 5. Comments on the State's Cost Evaluations
 - 6. Comments on the August 2008 Revised BART Analysis for White Bluff
 - 7. Other Comments Related to BART
 - D. Comments on the Arkansas Pollution Control and Ecology Commission Variance for Subject to BART Sources
 - E. Comments on BART and the Forthcoming MACT Requirements
 - F. Comments on Modeling
 - G. Comments on Legal Issues
 - 1. Comments on Regional Haze
 - 2. Comments on Interstate Transport and Visibility
 - H. Other Comments
 - I. Comments Requesting an Extension to the Public Comment Period
- IV. Statutory and Executive Order Reviews

I. Summary of Our Proposal

On October 17, 2011, we published the proposal on which we are now taking final action.³ We proposed to partially approve and partially disapprove Arkansas's RH SIP revision submitted on September 23, 2008, August 3, 2010, and supplemented on September 27, 2011. We also proposed to partially approve and partially disapprove a portion of a SIP revision we received from the State of Arkansas on April 2, 2008, as supplemented on September 27, 2011, for the purpose of addressing the "good neighbor" provisions of the CAA section 110(a)(2)(D)(i)(II) with respect to visibility for the 1997 8-hour ozone NAAQS and the PM_{2.5} NAAQS.

A. Regional Haze

We proposed to approve the State's identification of BART-eligible sources, with the exception of the 6A Boiler at the Georgia-Pacific Crossett Mill, which we find to be BART-eligible. We proposed to approve the State's identification of subject to BART sources, with the exception of the 6A and 9A Boilers at the Georgia-Pacific

Crossett Mill, which we find to be subject to BART. We also proposed to approve certain core elements of the SIP, including Arkansas's (1) identification of affected Class I areas; (2) determination of baseline and natural visibility conditions; (3) determination of the URP; (4) RPG consultation and LTS consultation; (5) coordination of regional haze and reasonably attributable visibility impairment; (6) monitoring strategy and other implementation requirements; (7) commitment to submit periodic RH SIP revisions and periodic progress reports describing progress towards the RPGs; (8) commitment to make a determination of the adequacy of the existing SIP at the time a progress report is submitted; (9) coordination with states and FLMS; and (10) the following BART determinations from Arkansas's RH SIP: the PM BART determination for the AEP Flint Creek Plant Boiler No. 1; the SO₂ and PM BART determinations for the natural gas firing scenario for the Entergy Lake Catherine Plant Unit 4; the PM BART determinations for both the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2; and PM BART determination for the Domtar Ashdown Mill Power Boiler No. 1.

We proposed to disapprove Arkansas's SO₂, NO_x, and PM BART determinations for the AECC Bailey Plant Unit 1 and the AECC McClellan Plant Unit 1; the SO₂ and NO_x BART determinations for the AEP Flint Creek Plant Boiler No. 1; the NO_x BART determination for the natural gas firing scenario and the SO₂, NO_x, and PM BART determinations for the fuel oil firing scenario for the Entergy Lake Catherine Plant Unit 4; the SO₂ and NO_x BART determinations for both the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2; the BART determination for the Entergy White Bluff Plant Auxiliary Boiler; the SO₂ and NO_x BART determinations for the Domtar Ashdown Mill Power Boiler No. 1; and the SO₂, NO_x and PM BART determinations for the Domtar Ashdown Mill Power Boiler No. 2 because they do not comply with our regulations under 40 CFR 51.308(e). We also proposed to partially approve and partially disapprove the Arkansas RH Rule, Chapter 15 of APCEC Regulation No. 19, such that our proposed disapproval was of those portions of the State's RH Rule that correspond to portions of the Arkansas RH SIP we were proposing to disapprove. We also proposed to partially approve and partially disapprove the LTS under 40 CFR

² CAA section 110(c)(1).

³ 76 FR 64186.

51.308(d)(3) because Arkansas has not shown that the strategy is adequate to achieve the RPGs set by Arkansas and by other nearby states.

We proposed to disapprove the State's RPGs under 40 CFR 51.308(d)(1) because Arkansas did not consider the four factors states are required to consider in establishing RPGs under the CAA and 40 CFR 51.308(d)(1)(A).

B. Interstate Transport of Pollutants and Visibility Protection

We proposed to partially approve and partially disapprove a portion of a SIP revision we received from the State of Arkansas on April 2, 2008, as supplemented on September 27, 2011, for the purpose of addressing the "good neighbor" provisions of the CAA section 110(a)(2)(D)(i) with respect to visibility for the 1997 8-hour ozone NAAQS and the PM_{2.5} NAAQS. This SIP revision addressed the requirement of section 110(a)(2)(D)(i)(II) that emissions from Arkansas sources do not interfere with measures required in the SIP of any other state under part C of the CAA to protect visibility. ADEQ participated in the CENRAP visibility modeling development that assumed certain SO₂, NO_x, and PM reductions from Arkansas's BART sources. Compliance with these BART requirements will ensure that Arkansas obtains its share of the emission reductions relied upon by other states to meet the RPGs for their Class I areas. Since compliance of Arkansas's subject to BART sources with BART requirements is dependent upon our approval of the RH SIP, and since we proposed to disapprove the portion of the RH SIP which includes some of Arkansas's BART determinations, a portion of the emission reductions committed to by Arkansas and relied upon by other states will not be realized and, as a consequence, Arkansas's emissions will interfere with other states' SIPs to protect visibility.

II. Final Decision

A. Regional Haze

With one exception, we are finalizing our action as proposed. As discussed below, based upon public comment, we are adjusting our action on the Arkansas RH Rule. We are partially approving and partially disapproving the Arkansas RH SIP revision submitted on September 23, 2008, August 3, 2010, and supplemented on September 27, 2011. We are approving Arkansas's identification of sources that are BART eligible, with the exception of the 6A Boiler at the Georgia-Pacific Crossett Mill, which we find to be BART-

eligible. We are also approving Arkansas's identification of subject to BART sources, with the exception of the 6A and 9A Boilers at the Georgia-Pacific Crossett Mill, which we find to be subject to BART.

We are disapproving Arkansas's SO₂, NO_x, and PM BART determinations for the AECC Bailey Plant Unit 1 and the AECC McClellan Plant Unit 1; the SO₂ and NO_x BART determinations for the AEP Flint Creek Plant Boiler No. 1; the NO_x BART determination for the natural gas firing scenario and the SO₂, NO_x, and PM BART determinations for the fuel oil firing scenario for the Entergy Lake Catherine Plant Unit 4; the SO₂ and NO_x BART determinations for both the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2; the BART determination for the Entergy White Bluff Plant Auxiliary Boiler; the SO₂ and NO_x BART determinations for the Domtar Ashdown Mill Power Boiler No. 1; and the SO₂, NO_x and PM BART determinations for the Domtar Ashdown Mill Power Boiler No. 2. With respect to RH, we are partially approving and partially disapproving the Arkansas RH Rule, Chapter 15 of APCEC Regulation No. 19, such that our disapproval is of those portions of the State's RH Rule that correspond to portions of the Arkansas RH SIP we are disapproving and our approval is of the remaining portions. We do note that in response to comments received, we are making one change to the portions of the Arkansas RH Rule we are approving from what we proposed to approve in our October 17, 2011, proposed rulemaking. Specifically, in our proposed rulemaking, we proposed to approve Reg. 19.1504(B), which requires Arkansas's subject to BART sources to "install and operate BART as expeditiously as practicable, but in no event later than 6 years after the effective date of [the State RH Rule] or 5 years after EPA approval of the Arkansas Regional Haze State Implementation Plan, whichever comes first." As discussed in more detail in our response to comments, because the State revised its rule to delete the provision that would require Arkansas's subject to BART sources to comply with BART within 6 years of the effective date of the State RH Rule, we are disapproving this portion of the BART compliance provision found in Chapter 15 of APCEC Regulation No. 19. We are partially approving and partially disapproving the portion of the BART compliance provision that requires each Arkansas subject to BART source to

install and operate BART as expeditiously as practicable, but in no event later than five years after EPA approval of the Arkansas RH SIP. The disapproval is of those portions of the State's RH Rule that correspond to portions of the Arkansas RH SIP we are disapproving. We find that this is consistent with the requirements under 40 CFR 51.308(e)(iv). We are partially approving and partially disapproving the LTS under 40 CFR 51.308(d)(3). We are disapproving the State's RPGs under 40 CFR 51.308(d)(1).

We are approving the remaining sections of the RH SIP submission. This includes certain core elements of the SIP, including Arkansas's (1) identification of affected Class I areas; (2) determination of baseline and natural visibility conditions; (3) determination of the URP; (4) RPG consultation and LTS consultation; (5) coordination of regional haze and reasonably attributable visibility impairment; (6) monitoring strategy and other implementation requirements; (7) commitment to submit periodic RH SIP revisions and periodic progress reports describing progress towards the RPGs; (8) commitment to make a determination of the adequacy of the existing SIP at the time a progress report is submitted; (9) coordination with states and FLMS; and (10) the following BART determinations from Arkansas's RH SIP:

- The PM BART determination for the AEP Flint Creek Plant Boiler No. 1.
- The SO₂ and PM BART determinations for the natural gas firing scenario for the Entergy Lake Catherine Plant Unit 4.
- The PM BART determinations for both the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2.
- The PM BART determination for the Domtar Ashdown Mill Power Boiler No. 1.

B. Interstate Transport of Pollutants and Visibility Protection

We are partially approving and partially disapproving a portion of a SIP revision we received from the State of Arkansas on April 2, 2008, as supplemented on September 27, 2011, for the purpose of addressing the "good neighbor" provisions of the CAA section 110(a)(2)(D)(i) with respect to visibility for the 1997 8-hour ozone NAAQS and the PM_{2.5} NAAQS. Because Arkansas relied on Chapter 15 of APCEC Regulation No. 19, to satisfy the requirements of section 110(a)(2)(D)(i)(II) that emissions from Arkansas sources not interfere with

measures required in the SIP of any other state under part C of the CAA to protect visibility, we are partially approving and partially disapproving the submitted Chapter 15 of APCEC Regulation No. 19, such that our disapproval is of those portions that correspond to the submitted BART determinations we are disapproving. In response to public comment, we note that we also are disapproving the portion of the BART compliance provision found in the APCEC Regulation No. 19, at Reg. 19.1504(B), which requires each source subject to BART to install and operate BART no later than six years after the effective date of the State's regulation. Since compliance of Arkansas's subject to BART sources with BART requirements now is solely dependent upon our approval of the RH SIP, and since we are disapproving the portion of the RH SIP which includes some of Arkansas's BART determinations, a portion of the emission reductions committed to by Arkansas and relied upon by other states will not be realized and, as a consequence, Arkansas's emissions will interfere with other states' SIPs to protect visibility. Therefore, we are partially approving and partially disapproving the portion of the Arkansas Interstate Transport SIP submittal that addresses the visibility requirement of section 110(a)(2)(D)(i)(II) that emissions from Arkansas sources not interfere with measures required in the SIP of any other state under part C of the CAA to protect visibility.

III. Public Comments Received and Our Responses

During the public notice and comment period, we received 13 comment letters both supporting and opposing our proposal. We received comments from the ADEQ, the Utah Department of Environmental Quality (UDEQ), the National Park Service, the Sierra Club, Entergy Arkansas Inc., the American Electric Power/Southwestern Electric Power Company (AEP-SWEPCO), the Arkansas Electric Cooperative Corporation, Domtar Industries Inc., Nucor Steel-Arkansas, the Competitive Enterprise Institute, the Utility Air Regulatory Group, PacifiCorp Energy, and the Energy and Environmental Alliance of Arkansas. The comments we received opposing our proposal contended that we had either overstepped our bounds in proposing a partial disapproval or that we had not gone far enough in our action and should fully disapprove Arkansas's RH SIP. Many of the comments received are similar in nature and are grouped together accordingly.

Thus, many of the comments you will read are representative of more than one comment letter. The comments are summarized and addressed below. The full text received from these commenters is included in the docket associated with this action.

A. Comments on Presumptive Emission Limits

Comment: The SO₂ and NO_x BART determinations for the AEP Flint Creek Boiler No. 1 and Entergy White Bluff Plant Units 1 and 2 meet the presumptive BART limits established in 40 CFR part 51, appendix Y (BART Guidelines). In the Arkansas RH proposal, EPA did not justify its decision that the presumptive BART limits are unacceptable. EPA is insisting on a five factor analysis even when a source can meet the presumptive limits. EPA's current interpretation of the presumptive BART limits makes the presumptive BART limits meaningless, contrary to the requirements of the CAA and the clear intent of the BART Rule. The CAA singles out electric generating units (EGUs) located at 750 megawatt (MW) power plants for specific BART controls (42 U.S.C. 7491(b)(2)), and EPA adopted the presumptive BART limits to establish the specific control levels required for these EGUs. Since EPA went through extensive analysis to establish presumptive BART limits, the only rational explanation is that EPA intended for those limits to be meaningful. EPA is rationalizing its decision on the Arkansas RH SIP as if the presumptive BART limits were no longer a binding regulation, and there is concern that EPA is attempting to establish new, more stringent presumptive BART limits through case-by-case disapprovals of state BART determinations. Unless and until EPA goes through notice and comment rulemaking to remove the presumptive emission limits and establish other requirements consistent with the CAA, the presumptive BART limits in the promulgated BART Rule continue to establish the requirement that states must meet in their regional haze SIPs for large coal-fired EGUs and EPA must approve a state's BART determination if it meets the presumptive regulatory limits.

Response: Our application of the presumptive BART limits in our proposed rulemaking on the Arkansas RH SIP gives proper treatment of presumptive BART limits and is consistent with the requirements of the CAA and the intent of the BART Rule.

We note that the states generally have broad authority to decide appropriate BART controls. However, the CAA gives

EPA a more active role in establishing BART emission limits for large power plants.⁴ The CAA states the following regarding emission limits for fossil-fuel fired generating power plants having a total generating capacity in excess of 750 MW:

“In the case of a fossil-fuel fired generating power plant having a total generating capacity in excess of 750 megawatts, the emissions limitations required under this paragraph shall be determined pursuant to guidelines, promulgated by the Administrator under paragraph (1).”⁵

EPA disagrees that the CAA mandates specific control levels (*i.e.* presumptive emission limits) for power plants with a total generating capacity of 750 MW or greater. Rather, the CAA directed EPA to develop guidelines for States to establish BART emission limits, and required that power plants having a total generating capacity in excess of 750 MW follow the guidelines when establishing BART emission limits. In response, in 2005 EPA promulgated the BART Guidelines, which provide a detailed description of how a State must approach the BART determination process for certain large EGUs, and required that the determination of fossil-fuel fired power plants having a total generating capacity greater than 750 MW must be made pursuant to the BART Guidelines.⁶ As such, the plain reading of the CAA language makes it clear the intent was to make the BART Guidelines mandatory for EGUs larger than 750 MW, as opposed to presumptive limits. Therefore, EPA's proposed rulemaking on the Arkansas RH SIP is not contrary to the requirements of the CAA.

The EPA went through extensive analysis to establish presumptive BART emission limits, and intended these limits to be meaningful. As stated in our proposed rulemaking on the Arkansas RH SIP, the purpose of the presumptive limits in the BART Guidelines was to identify controls that the Agency considered to be generally cost-effective across all affected units. Because EPA's extensive analysis found that these controls are generally cost-effective across all affected units and were anticipated to result in a substantial degree of visibility improvement, EPA concluded that such units should at least meet the presumptive limits. However, EPA's BART Rule does not state that the presumptive limits will represent the “best available retrofit

⁴ 69 FR 39129 and CAA section 169(a)(4).

⁵ 42 U.S.C. 7491(b).

⁶ 40 CFR 51.308(e)(1)(ii)(B) and Appendix Y to Part 51.

controls” for all EGUs at these larger power plants. Instead, EPA’s BART Rule and the BART Guidelines make clear that in developing the presumptive emission limits, EPA made many design and technological assumptions, and that the presumptive limits may not be BART in every case. As such, the presumption in the BART Rule is not that the presumptive limits will be BART in every case. Rather, the presumption in the BART Rule is more accurately interpreted to be that the controls reflected by the presumptive limits are cost-effective and will result in considerable visibility improvement. EPA’s intent was for these generally cost-effective controls to be used in the State’s BART analysis considering the five factors specified in CAA section 169A(g)(2), and considering the level of control that is currently achievable at the time that the BART analysis is being conducted.

We note the RHR states:

“States, as a general matter, must require owners and operators of greater than 750 MW power plants to meet these BART emission limits. We are establishing these requirements based on the consideration of certain factors discussed below. Although we believe that these requirements are extremely likely to be appropriate for all greater than 750 MW power plants subject to BART, a State may establish different requirements if the State can demonstrate that an alternative determination is justified based on a consideration of the five statutory factors.”⁷

The RHR also states:

“If, upon examination of an individual EGU, a State determines that a different emission limit is appropriate based upon its analysis of the five factors, then the State may apply a more or less stringent limit.”⁸

Therefore, the presumptive emission limits in the BART Guidelines are rebuttable.⁹ The presumptive emission limits apply to power plants with a total generating capacity of 750 MW or greater insofar as these sources are required to adopt emission limits at least as stringent as the presumptive limits, unless after considering the five statutory factors, the State determines that the presumptive emission limits are not appropriate. Moreover, the RHR and BART Guidelines do not exempt states from a five factor BART analysis, and that BART analysis may result in a determination of BART emission limits that are more or less stringent than the presumptive emission limits for subject to BART sources. The RHR states:

“For each source subject to BART, 40 CFR 51.308(e)(1)(ii)(A) requires that States

identify the level of control representing BART after considering the factors set out in CAA section 169A(g), as follows: States must identify the best system of continuous emission control technology for each source subject to BART taking into account the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of visibility improvement that may be expected from available control technology.”¹⁰

As previously stated, the presumptive emission limits apply to power plants with a total generating capacity of 750 MW or greater insofar as these sources are required to adopt emission limits at least as stringent as the presumptive limits, unless after considering the five statutory factors, the State determines that a more or less stringent emission limit is appropriate. Further, EPA is not attempting to establish new, more stringent presumptive BART limits. As a matter of fact, EPA’s proposed rulemaking did not propose to establish particular BART emission limits on any of Arkansas’s subject to BART sources. Instead, EPA’s proposed rulemaking proposed to disapprove the State’s BART limits where the State adopted the NO_x and SO₂ presumptive emission limits without conducting a proper five factor BART analysis, as required by the RHR and the CAA, to determine if an emission limit more or less stringent than the presumptive limits is BART.

EPA disagrees that our approach is not consistent with the RHR and that we must undergo notice and comment rulemaking to follow our application of the presumptive BART limits for large coal-fired EGUs. EPA reiterates that the RHR and the BART Guidelines make clear that the presumptive limits are rebuttable and may not necessarily be the appropriate level of control for all EGUs.¹¹ Therefore, EPA is not required to approve every BART determination that meets the presumptive emission limits, especially when there is no analysis that supports the state’s decision in adopting the presumptive limit instead of a more or less stringent emission limit.

Comment: The BART Rule shows that an alternative analysis is required only when a source cannot meet the presumptive limits (40 CFR part 51, appendix Y, section IV.E.5). As such, only when EGUs cannot meet presumptive NO_x limits using current combustion control technology should other technologies be considered. The plain reading of the BART Rule is

contrary to EPA’s proposal to disapprove the NO_x presumptive emission limits adopted for BART by Arkansas.

Response: Regarding NO_x presumptive emission limits, the BART Rule provides that:

“For coal-fired EGUs greater than 200 MW located at greater than 750 MW power plants and operating without post-combustion controls (*i.e.* Selective Catalytic Reduction or Selective Non-Catalytic Reduction), we have provided presumptive NO_x limits, differentiated by boiler design and type of coal burned. You may determine that an alternative control level is appropriate based on a careful consideration of the statutory factors. For coal-fired EGUs greater than 200 MW located at power plants 750 MW or less in size and operating without post-combustion controls, you should likewise presume that these same levels are cost-effective, unless you determine that an alternative control level is justified based on consideration of the statutory factors.”¹²

The BART Rule does not contain language stating that an alternative analysis is required only when a source cannot meet the presumptive limits. The BART Guidelines provides the following:

“Most EGUs can meet these presumptive NO_x limits through the use of current combustion control technology, *i.e.* the careful control of combustion air and low-NO_x burners. For units that cannot meet these limits using such technologies, you should consider whether advanced combustion control technologies such as rotating opposed fire air should be used to meet these limits.”¹³

The intent of this language is to communicate that EPA believes that the large majority of units can at least meet the presumptive limits at relatively low costs (*i.e.* without post-combustion controls). Because of this, EPA found it appropriate to require EGUs greater than 200 MW located at greater than 750 MW power plants and without post-combustion controls to at least meet the presumptive limit, unless based on an evaluation of the statutory factors the State found a more or less stringent emission limit is appropriate.¹⁴ The language in the BART Guidelines should not be misinterpreted to mean that sources capable of meeting the presumptive limits may forego a BART analysis or that they need not consider post-combustion controls if they can

⁷ 70 FR 39131.

⁸ 70 FR 39132.

⁹ 71 FR 60619.

¹⁰ 70 FR 39158.

¹¹ 71 FR 60619.

¹² 70 FR 39171.

¹³ Appendix Y to Part 51, section IV.E.5.

¹⁴ 70 FR 39132.

meet the NO_x presumptive limits with combustion controls. States have a duty to evaluate the five statutory factors,¹⁵ and should consider the level of control that is currently achievable at the time the BART analysis is conducted.¹⁶

Comment: The preamble discussion of the BART Rule shows that the presumptive BART limits were intended to establish a presumptively acceptable BART determination for large EGUs. The preamble to the proposed May 5, 2004, and final July 5, 2005, BART Rule demonstrate the clear intent that the presumptive limits in the BART Rule are BART. In its proposed disapproval of the Arkansas RH SIP, EPA ignores this. Nothing in the BART Rule or the preamble to the rule requires that a source achieve a more stringent emission rate if the emission controls allow the source to meet the presumptive emission limits. Section 169A(g) of the CAA requires a balancing of the five statutory factors when a State is determining BART. The preamble to the BART Rule describes the presumptive limits as reasonable, cost-effective, extremely likely to be appropriate and likely to result in a significant degree of visibility improvement. The term “presumptive minimum” or a discussion of controls more stringent than the presumptive limits is not found in the BART Rule.

Response: The EPA disagrees that the presumptive BART limits in the BART Rule were intended to establish BART in every case, as nothing on the record states that the presumptive limits represent the “best available retrofit controls” for all EGUs at these large power plants. On the contrary, EPA’s BART Rule and the BART Guidelines make clear that in developing the presumptive emission limits, EPA made many design and technological assumptions, and that the presumptive limits may not be BART in every case. As such, the presumption in the BART Rule is not that the presumptive limits will be BART in every case. Rather, the presumption in the BART Rule is more accurately interpreted to be that the controls reflected by the presumptive limits are cost-effective and will result in considerable visibility improvement.

EPA’s proposed rulemaking on the Arkansas RH SIP did not propose to require Arkansas’s subject to BART sources to achieve an emission rate more stringent than the presumptive emission limits. Rather, EPA’s proposed rulemaking proposed to disapprove the BART emission limits for subject to

BART sources where the State adopted presumptive emission limits without conducting a proper BART five factor analysis. Only after the State conducts a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, or EPA conducts one in the context of a FIP, will it be demonstrated whether any of Arkansas’s subject to BART sources must achieve an emission rate more (or less) stringent than the presumptive limits.

EPA agrees that section 169A(g) of the CAA requires a balancing of the five statutory factors when a State is determining BART.¹⁷ EPA is also in agreement that the preamble to the BART Rule describes the presumptive limits as reasonable, cost-effective, extremely likely to be appropriate and likely to result in a significant degree of visibility improvement. However, EPA reiterates that the BART Rule does not state that the presumptive limits will represent the “best available retrofit controls” for all EGUs at these larger power plants. EPA agrees that the term “presumptive minimum” or a discussion of controls more stringent than the presumptive limits are not explicitly found in the BART Rule, but the BART Rule does require that affected sources achieve at least the level of control represented by the presumptive limits, unless a proper evaluation of the five statutory factors demonstrates that a different level of control is BART for the affected sources.

Comment: The CAA gives states discretion to make BART determinations, and while a state may choose to establish a limit that is more stringent than the presumptive limit, there is nothing in the BART Rule that would require a state to do so. There are a number of examples in the BART regulations and in the preambles to the proposed and final BART Rule, showing that a state has discretion to choose to demonstrate an alternative control level. The preamble to the BART Rule recognizes that in some limited cases, where the source cannot meet the presumptive limit, a state could demonstrate an alternative level of control. The plain meaning of the BART Rule and the preamble discussion of the presumptive limits supports a reading of the BART Rule that discretion rests with a state, not EPA, as to whether the presumptive limits are reasonable.

Response: The EPA agrees with the comment that the CAA gives states discretion to make BART determinations, and that there are examples in the BART regulations and

in the preambles to the proposed and final BART Rule showing that a state has discretion to choose an alternative control level after considering the five statutory factors. However, section 169A(g) of the CAA requires States to consider these statutory factors in determining BART for affected sources.¹⁸ If a proper evaluation of the five statutory factors demonstrates that an emission limit more or less stringent than the presumptive limit is BART for the subject to BART source in question, then the State must require the source to comply with such emission limit. EPA agrees that states have considerable discretion in making BART determinations, but if the State has not conducted a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, the State cannot determine that the presumptive limits are the “best available retrofit controls” for Arkansas’s affected sources.

Comment: The EPA proposes to reject Arkansas’s BART determinations that rely on the presumptive BART limits codified in EPA’s own BART Guidelines, arguing that states are required to perform a case-by-case BART analysis in every instance and that they can never rely on the presumptive limits (76 FR 64201). The BART rules state that the presumptive limits should be adopted unless the state BART-determining authority determines that an alternative control level is justified based on a consideration of the statutory factors (70 FR 39171). Given the assessment EPA undertook to determine the presumptive BART limits and that EPA has determined in a formally codified rule that they are likely to be suitable as BART limits in nearly every circumstance to which they apply—except to the extent states make a determination otherwise in a particular case—states properly have discretion to adopt the presumptive limits. The determination as to whether the presumptive limits should or should not apply is one that is well within the discretion of the state. There is little reason for EPA to have established the presumptive BART limits if states cannot rely on them. If EPA requires a case-by-case analysis for every facility to repeatedly test the assumptions underlying the presumptive limits, this would result in a senseless approach that would vitiate the establishment of the presumptive limits. This would be contrary to EPA’s own nationally applicable regulations developed as a product of notice-and-comment

¹⁵ See 40 CFR 51.308(e)(1)(ii)(A) and 42 U.S.C. 7491(g)(2).

¹⁶ 70 FR 39171.

¹⁷ 42 U.S.C. 7491(g)(2).

¹⁸ 42 U.S.C. 7491(g)(2).

rulemaking. If a specific assessment is required in every case, there is no reason to have a presumptive limit in the first place. Regulations, like statutes, should not be interpreted in a manner that is more stringent than the plain language requires. Where there is no clear and compelling evidence that presumptive limits cannot be BART for a given source, EPA should accept state BART determinations that rely on the presumptive limits.

Response: The EPA agrees that the State has considerable discretion in making BART determinations, but if the State has not conducted a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, the State cannot determine that the presumptive limits are the “best available retrofit controls” for Arkansas’s affected sources. With regard to the comment that there is little reason for EPA to have established presumptive emission limits if states cannot rely on them, EPA notes that the purpose of the presumptive limits in the BART Guidelines was to identify controls that the Agency considered to be generally cost-effective across all affected units. Because EPA’s extensive analysis found that these controls are generally cost-effective across all affected units and were anticipated to result in a substantial degree of visibility improvement, EPA concluded that such units should at least meet the presumptive limits. Presumptive limits, thus, rather than being senseless, provide a starting point for a source specific analysis.

We agree that regulations, like statutes, should not be interpreted in a manner that is more stringent than the plain language. However, we do not agree that our application of the presumptive limit is more stringent than what is required under the CAA and the RHR. Rather, our application of the presumptive limit is in keeping with the plain language of the CAA and the RHR. Under the RHR, presumptive limits were promulgated to provide a path for states to follow when analyzing BART for particular EGUs. The BART Rule has presumptive limits that act as a starting point for the establishment of BART emission limits unless the state’s analysis indicates that an emission limit more or less stringent than the presumptive limit is required. Please see our response to other comments for our discussion of the requirements of the CAA visibility program and the RHR.

EPA disagrees that we should accept state BART determinations that rely on the presumptive limits in every case as long as there is no clear and compelling

evidence that presumptive emission limits cannot be BART for a given source. There is no language indicating this in the CAA, the RHR, or the BART Guidelines. On the contrary, EPA’s BART Rule and the BART Guidelines make clear that in developing the presumptive emission limits, EPA made many design and technological assumptions, and that the presumptive limits may not be BART in every case. EPA’s intent was for the presumptive limits to be used in the State’s BART analysis considering the five factors specified in CAA section 169A(g)(2), and considering the level of control that is currently achievable at the time that the BART analysis is being conducted.

Comment: The intent of the RHR was to gain reasonable progress in visibility improvements in Class I areas, with the ultimate goal being to achieve background levels of visibility by the year 2064. The BART Guidelines developed presumptive BART emission limits that are cost-effective and capable of meeting reasonable progress. ADEQ followed EPA’s BART Guidelines in establishing presumptive limits as BART for the AEP Flint Creek Boiler No. 1 and Entergy White Bluff Units 1 and 2. In its proposed rule, EPA ignores its own guidance to utilize presumptive limits and proposes to go beyond the cost-effective presumptive limits at Arkansas’s EGUs in the near term and to essentially perform a BACT analysis for these units, as per EPA’s PSD regulations. Going beyond the presumptive limits denies the cost-effectiveness afforded by the presumptive limits and places an unnecessary burden on Arkansas electricity ratepayers. EPA’s approach is beyond what is required to comply with the RHR, as requiring standards more stringent than EPA’s own presumptive limits is unnecessary in order to demonstrate reasonable progress. Implementing the presumptive limits as BART meets the intent of the RHR and EPA should accept ADEQ’s proposed BART requirements for units subject to presumptive limits.

Response: With regard to the comment that the BART Guidelines developed presumptive emission limits that are cost-effective and capable of meeting reasonable progress, EPA notes that the RHR states the following concerning SO₂ and NO_x presumptive limits: “Based on our analysis of emissions from power plants, we believe that applying these highly cost-effective controls at the large power plants covered by the guidelines would result in significant improvements in visibility and help to ensure reasonable

progress toward the national visibility goal.”¹⁹

The comment appears to suggest that a state’s adoption of the presumptive limits will result in achieving reasonable progress. The EPA notes that the RHR stated that applying the highly cost-effective controls reflected by the presumptive limits would result in significant visibility improvement that would help to ensure reasonable progress, not that it would necessarily ensure reasonable progress.

Furthermore, for a state to achieve reasonable progress during the first implementation period, it must also look at point sources beyond those that are subject to BART as well as at non-point sources and determine, based on consideration of the four statutory factors under 40 CFR 51.308(d)(1)(i), whether it is reasonable to require these sources to install additional pollution controls. Therefore, even if a state satisfies the BART requirements, satisfaction of the reasonable progress requirements cannot be met by complying with BART requirements alone. In addition, the EPA notes that the BART Guidelines make clear that the presumptive limits may not be appropriate for all affected units.^{20,21,22}

The EPA is not ignoring its own guidance to utilize presumptive limits, as the BART Rule does not suggest the presumptive limits should be viewed as establishing a safe harbor from more stringent regulation under the BART provisions. The EPA’s proposed rulemaking did not propose particular emission limits more stringent than the presumptive limits for Arkansas EGUs. Instead, the EPA’s proposed rulemaking stated that Arkansas must conduct a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, before determining whether the presumptive emission limits are the “best available retrofit controls” for affected units. Therefore, the EPA does not believe that requiring the State to conduct a proper evaluation of the five statutory factors places an unnecessary burden on Arkansas electricity ratepayers.

The EPA disagrees with the comment that EPA is requiring Arkansas to perform a PSD BACT analysis for affected EGUs. The EPA notes the comment is not specific in terms of explaining what aspect of our proposed rulemaking led to the belief that EPA is requiring a PSD BACT analysis for

¹⁹ 70 FR 39131.

²⁰ 70 FR 39131.

²¹ 70 FR 39132.

²² 71 FR 60619.

affected EGUs. However, the proposed BART Rule did note that the process for a BART analysis is very similar to the BACT review as described in the New Source Review Workshop Manual (Draft, October 1990).²³ The proposed BART Rule also explained that although very similar in process, BART reviews differ in many respects from the BACT review. The proposed BART Rule explained these differences as follows:

“First, because all BART reviews apply to existing sources, the available controls and the impacts of those controls may differ from source to source. Second, the CAA requires you to take slightly different factors into account in determining BART and BACT * * * Because of the differences in terminology, the BACT review process tends to encompass a broader range of factors * * * Finally, for the BART analysis, there is no *minimum level of control* required, while any BACT emission limitation must be at least as stringent as any NSPS that applies to the source.”²⁴

Because of the similarities in the two processes, it is understandable that there may be some misunderstanding regarding our proposed rulemaking to mean that EPA is requiring subject to BART sources to conduct a PSD BACT analysis. Our statement that subject to BART sources must consider the “most stringent option (*i.e.* maximum level of control each technology is capable of achieving) as well as a reasonable set of options for analysis,”²⁵ may have been misinterpreted to mean that we are requiring a PSD BACT analysis. We are not requiring a PSD BACT analysis. As explained in our proposed rulemaking, the BART Guidelines provide that in identifying all options, you must identify the most stringent option (*i.e.* maximum level of control each technology is capable of achieving) as well as a reasonable set of options for analysis.²⁶ The RHR also provides that in establishing source specific BART emission limits, the State should identify and consider in the BART analysis the maximum level of emission reduction that has been achieved in other recent retrofits at existing sources in the source category.²⁷ Furthermore, the BART Guidelines state that “[t]echnologies required as BACT or LAER are available for BART purposes.”²⁸ The guidelines instruct:

“You are expected to identify potentially applicable retrofit control technologies that represent the full range of demonstrated alternatives. Examples of general information sources are to consider include: The EPA’s Clean Air Technology center, which includes the RACT/BACT/LAER Clearinghouse (RBLC) * * *²⁹ Our rulemaking is consistent with the RHR and the BART Rule, and does not require Arkansas’s subject to BART sources to conduct a PSD BACT analysis.

The EPA disagrees with the comment that EPA’s approach in our proposed rulemaking for the Arkansas RH SIP is beyond what is required to comply with the RHR and that requiring standards more stringent than EPA’s own presumptive limits is unnecessary in order to demonstrate reasonable progress. As already explained elsewhere in our response to other comments, EPA’s rulemaking on the Arkansas RH SIP is not requiring Arkansas affected sources to meet standards more stringent than the presumptive emission limits. Arkansas must conduct a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, before determining whether the presumptive emission limits are the “best available retrofit controls” for affected units. Furthermore, 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA require that states consider the five statutory factors when making BART determinations, and the State cannot determine whether or not emission limits more stringent than the presumptive emission limits are necessary to demonstrate reasonable progress when a proper evaluation of the five statutory factors has not been conducted.

Comment: Appendix Y is very clear that when it comes to presumptive BART NO_x emissions limits for qualifying EGUs, Arkansas must require these EGUs to meet the presumptive BART emissions limits in Appendix Y. Not only does Arkansas have broad discretion to apply presumptive NO_x limits, but Appendix Y actually requires this. Arkansas followed this approach in its RH SIP. In its proposed rule, EPA now claims that the presumptive limits are something completely different than the straightforward directive contained in the Code of Federal Regulations, claiming that they are the starting point in a BART determination and that sources must “at least” meet these emission limits. Using the word “at

least” implies that presumptive limits constitute a minimally acceptable degree of control that would constitute BART. Nothing in the CAA, RHR, or Appendix Y ever states or implies this. EPA also stated in its proposal for the Arkansas RH SIP that “nothing on the record would support the conclusion that the presumptive limits represent ‘best available retrofit controls’ for all EGUs at these large power plants” (76 FR 64201). EPA is attempting to avoid the broad statements it previously made regarding the applicability of the “presumptive BART” NO_x emissions limits. EPA’s statements in previous rulemakings demonstrate that in almost all cases, the presumptive BART limits should apply, and the only instance when they should not apply is to atypical instances when a source is able to show through a five factor test that it is not able to meet the presumptive emission rates, even if the expected control technology were installed. EPA’s proposal for the Arkansas RH SIP also incorrectly claims that in Appendix Y, EPA simply concluded that it could not reach a generalized conclusion as to the appropriateness of more stringent controls for categories of EGUs (76 FR 64201). EPA’s failure to recognize the proper role of presumptive BART NO_x emissions limits is arbitrary and capricious because EPA acted in excess of statutory jurisdiction, authority, or limitations (*North Carolina v. EPA*, 531 F.3d 896, 906, DC Circuit 2008).

Response: The EPA disagrees that Appendix Y (*i.e.* the BART Guidelines) makes the presumptive emission limits mandatory for all qualifying EGUs. The comment that states have broad discretion to apply presumptive NO_x limits contradicts the comment that the BART Guidelines require states to adopt the presumptive limits. The BART Guidelines make clear that the presumptive emission limits are rebuttable.³⁰ Referring to the NO_x presumptive emission limits, the BART Rule states that the presumptive emission limits may not be appropriate for all sources, as they are “presumptions only.”³¹ The presumptive emission limits apply to power plants with a total generating capacity of 750 MW or greater insofar as these sources are required to adopt emission limits at least as stringent as the presumptive limits, unless after considering the five statutory factors, the State determines that the presumptive emission limits are not appropriate. Moreover, the CAA, the RHR, and the BART Guidelines do not

²³ 69 FR 25218.

²⁴ 69 FR 25218.

²⁵ See our proposed rulemaking for the Arkansas RH SIP (76 FR 64186).

²⁶ See Appendix Y to Part 51.

²⁷ 64 FR 35740.

²⁸ 70 FR 39,164.

²⁹ 70 FR 39,164.

³⁰ 71 FR 60619.

³¹ 70 FR 39134.

exempt the State from a five factor BART analysis or even provide the State with discretion to determine whether or not to conduct an analysis of the five statutory factors when the State has adopted the presumptive emission limits.

We are not claiming that the presumptive emission limits are anything else than what is contained in the RHR and the BART Guidelines. With regard to the comment that nothing in the CAA, RHR, or Appendix Y ever states or implies that the presumptive limits are the starting point in a BART determination, EPA notes that there is no mention of the presumptive emission limits in the CAA. Further, in response to comments on the proposed BART Guidelines that the presumptive SO₂ EGU limits should be more stringent, EPA justified its decision not to establish more stringent SO₂ presumptive limits, by explaining in the preamble to the final BART Rule that “[i]f, upon examination of an individual EGU, a State determines that a different emission limit is appropriate based upon its analysis of the five factors, then the State may apply a more or less stringent limit.”³² Similar statements are made elsewhere in the BART Rule. Clearly, the RHR and the BART Rule do not suggest the presumptive limits should be viewed as establishing a safe harbor from more stringent regulation under the BART provisions. EPA stands by the statement made in its proposed rulemaking on the Arkansas RH SIP that “nothing on the record would support the conclusion that the presumptive limits represent ‘best available retrofit controls’ for all EGUs at these power plants.”³³ EPA does not find this statement to be inconsistent with the RHR and BART Guidelines. As already explained above, EPA is clear in the BART Rule and the BART Guidelines that the presumptive limits may not be appropriate for every EGU.³⁴

EPA disagrees with the comment that the only instance when the presumptive emission limits should not apply is to atypical instances when a source is able to show through a five factor test that it is not able to meet the presumptive emission rates. The comment suggests that for power plants with a total generating power capacity greater than 750 MW, the RHR and the BART Rule provide that an evaluation of the five statutory factors for these units is merely a vehicle for justifying adoption of a BART emission limit less stringent

than the presumptive limit. This is clearly not the intent of the RH regulations and section 169A(g) of the CAA.³⁵ As explained above, in response to comments on the proposed BART Guidelines that the presumptive SO₂ EGU limits should be more stringent, EPA justified its decision not to establish more stringent presumptive emission limits by explaining that after considering the five statutory factors, States may find that a more or less stringent emission limit is BART.³⁶ Similar statements are made elsewhere in the BART Rule. The BART Rule states the following:

“We recognize that while some scrubber units currently achieve reductions greater than 95 percent, not all units can do so. The individual units that currently achieve greater than 95 percent control efficiencies do not necessarily represent the wide range of unit types across the universe of BART-eligible sources * * * In addition, we note that the presumption does not limit the States’ ability to consider whether a different level of control is appropriate in a particular case.”³⁷

Further, in the BART Rule, EPA justified its decision not to establish presumptive NO_x limits based on the use of selective catalytic reduction (SCR) for units other than cyclone units, stating the following:

“For other units, we are not establishing presumptive limits based on the installation of SCR. Although States may in specific cases find that the use of SCR is appropriate, we have not determined that SCR is generally cost-effective for BART across unit types.”³⁸

Therefore, EPA stands by its statement in the proposed rulemaking on the Arkansas RH SIP that in the BART Guidelines, EPA simply concluded that it could not reach a generalized conclusion as to the appropriateness of more stringent controls for categories of EGUs.

The EPA’s application of presumptive BART NO_x emissions limits to Arkansas’s RH BART determinations is not arbitrary and capricious, because EPA is acting in accordance with the CAA and the RHR. The EPA’s disapproval of Arkansas’s BART determinations that adopted the presumptive BART SO₂ and NO_x emission limits without conducting a proper five factor BART analysis is a proper exercise of EPA’s authority under the Act. Congress crafted the CAA

to provide for states to take the lead in developing implementation plans consistent with the laws and regulations, but balanced that decision by requiring EPA to review the plans to determine whether a SIP meets the requirements of the CAA. The EPA’s review of SIPs is not limited to support and cooperation in implementation of a state SIP nor is it to simply approve state decisions. When reviewing state SIPs, EPA must consider not only whether the state considered the appropriate factors in making decisions but acted reasonably in doing so. In undertaking such a review, EPA does not usurp the state’s authority but ensures that such authority is reasonably exercised. EPA has reviewed Arkansas’s BART determinations for NO_x that adopted the presumptive limits without conducting a proper five factor BART analysis, and we find that Arkansas did not follow the requirements of the RHR; that is the basis for our disapproval of those BART determinations. For a more detailed explanation of state and EPA authority in the development and approval of RH SIPs as well as of how EPA’s action does not encroach on state authority and is consistent with the CAA and the RHR, please see our response to comments under section III.F, titled “*Comments on Legal Issues*,” of this final rulemaking.

Comment: The EPA’s treatment of presumptive limits in its proposed partial disapproval of AR RH SIP is inconsistent with EPA’s BART Guidelines. EPA departed from the BART Guidelines and made the use of presumptive limits meaningless when it disapproved BART determinations for Entergy’s Lake Catherine Unit 4 and White Bluff Units 1 and 2 that adopt the presumptive limits. When EPA departs from the BART Guidelines, it is going beyond the scope of the CAA’s visibility protection program. For certain categories of EGUs, EPA’s BART Guidelines provide presumptive limits that the states rely upon in making BART determinations. The presumptive limit framework outlined in the BART Guidelines is intended to function like presumptive evidence in litigation where the evidence is received and treated as sufficient until it is discredited. Presumptive limits should represent BART until and unless they are rebutted. This is not how EPA approached presumptive limits in reviewing the Arkansas RH SIP. The BART Guidelines provide that if a state wishes to do a case-by-case BART then there are presumptive levels of controls for SO₂ and NO_x that can be adopted for certain EGUs that the state finds are

³⁵ See 40 CFR 51.308(e)(1)(ii)(A) and 42 U.S.C. 7491(g)(2).

³⁶ 70 FR 39132.

³⁷ 70 FR 39132.

³⁸ 70 FR 39136.

³² 70 FR 39132.

³³ 76 FR 64201.

³⁴ 70 FR 39131, 39132, and 39134.

subject to BART. This is what Arkansas did and should be approved by EPA.

Response: The EPA disagrees that the EPA's treatment of the presumptive limits in its proposed rulemaking on the Arkansas RH SIP is inconsistent with EPA's BART Guidelines and made use of the presumptive limits meaningless. EPA notes that Entergy Lake Catherine Unit 4 is currently permitted to burn natural gas and fuel oil. EPA's BART Guidelines do not establish presumptive emission limits for units that burn natural gas and/or fuel oil, therefore the ADEQ did not adopt any presumptive limits for Entergy Lake Catherine Unit 4. With regard to Entergy White Bluff Units 1 and 2, as stated in our proposed rulemaking on the Arkansas RH SIP, the purpose of the presumptive limits in the BART Guidelines was to identify controls that the Agency considered to be generally cost-effective across all affected units. Because EPA's extensive analysis found that these controls are generally cost-effective across all affected units and were anticipated to result in a substantial degree of visibility improvement, EPA concluded that such units should at least meet the presumptive limits, unless a more or less stringent limit is found to be BART after the state considers the five statutory factors. EPA's intent was for these generally cost-effective controls to be used in the State's BART analysis considering the five factors specified in CAA section 169A(g)(2), and considering the level of control that is currently achievable at the time that the BART analysis is being conducted. Further, 40 CFR 51.308(e)(1)(ii)(A) requires that States identify the level of control representing BART after considering the five statutory factors set out in CAA section 169A(g).³⁹

We disagree that the presumptive limits should represent BART until and unless they are rebutted. We reiterate that nothing on the record states that the presumptive limits represent the "best available retrofit controls" for all EGUs at these large power plants. On the contrary, EPA's BART Rule and the BART Guidelines make clear that in developing the presumptive emission limits, EPA made many design and technological assumptions, and that the presumptive limits may not be BART in every case.

While the BART Guidelines provide that there are presumptive levels of controls for SO₂ and NO_x that can be adopted for certain EGUs that the state finds are subject to BART, this is true only after the state has considered the five statutory factors to determine

whether a more or less stringent emission limit is BART. In the BART Guidelines, EPA noted that the presumptive limits represented current control capabilities at the time the BART Rule was promulgated, and that we expected that scrubber technology would continue to improve and control costs continue to decline.⁴⁰ Therefore, in their evaluation of the five statutory factors, states must consider the level of control that is currently achievable at the time the BART analysis is being conducted.

The presumptive limit framework could be compared to the presumptive evidence in litigation. However, the comment mischaracterizes the role of presumptive evidence in litigation as simply to be received and treated as sufficient until it is discredited. Presumptive evidence is circumstantial evidence that creates belief by showing surrounding circumstances which logically lead to a conclusion of fact. At trial, many forms of evidence are submitted including circumstantial evidence. All forms of evidence that are admitted in court are reviewed and considered before a decision is made. While presumptive evidence may meet the sufficiency requirement for admission in court, this does not mean that it is looked at alone without review of the other admitted evidence. Presumptive evidence does not trump other forms of evidence. It is just a type of evidence that is reviewed in reaching a court decision. Like presumptive evidence, presumptive limits are one line of analysis for reaching a decision. Like presumptive evidence in the court room, presumptive limits are not the only limit that is looked at when performing the five factor BART analysis. Presumptive limits do not preempt states from conducting the BART analysis nor do they preclude the evaluation of other emission limits to help the state reach its BART determination.

Comment: The EPA should approve the Arkansas RH SIP in its entirety and specifically with regards to Arkansas adoption of presumptive limits in its BART determinations. Modeling conducted by Arkansas and CENRAP demonstrates that Arkansas's adoption of the presumptive limits is satisfactory to make reasonable progress toward the national goal by 2018 and ultimately to achieve the national goal prior to 2064.

Response: Presumptive emission limits apply to power plants with a total generating capacity of 750 MW or greater insofar as these sources are required to adopt emission limits at

least as stringent as the presumptive limits, unless after considering the five statutory factors, the State determines that the presumptive emission limits are not appropriate. The RHR and the BART Guidelines make clear that the presumptive limits will not necessarily be the appropriate level of control for all EGUs. Therefore, EPA is not required to approve a state's submitted presumptive emission limits in every instance for every EGU as BART. For the reasons presented in our proposed rulemaking, and as further explained in our response to comments, EPA stands by its partial approval and partial disapproval of the BART determinations in the Arkansas RH SIP.

States are required to satisfy all BART requirements in this first implementation period regardless of whether modeling demonstrates that the state will make reasonable progress by 2018 and meet the national goal by 2064. As described in our proposed rulemaking on the Arkansas RH SIP, we find that in adopting the SO₂ and NO_x presumptive limits for the AEP Flint Creek Boiler No. 1 and Entergy White Bluff Units 1 and 2 without conducting a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, Arkansas did not satisfy all the BART requirements for these subject to BART sources. Furthermore, EPA notes that the CENRAP modeled the projected visibility conditions anticipated at each Class I area in 2018. The CENRAP modeling is based on emissions reductions expected to result from Federal, state, and local control programs that are either currently in effect or with mandated future-year emission reduction schedules that predate 2018. The CENRAP modeling itself did not show that already mandated controls are expected to attain natural visibility conditions by 2064. Rather, the rate of visibility improvement anticipated by the CENRAP modeling in 2018, if sustained, will result in a return to natural visibility prior to 2064. The comment that Arkansas is expected to ultimately achieve the national goal prior to 2064 assumes that the same level of reductions of visibility-impairing pollutants that is expected to occur during the first implementation period ending in 2018 will increasingly occur during each implementation period until the final implementation period ending in 2064. However, there is no guarantee that this will occur. The Arkansas RH SIP addresses implementation of the RHR only up to the end of the first implementation

³⁹ 70 FR 39158.

⁴⁰ 70 FR 39144.

period ending in 2018. Therefore, EPA disagrees that we should approve Arkansas's adoption of the presumptive limits on the basis that modeling demonstrates that the State's adoption of the presumptive limits is satisfactory to make reasonable progress toward the national goal by 2018 and ultimately to achieve the national goal prior to 2064.

Comment: Under the BART Guidelines, presumptive limits were established as a default requirement where the presumption would apply unless the state has persuasive evidence that an alternative determination is justified. According to EPA, the presumptive limits reflect highly cost-effective controls that are extremely likely to be appropriate for all power plants subject to BART but may be deviated from if a state determines that a different emission limit is appropriate based upon its analysis of the five factors. 76 FR 39131–32.

Response: As reflected in our previous responses to similar comments, the proper interpretation of the BART Rule and BART Guidelines is that presumptive limits are the “rebuttable” starting point rather than the “default requirement” in making BART determinations. Referring to the NO_x presumptive emission limits, the BART Rule states that the presumptive emission limits may not be appropriate for all sources, as they are “presumptions only.”⁴¹ EPA notes that presumptive emission limits apply to power plants with a total generating capacity of 750 MW or greater insofar as these sources are required to adopt emission limits at least as stringent as the presumptive limits, unless after considering the five statutory factors, the State determines that the presumptive emission limits are not appropriate for BART.

EPA agrees that the BART Rule and the BART Guidelines provide that presumptive limits reflect controls that the Agency considered to be generally cost-effective across all affected units. Because EPA's extensive analysis found that these controls are generally cost-effective across all affected units and were anticipated to result in a substantial degree of visibility improvement, they may likely be appropriate for all Arkansas power plants subject to BART, but Arkansas must establish different BART emission limits if an evaluation of the five statutory factors reveals that such emission limit is appropriate. However, as discussed in our proposed rulemaking, Arkansas did not conduct a proper evaluation of the five statutory

factors for its sources. Therefore, it is not possible to know whether the presumptive emission limits or an alternative emission limit is BART for the affected sources.

Comment: The approach in EPA's proposed rule to presumptive limits as a starting point is inconsistent with the BART Guidelines. The Guidelines do not state that presumptive limits are a starting point for a BART determination, but instead establish a presumption in favor of the presumptive limits. Presumptive limits serve no purpose if their adoption does not presume compliance with the applicable regulations. The EPA's inconsistent application of its own guidelines fosters regulatory uncertainty among the EGU industry.

Response: The EPA disagrees that our approach to presumptive limits as a starting point in EPA's proposed rule is inconsistent with the BART Guidelines and that the presumptive limits serve no purpose if their adoption does not presume compliance with the regulations. As stated in our proposed rulemaking on the Arkansas RH SIP, the purpose of the presumptive limits in the BART Guidelines was to identify controls that the Agency considered to be generally cost-effective across all affected units. Because EPA's extensive analysis found that these controls are generally cost-effective across all affected units and were anticipated to result in a substantial degree of visibility improvement, EPA concluded that such units should at least meet the presumptive limits. EPA's intent was for these generally cost-effective controls to be used in the State's BART analysis considering the five factors specified in CAA section 169A(g)(2), and considering the level of control that is currently achievable at the time that the BART analysis is being conducted. The BART Rule makes clear that the presumptive emission limits in the BART Guidelines are rebuttable.⁴² Referring to the NO_x presumptive emission limits, the BART Rule states that the presumptive emission limits may not be appropriate for all sources, as they are “presumptions only.”⁴³ Further, in response to comments on the proposed BART Guidelines that the presumptive SO₂ EGU limits should be more stringent, EPA explained in the preamble to the final BART Rule that “[i]f, upon examination of an individual EGU, a State determines that a different emission limit is appropriate based upon its analysis of the five factors, then the State may apply a more or less

stringent limit.”⁴⁴ Similar statements are made elsewhere in the BART Rule. It is important that, in analyzing the technology, states take into account the most stringent emission control level that the technology is capable of achieving. States should be sure to consider the level of control that is currently achievable at the time that the BART analysis is being conducted. Thus, the BART Guidelines require that potential emission limits that are more stringent than the presumptive limits must be examined as part of the BART determination.

Comment: The EPA's proposed disapproval of Arkansas's adoption of presumptive limits for some of its BART determinations is inconsistent with EPA's acceptance of presumptive limits in other states' BART determinations such as Kansas, North Dakota, and Oklahoma. The EPA has not identified a rationale or reason for this inconsistency. The lack of consistency in its analyses for states' RH SIPs is a cause of concern. Applying different standards and/or rendering different decisions on similar SIPs when there is no basis for differentiation is by definition arbitrary and capricious, and therefore invalid. Instead of arbitrarily applying different standards, EPA should use its own guidelines to implement the RH program on a consistent, cost-effective basis. For Kansas, the EPA approved the Kansas RH SIP including the adoption of SO₂ and NO_x presumptive limits for non-oil or gas-fired units similar in design and capacity to Arkansas's units. The Kansas RH SIP also included language, which EPA approved, that presumptive limits are cost effective in most cases, and if a facility proposed controls at or beyond the presumptive limits, it need not take into account the remaining statutory factors as BART will be met. In addition, the SIP also stated that allowing facilities to use presumptive limits to meet BART is within its authority under the RH program. This contradicts the EPA's proposed disapproval of the Arkansas RH SIP where EPA states that presumptive limits are the starting point in a BART determination for these units. For North Dakota, EPA proposed to approve the BART determinations that SO₂ and NO_x presumptive limits is BART for facilities that are similar in use of fuel and capacity to Arkansas's units. For Oklahoma, the EPA has proposed to approve those portions of Oklahoma's SIP which adopt the presumptive emissions limits for NO_x set forth in the Guidelines as BART for the subject

⁴¹ 70 FR 39134.

⁴² 71 FR 60619.

⁴³ 70 FR 39134.

⁴⁴ 70 FR 39132.

units. This contradicts EPA's approach for this proposed rule since EPA is proposing to disapprove the NO_x BART presumptive limit for Arkansas's units even though the units are similar in design and capacity to the subject units in Oklahoma and Arkansas considered the same BART factors as Oklahoma. EPA's simultaneous proposed approval of other states' SIPs which use presumptive limits in a manner similar to Arkansas and proposed disapproval of those portions of Arkansas's SIP demonstrates that EPA is acting inconsistently and has exceeded its limited authority in implementation of the visibility protection program.

Response: The EPA disagrees that there is an inconsistency between our approach to presumptive limits in our proposed rulemaking on the Arkansas RH SIP and that in our proposed rulemaking on the North Dakota RH SIP and final rulemakings on the Kansas and Oklahoma RH SIPs. Our action on the Arkansas RH SIP is not arbitrary and capricious.

In the Arkansas RH SIP, the State adopted the NO_x and SO₂ presumptive emission limits for BART without conducting any form of BART analysis for AEP Flint Creek Boiler No. 1. For Entergy White Bluff Units 1 and 2, the State conducted a five factor BART analysis for SO₂ and NO_x, which we find does not appropriately consider all five statutory factors at 40 CFR 51.308(e)(1)(ii)(B); as such, EPA proposed to disapprove the State's determination that the presumptive SO₂ and NO_x emission limits are BART for these two units.⁴⁵ As explained in more detail in our proposed rulemaking, the factors that EPA is finding were not appropriately considered in the NO_x and SO₂ BART analyses for White Bluff Units 1 and 2 are the available control technology and the cost and visibility impact of controls beyond the presumptive limits. For NO_x BART, Arkansas evaluated only combustion controls to achieve the NO_x presumptive emission limit. For SO₂ BART, Arkansas evaluated both combustion and post-combustion controls, but evaluated the cost and visibility impact of operating post-combustion controls (*i.e.* wet and dry scrubbers) to achieve the SO₂ presumptive emission limit only. As explained in our proposed rulemaking, Arkansas did not evaluate NO_x and SO₂ controls to achieve emission limits beyond the presumptive limits, and we believe it is very likely that a proper five factor analysis would demonstrate that controls that achieve NO_x and SO₂

emission limits more stringent than presumptive limits are cost-effective for White Bluff Units 1 and 2. Therefore, we are disapproving the SO₂ and NO_x presumptive emission limits for Flint Creek Boiler No. 1 and White Bluff Units 1 and 2 not because the State adopted the presumptive emission limits, but rather because the State did not conduct a proper evaluation of the five statutory factors when making these BART determinations.

In contrast, in our evaluation of the Oklahoma RH SIP, EPA found that Oklahoma conducted proper BART analyses before determining that NO_x presumptive limits are BART for some sources. In our final rulemaking action on the Oklahoma RH SIP, EPA approved the State's NO_x BART determinations for Units 1 and 2 at OG&E Sooner; Units 4 and 5 at OG&E Muskogee; and Units 3 and 4 at AEP/PSO Northeastern. For each of these sources, the State made its NO_x BART determination based on an evaluation of a number of controls, including post-combustion controls operated to achieve an emission limit beyond the NO_x presumptive limit. Based on an evaluation of the five statutory factors, Oklahoma determined that the NO_x presumptive limit is BART for these sources. In our action on the Oklahoma RH SIP, we approved the NO_x presumptive limits as BART for these sources because Oklahoma's NO_x BART analyses were appropriate and met the requirements of the RHR and CAA.

In our proposed approval of the Kansas RH SIP, we noted that each of Kansas's subject to BART sources are EGUs greater than 200 MW in capacity and located at power plants with a total capacity greater than 750 MW, which are units for which EPA established presumptive BART emission limits.⁴⁶ Consistent with our proposed rulemaking on the Arkansas RH SIP, in our proposed rulemaking for Kansas, we stated that such units must as a general matter at least meet the presumptive emission limits as described in the BART Guidelines, unless an evaluation of the five statutory factors demonstrated that an alternative level of control was appropriate.⁴⁷ The State of Kansas performed an evaluation of the five statutory factors for each source subject to BART, evaluating the costs and visibility impact of both combustion and post-combustion controls.⁴⁸ In fact, the Kansas BART evaluation for some units resulted in the adoption of BART emission limits more

stringent than the NO_x and SO₂ presumptive limits.⁴⁹ Based on an evaluation of the five factors, the State of Kansas determined, and EPA proposed to approve the NO_x and SO₂ presumptive limits for some units. During the public comment period for our proposed approval of the Kansas RH SIP, we received comments stating that the Kansas RH SIP was incomplete and insufficient because the State did not evaluate the cost and visibility improvement resulting from the most stringent emission limit capable of being achieved by the various SO₂ and NO_x controls considered for these units. Subsequently, the State provided EPA information on the cost and visibility impact of operating the various NO_x and SO₂ control technologies considered by the State at an emission rate more stringent than the presumptive limits. The information provided by the State demonstrated that operation of these controls to achieve an emission limit more stringent than the presumptive limit would result in high costs and very low visibility improvement, and thereby not be cost-effective. Based upon its evaluation of the State's five factor supplemented analysis, EPA agreed with Kansas that it is reasonable to determine that the cost of further control beyond presumptive limits is not warranted and finalized its proposed approval of the Kansas RH SIP without changes.⁵⁰ In particular, for the Westar Jeffrey Units 1 and 2, EPA agreed with the State of Kansas that given the very low visibility improvement modeled for the additional SO₂ control (*i.e.* operating a scrubber at a control efficiency that would achieve an emission rate of 0.05 lb/MMBtu instead of the presumptive emission rate of 0.15 lb/MMBtu), it is not reasonable to establish an SO₂ emission limit more stringent than the presumptive limit. Arkansas has not provided EPA with information demonstrating that operation of SO₂ and NO_x controls to achieve an emission limit more stringent than the presumptive limits is not cost-effective for Flint Creek Boiler No. 1 and White Bluff Units 1 and 2. Since controls capable of achieving a more stringent emission limit than the NO_x and SO₂ presumptive limits have been found to be technically feasible and cost-effective at similar sources, the State must evaluate these controls in its BART analysis. Therefore, EPA's final approval of the NO_x and SO₂ presumptive limits for some EGUs in Kansas is not inconsistent with our proposed disapproval of the NO_x and

⁴⁶ 76 FR 52616.

⁴⁷ 76 FR 52616.

⁴⁸ 76 FR 52617.

⁴⁹ 76 FR 80754.

⁵⁰ 76 FR 80754.

⁴⁵ 76 FR 64206.

SO₂ presumptive limits for White Bluff Units 1 and 2 and Flint Creek Boiler No. 1. With regard to the comment that the Kansas RH SIP included language that that if a subject facility proposes controls at or beyond the presumptive limits then BART will be met and that allowing facilities to use presumptive limits to meet BART is within the State's authority under the RH program, EPA notes that although the Kansas RH SIP did include such language, EPA did not approve or propose to approve the BART determinations by Kansas based on such reasoning. EPA notes that Kansas supplemented its BART evaluation by providing additional information on the costs and visibility impacts associated with various NO_x and SO₂ control technologies. This additional information constituted an important part of the basis for EPA's approval of the Kansas RH SIP. As a general matter, in evaluating a SIP submittal, EPA considers the state's rationale for its determinations but reaches a decision as to whether a SIP meets the relevant statutory and regulatory requirements based on consideration of other factors as well. EPA's approval of a SIP does not mean that EPA has determined that every statement or analysis provided by the state was appropriate or reasonable or that EPA agrees with the state's interpretation of the relevant legal requirements. Furthermore, the preamble to our proposed rulemaking on the Kansas RH SIP states that as presumptive units, each of Kansas' five subject to BART units "must as a general matter at least meet the presumptive emission limits as described in the BART Guidelines."⁵¹ This is consistent with statements made in the preamble to our proposed rulemaking on the Arkansas RH SIP. EPA believes that our approach to presumptive limits in our final action on the Kansas RH SIP is consistent with that in our action on the Arkansas RH SIP.

While the SO₂ controls evaluated by North Dakota for the Great River Energy Coal Creek Station Units 1 and 2 are not expected to achieve an emission limit more stringent than the SO₂ presumptive emission limit, EPA disagrees that our approach to presumptive limits in our proposed action on North Dakota's BART determinations for the Coal Creek Station Units 1 and 2 is inconsistent with that in our proposed action on Arkansas's BART determinations for Flint Creek Boiler 1 and White Bluff Units 1 and 2. First of all, the SO₂

presumptive limits do not apply to North Dakota's Coal Creek Station Units 1 and 2, as the presumptive limits do not apply to coal-fired units with existing SO₂ post-combustion controls.⁵² The Coal Creek Station Units 1 and 2 have existing wet scrubbers, and as such, the cost effectiveness (on a dollar/tons reduced basis) of additional controls and/or upgrades to the existing scrubbers may not be as cost-effective as the installation and operation of a new scrubber would be at a unit with no existing post-combustion controls (as is the case with Arkansas's Flint Creek Boiler No. 1 and White Bluff Units 1 and 2). In addition, we note that the Coal Creek Station Units 1 and 2 burn pulverized lignite coal, while Flint Creek Boiler No. 1 burns low sulfur western coal (*i.e.* sub-bituminous coal) and White Bluff Units 1 and 2 burn sub-bituminous and bituminous coal. Lignite coal generally has higher sulfur content than sub-bituminous and bituminous coal, and therefore, its combustion produces a greater amount of SO₂ emissions. As such, the operation of a given control technology, in this case a wet scrubber, at a lignite firing unit (such as North Dakota's Coal Creek Station Units 1 and 2) may not necessarily achieve an emission limit as stringent as that capable of being achieved at a unit burning sub-bituminous and/or bituminous coal (such as Arkansas's Flint Creek Boiler No. 1 and White Bluff Units 1 and 2). In light of the above, we believe that our approach to presumptive limits in our proposed action on the North Dakota RH SIP is not inconsistent with that in our proposed action on the Arkansas RH SIP.

As articulated in our proposed rulemaking on the North Dakota RH SIP, the Great River Energy Stanton Unit 1 is located at a 188 MW power plant. Therefore, presumptive NO_x and SO₂ emission limits do not apply to Stanton Unit 1. As shown in Tables 7 and 8 of our proposed rulemaking on the North Dakota RH SIP, in its five factor analyses for SO₂ for this unit (for both the lignite and the Powder River Basin coal firing scenarios), North Dakota considered a number of post-combustion control options, several of which were expected to achieve an emission limit more stringent than the SO₂ presumptive limit, including one of which would

⁵² The BART Guidelines provide that States must require 750 MW power plants to meet specific control levels for SO₂ of either 95% control or 0.15 lb/MMBtu, for each EGU greater than 200 MW that is currently uncontrolled unless you determine that an alternative control level is justified based on a careful consideration of the statutory factors (Appendix Y to Part 51, section IV.E.4.).

achieve 95% control efficiency.⁵³ Based on its consideration of the five statutory factors, North Dakota determined that an SO₂ emission limit of 0.24 lb/MMBtu for lignite burning and an emission limit of 0.16 lb/MMBtu for Powder River Basin coal burning is BART for SO₂. For NO_x for Stanton Unit 1, North Dakota evaluated both combustion and post-combustion controls for both the lignite and Powder River Basin Coal burning scenarios. In its evaluation of controls, North Dakota considered the operation of selective non-catalytic reduction (SNCR) to achieve a control efficiency of 90% for lignite burning and 88% for Powder River Basin coal burning, which corresponds to an emission limit beyond the NO_x presumptive limit. Based on its consideration of the five statutory factors, North Dakota determined that a NO_x emission limit of 0.29 lb/MMBtu for lignite burning and 0.23 lb/MMBtu for Powder River Basin coal burning is BART for NO_x. In our proposal, we did not identify any flaws with North Dakota's BART analyses for NO_x and SO₂ for this unit, and proposed to approve North Dakota's BART determinations. EPA's approach to presumptive limits in our proposed action on North Dakota's BART determinations for the Great River Energy Stanton Unit 1 is not inconsistent with that in our proposed action on the Arkansas BART determinations for White Bluff Unit 1 and 2 and Flint Creek Boiler No. 1 because North Dakota considered controls beyond the NO_x and SO₂ presumptive emission limits. This was not done by Arkansas in the NO_x and SO₂ BART analyses for White Bluff Units 1 and 2 and Flint Creek Boiler No. 1. Furthermore, presumptive NO_x and SO₂ emission limits do not apply to Stanton Unit 1.

North Dakota's Minnkota Power Cooperative Milton R. Young Station Unit 1 has no existing SO₂ post-combustion controls, while Unit 2 has an existing wet scrubber for control of SO₂. As such, the SO₂ presumptive limits don't apply to Unit 2. As shown in Table 12 of our proposed rulemaking on the North Dakota RH SIP, for Milton R. Young Station Unit 1, North Dakota considered post combustion controls that were expected to achieve 95% control efficiency, which corresponds to an emission limit more stringent than the SO₂ presumptive limit.⁵⁴ As shown in Table 13 of our proposed rulemaking on the North Dakota RH SIP, for Milton R. Young Station Unit 2 North Dakota considered upgrades to the existing wet scrubber that were expected to achieve

⁵³ 76 FR 58570, at 58586 and 58587.

⁵⁴ 76 FR 58570, at 58589.

⁵¹ 76 FR 52604, at 52616.

95% control efficiency, which corresponds to an emission limit beyond the SO₂ presumptive limit.⁵⁵ In our proposed rulemaking on the North Dakota RH SIP, we did not identify any flaws with North Dakota's SO₂ BART analysis for these units. In light of the fact that SO₂ presumptive limits don't apply to Milton R. Young Station Unit 2 and that North Dakota evaluated controls to achieve 95% control efficiency for both Units 1 and 2, which corresponds to an emission limit more stringent than the SO₂ presumptive limit, we believe that EPA's approach to presumptive limits in our proposed action on North Dakota's BART determinations for Minnkota Power Cooperative Milton R. Young Station Unit 1 and 2 is not in conflict with that in our proposed action on Arkansas's BART determinations for White Bluff Units 1 and 2 and Flint Creek Boiler No. 1.

While the SO₂ controls evaluated by North Dakota for the Basin Electric Power Cooperative Leland Olds Station Units 1 and 2, which are located at a 656 MW coal fired power plant, are not expected to achieve an emission limit more stringent than the SO₂ presumptive emission limit, EPA disagrees that our approach to presumptive limits in our proposed action on North Dakota's BART determinations for the Leland Olds Station Unit 1 and 2 is inconsistent with that in our proposed action on Arkansas's BART determinations for Flint Creek Boiler No. 1 and White Bluff Units 1 and 2. As with the Great River Energy Stanton Unit 1, the SO₂ and NO_x presumptive limits do not apply to North Dakota's Leland Olds Station Units 1 and 2, as the presumptive limits do not apply to coal fired power plants with a total generating capacity less than 750 MW.⁵⁶ As shown in Table 17 of our proposed rulemaking on the North Dakota RH SIP, for Leland Olds Station Unit 1 North Dakota considered both NO_x combustion and post-combustion controls capable of achieving 80% control efficiency, which corresponds to an emission limit much more stringent than the NO_x presumptive limit.⁵⁷ In our proposed rulemaking on the North Dakota RH SIP, we did not identify any flaws with

North Dakota's BART analysis for NO_x for Unit 1 and proposed to approve North Dakota's determination that BART for NO_x is 0.19 lb/MMBtu for Leland Olds Station Unit 1. EPA's approach to presumptive limits in our proposed action on North Dakota's BART determination for NO_x for the Leland Olds Station Unit 1 is not inconsistent with that in our proposed action on Arkansas's BART determinations for Flint Creek Boiler No. 1 and White Bluff Units 1 and 2 because in its evaluation of controls for NO_x for Unit 1 (for which we did not propose to find any flaws), North Dakota considered controls beyond the NO_x presumptive emission limits. This was not done by Arkansas in the NO_x and SO₂ BART analyses for White Bluff Units 1 and 2 and Flint Creek Boiler No. 1. Furthermore, the NO_x and SO₂ presumptive limits do not apply at the Leland Olds Station Units 1 and 2.

In summary, EPA disagrees that there is an inconsistency between our approach to presumptive limits in our proposed rulemaking on the Arkansas RH SIP and that in our proposed rulemaking on the North Dakota RH SIP and final rulemakings on the Kansas and Oklahoma RH SIPs.

Comment: The process used by the State of Arkansas in adopting the presumptive emission limits set forth in EPA's BART Guidelines as BART for Entergy White Bluff was improper. The record reflects that neither ADEQ nor the APCEC conducted its analysis of the statutory factors required to establish BART, but merely adopted EPA's presumptive limits as proposed by the owners and operators of the Entergy White Bluff Units 1 and 2. The record does not reflect that any analysis was done by ADEQ to determine if the estimated operating cost and the projected cost per deciview (dv) improvement for wet scrubbing control technology for the White Bluff plant were realistic, whether those costs were consistent with the cost assumptions underlying EPA's development of presumptive limits in the BART Guidelines, or whether other options were available to address RH concerns or whether existing control technology at White Bluff was sufficient. Moreover, after Arkansas's RH SIP was adopted by the APCEC, Entergy submitted a revised 2008 BART analysis to ADEQ that reflected a more than 300% increase in the costs of compliance for the White Bluff facility. After this, Entergy filed with the Arkansas Public Service Commission a claim that the RHR compliance costs for White Bluff would exceed \$1 billion. Nothing in the record indicates that Arkansas considered

these increased costs in establishing BART emission limits for Entergy White Bluff in the Arkansas RH SIP. In addition, EPA was not aware or did not consider Entergy's 2008 revised BART analysis for White Bluff.

Response: The EPA agrees that the Arkansas BART determination for Entergy White Bluff Units 1 and 2 was flawed. As described in our proposed rulemaking, the State failed to adequately consider controls and BART emission limits beyond the presumptive limits and the State did not determine that the general assumptions underlying the EPA's analysis of presumptive limits in its 2005 BART Rule were not applicable to White Bluff. As to the revised 2008 BART analysis for White Bluff, which the source submitted to ADEQ, EPA notes that the Arkansas RH SIP submittal that EPA received from the State on September 23, 2008, contains a BART analysis for White Bluff dated December 2006.⁵⁸ The Arkansas RH SIP submittal does not contain the revised 2008 BART analysis for White Bluff, nor was the revised 2008 BART analysis for White Bluff ever submitted to EPA by the State as an official RH SIP revision. Given this, EPA has not taken the revised analysis into account in evaluating the Arkansas RH SIP.

Comment: The process used by the State of Arkansas in adopting the presumptive emission limits set forth in EPA's Guidelines as BART for Flint Creek Boiler No. 1 was improper. For the Flint Creek facility, there is no BART analysis or other information that indicates the actual costs of various control technologies or other options for addressing RH concerns, and there is nothing in the record that reflects that ADEQ considered the actual costs of controls at the Flint Creek plant in its determination of BART for this facility. This is due to Arkansas's improper adoption and reliance on EPA's presumptive limits.

Response: The EPA agrees that the process used by Arkansas in adopting the NO_x and SO₂ presumptive emission limits set forth in EPA's Guidelines for BART for Flint Creek Boiler No. 1 was improper. The State did not consider the costs of controls or any of the other statutory factors, as required under the RHR and the Act, when making its BART determinations for this source. For this reason we are finalizing our proposed disapproval of the States' NO_x

⁵⁵ 76 FR 58570, at 58590.

⁵⁶ The BART Guidelines provide that States must require 750 MW power plants to meet specific control levels for SO₂ of either 95% control or 0.15 lb/MMBtu, for each EGU greater than 200 MW that is currently uncontrolled unless you determine that an alternative control level is justified based on a careful consideration of the statutory factors (Appendix Y to Part 51, section IV.E.4.).

⁵⁷ 76 FR 58570, at 58593.

⁵⁸ See "BART Analysis for the White Bluff Steam Electric Station," dated December 2006 and prepared by Robert Paine, found in Appendix 9.3A of the Arkansas RH SIP.

and SO₂ BART determinations for Flint Creek Boiler No. 1.

Comment: The EPA approval of the PM BART determination for Flint Creek Boiler No. 1 in which BART analysis was not conducted because visibility impacts are minimal contradicts EPA's later rejection of presumptive limits for failure to conduct a full BART analysis for NO_x and SO₂ at the same facility.

Response: Our proposed approval of the PM BART determination for the AEP Flint Creek Boiler No. 1 does not contradict our proposed disapproval of the NO_x and SO₂ presumptive limits for the same source. In our review of the Arkansas RH SIP, we evaluated the determination by ADEQ that no additional PM controls are required at the Flint Creek Boiler No. 1. ADEQ's determination was based on the pre-control modeling performed by ADEQ and a review of AEP SWEPCO's statement that the PM visibility modeling did not "trip the BART impact threshold." We reviewed the pre-control modeling performed by ADEQ using the 24-hr actual maximum emissions from the baseline period. The modeling results in Appendix 9.2B of the Arkansas RH SIP and presented in Table 7-6 of Appendix A of the Technical Support Document (TSD),⁵⁹ indicate that PM contributes less than 0.5% of the total visibility impacts from Flint Creek Boiler No. 1 at all nearby Class I areas with the exception of Upper Buffalo. PM contributions to visibility impacts at Upper Buffalo from Flint Creek are less than 2% of the total visibility impairment at this Class I area. On the most impacted day at Upper Buffalo, modeling the 24-hr actual maximum emissions demonstrates that PM contributes only 0.07 dv of the total 3.781 dv modeled visibility impact from the source. As stated in the proposal, we found that the visibility impact from PM emissions alone is so minimal such that the installation of any additional PM controls on the unit (including any upgrades to the existing controls) could only have minimal visibility benefit and therefore would not be justified. This is in keeping with the BART Rule, which states the following:

"Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an

outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source's impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible. In a scenario, for example, where a source emits thousands of tons of SO₂ but less than one hundred tons of NO_x, the State could easily conclude that requiring expensive controls to reduce NO_x would not be appropriate. In another situation, however, inexpensive NO_x controls might be available and a State might reasonably conclude that NO_x controls were justified as a means to improve visibility despite the fact that the source emits less than one hundred tons of the pollutant."⁶⁰

Clearly, the most effective controls to address visibility impairment from the source are those that would reduce emissions of visibility impairing pollutants other than direct emissions of PM. Therefore, we are finalizing our proposed disapproval of the NO_x and SO₂ BART determinations for Flint Creek Boiler No. 1, as ADEQ did not properly identify and evaluate NO_x and SO₂ controls to address visibility impairment from the source. As explained elsewhere in our response to comments, this is consistent with the BART Guidelines and with our action on other state's RH SIPs.

Comment: The EPA's 2004 proposed RHR provided extensive technical justification to establish that the presumptive limits represent cost effective technologies equivalent to BART. In addition, the 2004 proposed RHR provides that the adoption of the presumptive limits by the state is acceptable unless the states choose to conduct a BART analysis to support different limits. Arkansas relied on the 2004 proposed RHR to adopt presumptive limits, along with consultation with BART-eligible sources to determine whether any site-specific factors vary significantly from those examined by EPA. Since no factors have been identified by the affected sources, Arkansas adopted EPA's presumptive limit without any further analysis. That is all that is required under the RHR.

Response: The EPA agrees that we went through extensive analysis to provide presumptive BART emission limits. As stated in our proposed rulemaking on the Arkansas RH SIP, the purpose of the presumptive limits in the BART Guidelines was to identify controls that the Agency considered to be generally cost-effective across all affected units. Because EPA's extensive analysis found that these controls are generally cost-effective across all

affected units and were anticipated to result in a substantial degree of visibility improvement, EPA concluded that such units should at least meet the presumptive limits. However, the RHR and the BART Guidelines make clear that the presumptive limits are rebuttable.⁶¹ As discussed elsewhere in our response to comments, the RHR and the BART Guidelines make clear that the presumptive limits will not necessarily be the appropriate level of control for all EGUs. Therefore, EPA cannot approve any BART determination that relies upon the presumptive emission limit unless the five factor BART analysis shows the presumptive emission limit meets BART. EPA disagrees that the 2004 proposed RHR provides that the adoption of the presumptive limits by the state is acceptable unless the state chooses to conduct a BART analysis to support different limits. The RHR (in some instances referred to in the comment as the BART Rule) and the BART Guidelines do not provide that a state may choose to conduct a BART analysis to support different limits. The RHR states the following concerning presumptive limits:

"If, upon examination of an individual EGU, a State determines that a different emission limit is appropriate based upon its analysis of the five factors, then the State may apply a more or less stringent limit."⁶²

There is similar language elsewhere in the RHR and the BART Guidelines. The RHR and the BART Guidelines do not contain language giving the State discretion to determine whether or not to conduct a five factor BART analysis when the presumptive emission limits have been adopted.

The EPA disagrees that reliance on the 2004 proposed RHR to adopt presumptive limits along with consultation with subject to BART sources to determine whether any site-specific factors vary significantly from those examined by EPA is all Arkansas is required to do to satisfy the BART requirements under the RHR. The RHR states that for each source subject to BART, states are required to identify BART after considering the five statutory factors in CAA section 169A(g), as follows:

"States must identify the best system of continuous emission control technology for each source subject to BART taking into account the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use at the

⁵⁹ These documents can be found in the docket for our rulemaking.

⁶⁰ 70 FR 39116.

⁶¹ 71 FR 60619.

⁶² 70 FR 39132.

source, the remaining useful life of the source, and the degree of visibility improvement that may be expected from available control technology.”⁶³

Therefore, adoption of the NO_x and SO₂ presumptive limits alone does not satisfy the requirements of the RHR and the CAA.

Comment: The EPA’s 2004 proposed RHR supports the position that the presumptive limits identified in the RHR are adequate to meet the visibility requirements for the first implementation period of the RHR. Thus, Arkansas’s use of presumptive limits should be approved because, like the RHR confirms, use of presumptive limits by Arkansas ensures that there is sufficient visibility improvement to satisfy the URP goals. The EPA’s suggestion that a more detailed or extensive investigation is required is not supported by the RHR or guidance. It is the state’s prerogative to make this determination and to choose what sources of information and degree of investigation is adequate. Having confirmed EPA’s expectations, the state’s submission should be approved.

Response: Neither the 2004 proposed nor the final RHR provide that adoption of the presumptive emission limits identified in the RHR are all that is necessary to meet the visibility requirements for the first implementation period of the RHR. The EPA disagrees that the RHR confirms that use of presumptive limits by states ensures that there is sufficient visibility improvement to satisfy the URP goals. It appears that the comment may have been referring to the “national visibility goal,” or “reasonable progress goals,” (which are interim visibility goals towards meeting the national visibility goal), instead of the “URP goals.” The RHR states the following regarding the SO₂ and NO_x presumptive limits:

“Based on our analysis of emissions from power plants, we believe that applying these highly cost-effective controls at the large power plants covered by the guidelines would result in significant improvements in visibility and help to ensure reasonable progress toward the national visibility goal.”⁶⁴

A full reading of the RHR and the BART Rule, demonstrates that the proper interpretation of this statement is that because EPA found these controls to be generally highly cost-effective and would result in significant visibility improvement, EPA concluded that requiring affected sources to achieve at least this level of control would *help* ensure reasonable progress toward the

national visibility goal. The RHR did not confirm that by adopting the presumptive emission limits states *would ensure* sufficient visibility improvement to satisfy their reasonable progress goals, since for the first implementation period this can only be confirmed by EPA’s full approval of the state’s RH SIP. Furthermore, for a state to achieve reasonable progress during the first implementation period, it must look at sources beyond those that are subject to BART as well as at non-point sources and determine, based on consideration of the four statutory factors at 40 CFR 51.308(d)(1)(i), whether it is reasonable to require these sources to install additional pollution controls. Therefore, even if states satisfy the BART requirements, satisfaction of the reasonable progress requirements can’t be met by complying with BART requirements alone.

With regard to the comment that the RHR and BART Guidelines do not support EPA’s position that a more detailed or extensive investigation is required, EPA notes that in response to comments on the proposed BART Guidelines that the presumptive SO₂ EGU limits should be more stringent, EPA justified its decision not to establish more stringent presumptive emission limits in the preamble to the final BART Rule by explaining that “[i]f, upon examination of an individual EGU, a State determines that a different emission limit is appropriate based upon its analysis of the five factors, then the State may apply a more or less stringent limit.”⁶⁵ Similar statements are made elsewhere in the BART Rule. Clearly, the RHR and the BART Rule do not suggest the presumptive limits should be viewed as establishing a safe harbor from more stringent regulation under the BART provisions. While states do have discretion in how to go about making BART determinations, states have a duty to evaluate the five statutory factors,⁶⁶ and should consider the level of control that is currently achievable at the time the BART analysis is conducted.⁶⁷

Comment: The EPA was incorrect in disapproving ADEQ’s SO₂ and NO_x BART determinations that adopted the presumptive limit for subject to BART power plants greater than 750 MW. ADEQ used the presumptive limits provided by EPA in the BART Rule and worked with the affected facilities to make BART determinations.

Response: The EPA disagrees. States have a duty to evaluate the five statutory factors,⁶⁸ and should consider the level of control that is currently achievable at the time the BART analysis is conducted.⁶⁹ As already explained in our response to similar comments in this final rulemaking, adoption of the presumptive emission limits for subject to BART EGUs greater than 750 MW, without a proper evaluation of the five statutory factors, is not sufficient to meet the BART requirements in the RHR and the BART Rule.

Comment: The EPA incorrectly states that such BART-eligible sources should at least meet the presumptive limits. BART-eligible sources are just that—eligible. As such, these sources are not required to meet any limit until modeling indicates that the unit either causes or contributes to visibility impairment. The use of the phrase “BART-eligible” in this context appears to be a mistaken reference to “subject-to-BART” sources.

Response: The EPA agrees that we meant to say that “subject to BART sources” rather than “BART eligible sources” should at least meet the presumptive limits. This misstatement is minor and did not affect our evaluation of Arkansas’s RH SIP.

B. Comments on Reasonable Progress Goals and Long Term Strategy

Comment: The EPA’s proposed rule would disapprove Arkansas’s RPGs because in EPA’s view the State did not provide an analysis that considered the four statutory factors under 40 CFR 51.308(d)(1)(i)(A) to evaluate the potential of controlling certain sources or source categories for addressing visibility impacts from man-made sources. Whether or not this is true, it does not appear that the state has fallen short of its obligations under the RHR and applicable EPA guidance. States generally must consider the reasonable progress factors and the URP in establishing RPGs. Arkansas clearly considered the URP and has demonstrated that the measures included in the SIP exceed those necessary to meet the URP for both of its Class I areas. As for the reasonable progress factors, the BART Guidelines note their substantial similarity to the BART factors (70 FR 39143), and EPA guidance makes clear that states need not reassess the reasonable progress factors for sources subject to BART for which the state has already completed a BART analysis. As such, EPA has not

⁶³ 70 FR 39132.

⁶⁴ See 40 CFR 51.308(e)(1)(ii)(A) and 42 U.S.C. 7491(g)(2).

⁶⁵ 70 FR 39171.

⁶⁸ See 40 CFR 51.308(e)(1)(ii)(A) and 42 U.S.C. 7491(g)(2).

⁶⁹ 70 FR 39171.

⁶³ 70 FR 39158.

⁶⁴ 70 FR 39131.

identified a flaw in the state's reasonable progress analysis warranting disapproval of Arkansas's selected RPGs. EPA must respect the states' considerable discretion in determining RPGs and cannot substitute its judgment for that of the state simply because EPA would have performed a different type of assessment if it had the authority to establish RPGs. The EPA does not have the authority to require the adoption of RPGs other than those found by the states to be reasonable and must defer to the state's reasonable progress determinations.

Response: The EPA disagrees that the Arkansas RH SIP has not fallen short of its obligations under the RHR and applicable EPA guidance. With respect to the RPG requirements, the State has fallen short of its obligations precisely because it did not provide an analysis that considered the four statutory factors, as required under 40 CFR 51.308(d)(1)(i)(A). The RHR states the following with regard to RPG requirements:

"Today's final rule requires the States to determine the rate of progress for remedying existing impairment that is reasonable, taking into consideration the statutory factors, and informed by input from all stakeholders."⁷⁰

The EPA's 2007 guidance for setting RPGs (referred to hereafter as EPA's RPG Guidance) states the following with regard to the statutory factors under 40 CFR 51.308(d)(1)(i)(A):

"The regional haze rule requires you to clearly support your RPG determination in your SIP submission based on the statutory factors."⁷¹

Therefore, it is clear that the Arkansas RH SIP has fallen short of its obligations with regard to RPG requirements under the RHR and applicable EPA guidance.

The EPA agrees that states generally must consider the reasonable progress factors (*i.e.* the four statutory factors) under 40 CFR 51.308(d)(1)(i)(A) and the URP in establishing RPGs. The EPA also agrees that EPA guidance states that it is not necessary for states to reassess the reasonable progress factors for sources subject to BART for which the state has already completed a full five factor BART analysis.⁷² However, the requirement in the RHR and EPA's RPG guidance for states to consider the four statutory factors applies to all point sources (and non-point sources if appropriate), and as such, is not limited

only to sources that are subject to BART. In establishing RPGs, states must still consider the four statutory factors for sources that are not subject to BART. EPA's guidance for establishing RPGs states the following:

"The discussion of the statutory factors in this guidance is largely aimed at helping States apply these factors in considering measures for point sources. States may find that the factors can be applied to sources other than point sources; the meaning of the factors, however, should not be unduly strained in order to fit non-point sources."⁷³

As such, what warrants EPA's disapproval of Arkansas's RPGs is that in establishing its RPGs, the State did not evaluate the four statutory factors for sources that are not subject to BART, as required under 40 CFR 51.308(d)(1)(i)(A). Arkansas's lack of RPG analysis is especially troublesome in light of several sources not subject to BART which contribute to the impairment of visibility above 0.5 dv, as explained in more detail in our proposed rulemaking. To satisfy the RHR requirements, the State must do more than just consider the URP in establishing RPGs. As explained in our proposed rulemaking on the Arkansas RH SIP, the RHR provides that EPA will consider both the State's consideration of the four factors in 40 CFR 51.308(d)(1)(i)(A) and its analysis of the URP in determining whether the State's goal for visibility improvement provides for reasonable progress.⁷⁴ Therefore, the State must still consider the four statutory factors under 40 CFR 51.308(d)(1)(i)(A), even if the CENRAP's modeling demonstrated that the measures included in the SIP exceed those necessary to meet the URP for the first implementation period for both of Arkansas's Class I areas. The RHR and EPA's guidance for establishing RPGs do not provide that a State may forego an analysis of the four statutory factors if modeling demonstrates that it is expected to meet the URP in 2018 for both of its Class I areas. EPA agrees with the commenter that states have considerable discretion in determining RPGs. Nevertheless, there are several requirements that states must meet in establishing their RPGs, and where EPA determines that these requirements have not been satisfied, EPA has the authority to disapprove the State's RPGs and indeed must disapprove it as not meeting the Federal requirements.

In our disapproval of the State's RPGs, EPA is not substituting its judgment for

that of the State. Our disapproval is not based on a disagreement with the State with regard to the value of the State's RPGs, rather our disapproval is based on the fact that the State did not evaluate the four statutory factors in establishing its RPGs, especially given that known sources of visibility impairment were not analyzed. We note that, at this point, it is not possible to know whether different RPGs are appropriate for Arkansas's Class I areas. Until the State conducts a proper evaluation of the four statutory factors, in accordance with the CAA § 169A(g)(1), 40 CFR 51.308(d)(1)(i)(A), and EPA's RPG Guidance, or EPA conducts such evaluation in the context of a FIP, we will not know whether different RPGs are appropriate for Arkansas's Class I areas.

Comment: The EPA properly approved Arkansas's URP, but improperly applied the URP when analyzing Arkansas's BART determinations and RPGs. EPA acknowledges that the measures Arkansas adopted in the RH SIP would meet the URP, but EPA still partially disapproved the Arkansas RH SIP in part because ADEQ did not undertake any "further analysis" after determining its RPGs would meet or exceed the URP. EPA's claim that Arkansas is required to undertake any further analysis lacks a legal basis, as states are not required to go beyond the URP analysis in establishing RPGs. Neither the CAA nor the RHR allow for the "further analysis" EPA is requiring of Arkansas regarding its RPGs and the URP. Courts have held that when an agency relies on factors which Congress has not intended it to consider, then such action is arbitrary and capricious (*Arizona Public Service Company v. US EPA*, 562 F.3d 1116, 1123 (10th Cir. 2009)). The RHR explains that states must consider the uniform rate of improvement in visibility and the emissions reductions needed to achieve it when formulating RPGs, and since Arkansas has exceeded the URP when formulating its RPGs, Arkansas has met the legal requirements of the RHR. EPA should not have disapproved Arkansas's RPGs since they are consistent with the CAA and the visibility impairment regulations. The EPA's disapproval of Arkansas's RPGs elevates form over substance, and fails to recognize the purpose of RPGs in improving visibility impairment. The RHR only requires additional analysis when a state establishes RPGs that provide for a slower rate of improvement than the URP (40 CFR 51.308(d)(1)(ii)).

Response: The EPA disagrees that we improperly applied the URP when

⁷⁰ 64 FR 35731.

⁷¹ See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 2.4.

⁷² See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 5.0.

⁷³ See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 1.2.

⁷⁴ 64 FR 35766.

analyzing Arkansas's BART determinations and RPGs. In fact, EPA did not consider the State's URP in evaluating the State's BART determinations because EPA does not have authority under the RHR to do so. With regard to the RPGs, EPA upholds its proposed disapproval of the State's RPGs because the State did not undertake an analysis of the four statutory factors, as required under 40 CFR 51.308(d)(1)(i)(A). While EPA agrees that the RHR requires states to consider the uniform rate of improvement in visibility when formulating RPGs, we disagree that a state's consideration of the URP and establishment of RPGs that provide for a slightly greater rate of improvement in visibility than would be needed to attain the URP is all that is needed to satisfy the RPG requirements in the RHR. EPA also disagrees that the RHR only requires additional analysis when a state establishes RPGs that provide for a slower rate of improvement than the URP. As explained in our proposed rulemaking on the Arkansas RH SIP, in establishing its RPGs, the State is required by CAA § 169A(g)(1) and 40 CFR 51.308(d)(1)(i)(A) to "[c]onsider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal."

The RHR states the following with regard to RPG requirements:

"Today's final rule requires the States to determine the rate of progress for remedying existing impairment that is reasonable, taking into consideration the statutory factors, and informed by input from all stakeholders."⁷⁵

An analysis of the four statutory factors is precisely the "further analysis" EPA refers to in its proposed rulemaking on the Arkansas RH SIP.⁷⁶ As explained above, both the RHR and the CAA require states to undertake this analysis in establishing its RPGs. Therefore, EPA disagrees that our proposed rulemaking on the Arkansas RH SIP is arbitrary and capricious because it relies on factors which Congress has not intended it to consider. CAA section 169A(g)(1) clearly requires states to consider these four factors in establishing their RPGs. Accordingly, EPA's proposed disapproval of Arkansas's RPGs is consistent with the RH regulations and the Act. Because the CAA section 169A(g)(1) and 40 CFR

51.308(d)(1)(i)(A) require that states consider the four statutory factors in establishing their RPGs, a requirement which Arkansas has not satisfied, our proposed disapproval of Arkansas's RPGs recognizes the purpose of the RPGs in improving visibility impairment and is in keeping with the statutory requirements.

Comment: We agree with EPA's proposed disapproval of Arkansas's RPGs because no proper four-factor analysis was done in setting those goals. In setting its RPGs, the state is required to consider the four statutory factors and include a demonstration showing how these factors were taken into consideration in selecting the goal (40 CFR 51.308(d)(1)(i)(A) and 42 U.S.C. 7491(g)(1)). As EPA stated in its proposed rulemaking, the RHR makes clear that just meeting the URP does not exempt a state from a proper four-factor evaluation of RPGs for the state's Class I areas (see 76 FR 64195 and 64 FR 35732). Being on the "glide path" to achieve the URP does not by itself ensure that a Class I area will make reasonable progress to reach natural background visibility conditions by 2064 because the "glide path" assumes that increasing levels of reductions of visibility-impairing pollutants will consistently occur over the next 53 years until 2064. There is no guarantee that this will happen, and ADEQ has not indicated what controls will be required in the next 53 years to ensure they stay on the glide path. EPA ensures that all reasonable measures that can be implemented during the first planning period are implemented by requiring states to evaluate whether additional progress beyond the URP is reasonable in this first RH planning period. Considering that the modeling on which future predictions of visibility impairment levels are based has uncertainties both in the modeling itself and in the projections of emissions for various source categories, it is necessary that states be required to conduct a four-factor analysis to evaluate all the controls that could reasonably be implemented to make progress toward the national visibility goal.

Response: The EPA agrees that Arkansas did not do a proper four-factor analysis nor did it include a demonstration showing how these factors were taken into consideration in selecting the goal in accordance with the CAA and the RHR. Please see elsewhere in our response to other comments for an explanation of the requirements for establishing RPGs.

Comment: The EPA has proposed to partially disapprove Arkansas's LTS for failure to include adequate emissions

limitations as required under 40 CFR 51.308(d)(3)(v)(C) due to the fact that the State relied on its BART emission limits to satisfy this LTS requirement and EPA is proposing to disapprove the majority of those BART emission limits (76 FR 64218). The EPA has proposed to approve the remaining elements of the Arkansas LTS. EPA should not partially approve any part of Arkansas's LTS when EPA has proposed to disapprove Arkansas's RPGs. A State's LTS is the State's plan to ensure that reasonable progress towards achieving natural background conditions is achieved both at the State's Class I areas and at out-of-state Class I areas impacted by sources within the State (40 CFR 51.308(d)(3)). If the State's RPGs are not approvable, then no part of the State's LTS should be approved because the purpose of the LTS is to reflect the State's plan for assuring reasonable progress, which is in turn based on the State's RPGs. The Arkansas LTS should be disapproved in its entirety.

Response: While EPA agrees that a state's LTS is its plan to ensure that reasonable progress towards achieving natural background conditions is achieved both at the state's Class I areas and at out-of-state Class I areas impacted by sources within the state,⁷⁷ EPA disagrees that no part of a state's LTS should be approved even if the state's RPGs are not approvable. As explained in our proposed rulemaking on the Arkansas RH SIP, the LTS is a compilation of state-specific control measures relied on by the states for achieving their RPGs.⁷⁸ Regardless of what RPGs a state establishes (and whether or not EPA approves these RPGs), state-specific control measures *will help the state make progress towards improving visibility*. Even though these control measures may not ensure that a state's RPGs will be met, especially in cases such as this where EPA is disapproving the State's RPGs, the control measures that the State has relied on in the LTS for achieving its RPGs (with the exception of the BART determinations we are disapproving) will aid the State in achieving reasonable progress.

Furthermore, 40 CFR 51.308(d)(3)(v) requires that states consider certain factors in developing their LTS. These LTS factors are: (A) Emission reductions due to ongoing air pollution control programs, including measures to address RAVI; (B) measures to mitigate the impacts of construction activities; (C) emissions limitations and schedules for compliance to achieve the

⁷⁵ 64 FR 35731.

⁷⁶ 76 FR 64195.

⁷⁷ 40 CFR 51.308(d)(3).

⁷⁸ 76 FR 64212.

reasonable progress goal; (D) source retirement and replacement schedules; (E) smoke management techniques for agricultural and forestry management purposes including plans as currently exist within the state for these purposes; (F) enforceability of emissions limitations and control measures; and (G) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the LTS. As explained in our proposed action on the Arkansas RH SIP, we are finding that Arkansas had appropriately considered these factors, with the exception of the factor under 40 CFR 51.308(d)(3)(v)(C), which requires the State to consider emission limitations and schedules for compliance to achieve the RPGs. Therefore, with the exception of this element, we are finding that the LTS satisfies the requirements of 40 CFR 51.308(d)(3). Furthermore, we point out that satisfaction of some of the requirements under 40 CFR 51.308(d)(3) is not intrinsically tied to or conditioned upon a specific dv value for the RPG. Therefore, disapproval of the RPGs does not mean automatic disapproval of all elements of the LTS. We are finalizing our proposed partial approval and partial disapproval of Arkansas's LTS.

Comment: According to EPA's TSD for the Arkansas RH SIP, Arkansas Class I areas are impacted by sources from outside the State as well as by sources within the State. In 2018, Arkansas sources are projected to be the top contributor to visibility impairment at Caney Creek and Upper Buffalo. The contribution from Arkansas's sources at the Class I areas in Arkansas, Missouri, Oklahoma, and other states is projected to increase in 2018 from 2002 levels. It appears that the projected improvement in visibility in 2018 for Caney Creek and Upper Buffalo is mainly due to significant projected emission reductions from sources in Texas. Even if other states are requiring emission reductions at the sources that cause and contribute to visibility impairment in Arkansas's Class I areas, Arkansas still has an obligation under its LTS to adopt control measures adequate to address its contribution to visibility impairment in the State's Class I areas. The Federal RH regulations require that "where other States cause or contribute to impairment in a mandatory Class I Federal area, the State must demonstrate that it has included in its implementation plan all measures necessary to obtain its share of the emissions reductions needed to meet the progress goal for the area" (see 40 CFR 51.308(d)(3)(ii)). Therefore, as

part of the LTS, Arkansas is required to identify all sources of visibility impairment in the State and should have considered the adoption of emission limitations and compliance schedules for those sources to achieve natural background visibility conditions at Arkansas's Class I areas. Arkansas failed to properly evaluate these emission limitations and compliance schedules.

Response: The EPA agrees that Arkansas Class I areas are impacted by sources from outside the State as well as by sources within the State, and that modeling demonstrates that Arkansas sources are projected to be the top contributor to visibility impairment at Caney Creek and Upper Buffalo in 2018. EPA also agrees that the contribution of Arkansas sources to visibility impairment at Class I areas in Arkansas, Missouri, Oklahoma, and other states is projected to increase in 2018 from baseline levels.

Under 40 CFR 51.308(d)(3), states must submit a LTS that addresses visibility impairment for each Class I area within the State and for each Class I area located outside the State which may be affected by emissions from the State. Arkansas has done this, and we are partially approving and partially disapproving that LTS, as explained in more detail in our proposed rulemaking and discussed elsewhere in our response to other comments. Under 40 CFR 51.308(d)(3)(i), states that are reasonably anticipated to contribute to visibility impairment in any Class I area located in another state are required to consult with the other state to develop coordinated emission management strategies. States are also required to consult with any other states that are reasonably anticipated to contribute to visibility impairment in any Class I area within the state. As explained in our proposed rulemaking, Arkansas satisfied this requirement through its consultation with affected states. Under 40 CFR 51.308(d)(3)(ii), where other states cause or contribute to impairment in a Class I area, the State must demonstrate that it has included in its implementation plan all measures necessary to obtain its share of the emissions reductions needed to meet the progress goals for the area. States can meet this requirement through participation in a regional planning process where all potentially affected states are consulted, and by ensuring that they have included all measures needed to achieve their apportionment of emission reduction obligations agreed upon through that process. As explained in our proposed rulemaking on the Arkansas RH SIP, we are finding that

Arkansas satisfied its consultation requirements when establishing its LTS.⁷⁹ Therefore, EPA is finding that the Arkansas RH SIP satisfies the requirements under 40 CFR 51.308(d)(3)(i) and (ii).

The EPA agrees that as part of setting RPGs and developing a LTS, Arkansas is required to identify sources of visibility impairment in the State and to establish "emission limitations, schedules of compliance and other measures as may be necessary to make reasonable progress toward the national goal." In developing a RH SIP, the state accordingly must consider whether there are reasonable measures that should be adopted. A state is also required to consider the adoption of emission reduction measures needed to achieve the UR. The RHR does not require a state to consider what measures would be necessary to achieve natural background visibility conditions at Arkansas's Class I areas. EPA does, however, agree that Arkansas failed to properly evaluate whether there were any reasonable measures beyond BART that could have been adopted to improve visibility.

Comment: The fact that emissions of SO₂, NO_x, and other visibility impairing pollutants are projected to increase in 2018 compared to 2002 levels, indicates that Arkansas is not doing all it can to address the sources of visibility-impairment that exist in the State of Arkansas. There are additional control measures Arkansas should have considered for adoption as part of its LTS. For example, ADEQ's BART emission limits for White Bluff Units 1 and 2 and Flint Creek do not reflect the top levels of emissions control achievable at Arkansas's subject to BART sources, nor do the emission limits reflect the capabilities of the control equipment that has been proposed to be installed. If not required to meet lower SO₂ limits as BART, ADEQ should evaluate lower SO₂ limits to ensure reasonable progress toward achieving natural background visibility conditions. Also, ADEQ did not evaluate installation of post-combustion controls such as SCR to meet the NO_x BART requirements for White Bluff Units 1 and 2 or Flint Creek Boiler No. 1. The data on the worst 20% days for Caney Creek shows that nitrates are often the major component of visibility impairment during the winter months and the data on the best 20% days for Caney Creek shows that nitrates are more often the major component of visibility impairment. At Upper Buffalo, nitrates are the major component of

⁷⁹ 76 FR 64216.

visibility impairment in the winter months as well, and nitrates are also a major component of visibility impairment in the spring and fall months. The Missouri Class I areas show similar patterns. The 2018 modeling projections show that nitrates continue to be a major component of visibility impairment during the winter months on the 20% worst days at Caney Creek. Therefore, if post-combustion controls are not required as BART for White Bluff Units 1 and 2 and Flint Creek Boiler No. 1, then the State should be required to evaluate installation of post-combustion controls at these sources to meet reasonable progress requirements. If not ultimately required to meet lower SO₂ limits or the installation of SCR as BART, the State should evaluate lower limits and additional controls on SO₂ and NO_x to ensure reasonable progress is made toward natural background visibility conditions.

Response: The EPA agrees that emissions of visibility impairing pollutants in Arkansas are projected to increase in 2018 from baseline levels, and that in establishing its RPGs and LTS, the State has not appropriately considered whether there are additional measures that would be reasonable for addressing visibility impairment. That emissions of SO₂, NO_x, and other visibility impairing pollutants in Arkansas are projected to increase suggests that the state should carefully consider what measures can be adopted to ensure that the state contributes to improving visibility in the region. EPA also agrees that Arkansas's NO_x and SO₂ BART emission limits for White Bluff Units 1 and 2 and Flint Creek Boiler No. 1 do not reflect the most stringent level of emissions control achievable at Arkansas's subject to BART sources. As explained in our proposed rulemaking on the Arkansas RH SIP, we are disapproving the State's SO₂ and NO_x BART determinations for White Bluff Units 1 and 2 and Flint Creek Boiler No. 1 because Arkansas limited its BART determinations to considering the measures necessary for achieving the presumptive limits and did not appropriately consider whether more stringent controls or emission limits were appropriate based on a consideration of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g)(2) of the CAA. However, EPA disagrees that if we ultimately approve BART determinations that do not require White Bluff Units 1 and 2 and Flint Creek Boiler No. 1 to install post-combustion controls and/or do not

require these sources to establish SO₂ and NO_x BART emission limits more stringent than those currently adopted by the State, Arkansas is required to evaluate post-combustion controls and more stringent SO₂ and NO_x limits for its subject to BART sources to satisfy the reasonable progress requirements at 40 CFR 51.308(d)(1). Because the BART analysis that is required for subject to BART sources is based, in part, on an assessment of many of the same factors that must be addressed in establishing a state's RPGs, EPA's guidance for establishing RPGs provided that it is reasonable for a State to conclude that any control requirements imposed in the BART determination also satisfy the RPG-related requirements for source review in the first RPG planning period.⁸⁰ EPA's guidance states the following:

"Also, as noted in section 4.2, it is not necessary for you to reassess the reasonable progress factors for sources subject to BART for which you have already completed a BART analysis."⁸¹

Therefore, we note that once EPA has approved the BART determination for a particular pollutant for a given subject to BART source, the State is not required to evaluate the reasonable progress factors for that particular pollutant for the given source in order to satisfy the reasonable progress requirements.

Comment: There are additional control measures Arkansas should have considered for adoption as part of its LTS. Arkansas must consider controls for other point sources in the State that are not subject to BART but that could be required to reduce emission to help Arkansas and other affected states assure reasonable progress towards achieving background visibility conditions. For example, Arkansas should evaluate controls for Entergy's Independence Power Plant, which is located approximately 140 km from Upper Buffalo, and is the second largest source of SO₂ and NO_x emissions in Arkansas (Entergy White Bluff is the first). Once the White Bluff power plant installs controls to meet BART for SO₂ and NO_x, the Independence plant will be the largest source of SO₂ and NO_x in the State. The Independence plant was not identified by ADEQ as BART-eligible. It consists of two coal-fired units that have no SO₂ control technology installed with a generating

capacity of 1700 MW (see Exhibit 23). PM emissions are controlled with electrostatic precipitators (ESPs) and NO_x emissions are controlled only with overfire air. Despite its size and location, the Arkansas RH SIP did not identify the Independence plant as a possible source of visibility impairment. Upgraded combustion controls and/or installation of SCR should be evaluated for control of NO_x emissions, and the installation of a scrubber should be evaluated for control of SO₂ emissions. Arkansas should be required to evaluate these as well as additional control measures to ensure it is doing all it can to provide for reasonable progress toward meeting natural visibility conditions at the State's Class I areas and at the Class I areas impacted by Arkansas sources.

Response: EPA agrees that Arkansas must consider controls for point sources in the State that are not subject to BART but that could be required to reduce emissions to help Arkansas and other affected states assure reasonable progress towards achieving background visibility conditions. We do note that the RHR and EPA's guidance for establishing RPGs give states flexibility in determining which particular sources to evaluate and how to take into consideration the four statutory factors. EPA's guidance for establishing RPGs provide the following:

"In determining reasonable progress, CAA § 169A(g)(1) requires States to take into consideration a number of factors. However, you have flexibility in how to take into consideration these statutory factors and any other factors that you have determined to be relevant. For example, the factors could be used to select which sources or activities should or should not be regulated, or they could be used to determine the level or stringency of control, if any, for selected sources or activities, or some combination of both."⁸²

As the Entergy Independence Power Plant has significant emissions and emissions reductions from the source would likely help Arkansas and other affected states assure reasonable progress, EPA agrees that the Entergy Independence Power Plant is a good candidate for further consideration by Arkansas. As we are disapproving Arkansas's RPGs, the State will need to consider whether controls at this facility and any other facilities would be reasonable for purposes of addressing visibility impairment.

Comment: In addition to Caney Creek and Upper Buffalo, sources in Arkansas also contribute to visibility impairment

⁸⁰ See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 4.2.

⁸¹ See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 5.0.

⁸² See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 5.0.

in Missouri's two Class I areas (Mingo and Hercules Glades) and Oklahoma's Class I area (Wichita Mountains). Even though Arkansas claims it does not need to adopt any additional measures in its LTS because the CENRAP 2018 modeling showed that the emissions reductions planned in CENRAP states were sufficient for Missouri's Class I areas to meet their RPGs, EPA has not proposed action on the Missouri RH SIP, and it is not clear if EPA will be approving Missouri's RPGs. Also, the CENRAP 2018 modeling Missouri relied on may be underestimating impacts due to sulfates, as indicated by EPA in Appendix A to the TSD for the Arkansas RH SIP. For the Mingo Class I area in Missouri, since there was not sufficient capture of valid IMPROVE data to determine baseline conditions in accordance with EPA guidance, it is not clear whether the CENRAP modeling shows that the projected visibility improvements at Mingo will meet or exceed the URP toward attaining background visibility conditions. Therefore, Arkansas cannot rely on Missouri's claims that it is meeting its RPGs to justify avoiding the evaluation of additional control measures for sources of visibility-impairing pollutants in Arkansas. In addition, Arkansas sources contributed 2.0% to visibility impairment at Wichita Mountains during the baseline period and are projected to contribute 2.3% in 2018. This may appear to be a small contribution, but it is a contribution nonetheless. Oklahoma apparently does not agree with ADEQ that Arkansas's source contributions are insignificant. Since the Wichita Mountains is not expected to achieve the necessary improvements in visibility in 2018 to meet or exceed the URP, Arkansas should be required to evaluate emission controls that could be required at Arkansas sources that impact visibility at the Wichita Mountains. Arkansas has an obligation as part of its LTS to evaluate and adopt those control measures necessary to address Arkansas's share of visibility impairment in Class I areas in Missouri and Oklahoma (40 CFR 51.308(d)(3)(ii)).

Response: We disagree that because EPA has not proposed action on the Missouri RH SIP, we cannot find that Arkansas does not need to adopt any additional measures in its LTS. We find that we have the authority to act on Arkansas's LTS now.

In the context of acting on the LTS and Arkansas's RH SIP, the comment raises a concern with missing data at the Mingo Wilderness Area's IMPROVE monitor, and refers to a statement in the CENRAP TSD that because of a lack of

data it did not meet EPA's data acceptance criteria. The Mingo monitor had a wasp type nest inside the collection apparatus for the Organic Carbon sampling stream that may have impacted the air flow and sampling for these specific pollutants, but not the other sampling streams. The other pollutants, including nitrates and sulfates (NO_x and SO₂ products) were collected for the entire baseline time period without the need for data substitution. The IMPROVE group did evaluate two different approaches to backfill the missing data for the organics and Elemental Carbon that resulted in nearly identical results. They then selected the method that they thought was most appropriate in backfilling the data based on other monitoring data collected. This backfill data was then used with the rest of the monitored data for the baseline for the Mingo monitor. The IMPROVE group is made up of a number of experts in these specific issues and we concur that the approach is acceptable for use in establishing the baseline. It is very important to note that the Organic Carbon is a significantly smaller component of the visibility impairment than the amount of impairment from ammonium nitrate and ammonium sulfate at Mingo. We do not believe any inaccuracies in the backfill information for organic carbon would significantly impact the baseline at Mingo.⁸³

With regard to the establishment of a state's LTS, 40 CFR 51.308(d)(3)(i) states the following:

"Where the State has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I area located in another State or States, the State must consult with the other State(s) in order to develop coordinated emission management strategies."

As explained in our proposed rulemaking on the Arkansas RH SIP, CENRAP's photochemical modeling demonstrated that besides Arkansas's own Class I areas, the only Class I areas where Arkansas sources can be said to be contributing to visibility impairment are the Mingo Wilderness Area and the Hercules Glades Wilderness Area in Missouri and not Wichita Mountains in Oklahoma. Arkansas considered

⁸³ Chuck McDate and Warren White UC Davis, Power Point from Inter-RPO Data Analysis/Monitoring Workgroup 9/28/05 "Approach for Substituting Mingo IMPROVE Carbon Data", RPO Call 092805 Mingo.ppt; Archuleta, et al. Extended Abstract #58 "IMPROVE Data Substitution Methods for Regional Haze", 58-Archuleta.pdf; Graphic of comparison of two technique results, Out.pdf; Communications record between Scott Copeland CIRA—Cooperative Institute for Research in the Atmosphere with Erik Snyder, EPA Region 6, February 10, 2012.

modeling that was performed by the CENRAP and consulted with Missouri, Oklahoma, and other potentially affected states. In its consultation with Missouri, both Arkansas and Missouri determined that it was not necessary for Arkansas to commit to additional emission reductions since the CENRAP modeling showed that emission reductions already planned by the CENRAP and other states would be sufficient for Missouri's Class I areas to meet their RPGs (notwithstanding the uncertainties that may have been involved in the modeling). We note that Arkansas will be considering whether additional emission reduction measures are reasonable for improving visibility at the Class I areas within Arkansas and revisiting several of its BART determinations. Any more stringent measures adopted by Arkansas to address the deficiencies we have identified in its RH SIP have the potential to also benefit visibility at Mingo and Hercules Glades. When we take action on the Missouri RH SIP, we will consider whether Missouri's RPGs are appropriate.

With regard to the comment that Arkansas sources contributed 2.0% to visibility impairment at Wichita Mountains during the baseline period and are projected to contribute 2.3% in 2018, EPA notes that removal of this 2.3% contribution to the total extinction results in a visibility improvement of only 0.2 dv from the 2018 projected visibility conditions. Although the Oklahoma Department of Environmental Quality (ODEQ) initially believed that emissions from Arkansas sources are impacting visibility at Wichita Mountains and that it might be necessary for Arkansas to commit to additional emissions reductions, Arkansas responded to ODEQ's concerns with a letter dated August 17, 2007, explaining that based on photochemical modeling, ADEQ had calculated that the total visibility impact from all sources in Arkansas at Wichita Mountains is 0.2dv.⁸⁴ Furthermore, in section X.A. of the Oklahoma RH SIP submitted to EPA, ODEQ references the August 17, 2007 letter sent by ADEQ and states that it is in agreement with the projected emissions reductions from Arkansas and all other states with which it consulted with regard to visibility impairment at Wichita Mountains.

⁸⁴ See letter from Mike Bates, Air Division Director, Arkansas Department of Environmental Quality, to Eddie Terrill, Air Division Director, Oklahoma Department of Environmental Quality, dated August 17, 2007. This letter is found in Appendix 10.3 of the Arkansas RH SIP.

Consequently, while we are concerned that the RPG at Wichita Mountains is not on the glide path, we believe the technical assessment that Arkansas sources do not have a significant impact at Wichita Mountains is accurate and ADEQ and ODEQ followed consultation procedures. We therefore disagree that Arkansas must adopt additional control measures to address its visibility impact at other states' Class I areas. Considering the modeling results and since both states agreed to this on the results of the consultations, we find that Arkansas has satisfied its obligations under 40 CFR 51.308(d)(3)(i) and (ii).

Comment: The EPA criticizes Arkansas for not conducting the four factor RPG analysis. However, EPA's guidance only requires a four factor analysis for potentially affected sources. Because Arkansas determined that emission reductions anticipated from implementation of BART and other CAA programs during the initial planning period are sufficient to satisfy the URP, it is not required to consider additional emission reductions from other potentially affected sources in setting its RPGs. This approach is supported by EPA's RPG Guidance, which opines that only BART and other existing CAA programs may be all that are necessary to achieve reasonable progress in the first planning period for some states. The EPA is incorrect that ADEQ relied solely on meeting the URP to reach its RPG determination. ADEQ relied on EPA guidance indicating the application of BART alone could be considered as constituting reasonable progress for the first planning period. Arkansas determined its URP. Arkansas participated in CENRAP, coordinated with Missouri Department of Natural Resources, and consulted with other states who may contribute to RH in Arkansas Class I areas. ADEQ also used modeling projections that show that the combination of already mandated controls, including BART emissions limitations, will provide for a rate of progress that improves visibility conditions and results in the attainment of natural visibility conditions by 2064. This modeling also demonstrated that the RPGs for Arkansas's Class I areas are better than the URP. This is consistent with the requirements of the CAA and EPA's regulations and guidance. Thus, Arkansas's RPGs should be approved by EPA.

Response: With regard to the comment that EPA's guidance only requires a four factor analysis for potentially affected sources, we note that EPA's RPG Guidance states the following:

"In determining reasonable progress, CAA § 169A(g)(1) requires States to take into consideration a number of factors. However, you have flexibility in how to take into consideration these statutory factors and any other factors that you have determined to be relevant. For example, the factors could be used to select which sources or activities should or should not be regulated, or they could be used to determine the level or stringency of control, if any, for selected sources or activities, or some combination of both."⁸⁵

EPA's guidance for setting RPGs also provides that:

"The RHR gives States wide latitude to determine additional control requirements, and there are many ways to approach identifying additional reasonable measures; however, you must at a minimum, consider the four statutory factors. Based on the contribution from certain source categories and the magnitude of their emissions you may determine that little additional analysis is required to determine further controls are not warranted for that category."⁸⁶

Although the State has flexibility in how to consider the four statutory factors, it must consider these four factors in some form. The State made no attempt to do this in the Arkansas RH SIP. Even if emission reductions anticipated from implementation of BART and other CAA programs during the initial planning period are expected to result in a slightly greater rate of improvement in visibility than would be needed to attain the URP for the first implementation period, the State must still consider whether any additional control measures would be reasonable, based on its consideration of the relevant factors. Arkansas's actions are especially problematic as there are sources that are not subject to BART but which contribute to visibility impairment above the State's established BART threshold of 0.5 dv. While EPA agrees that EPA's RPG Guidance states that BART and other existing CAA programs may be all that is necessary to achieve reasonable progress in the first planning period for some states, Arkansas's approach is not supported by our RPG Guidance.⁸⁷ EPA's guidance states that BART and other existing CAA programs may be all that is necessary, not that it is in fact all that is necessary. If the State believes that it is not necessary to require any sources to install controls under the

reasonable progress requirements (*i.e.* that there are no "potentially affected sources"), it must demonstrate this through its consideration of the four statutory factors.

As discussed in our proposed rulemaking on the Arkansas RH SIP, we agree that the State properly determined its URP, and that the State participated in CENRAP and coordinated and consulted with other states who may be contributing to visibility impairment in Arkansas's Class I areas. We find that Arkansas satisfies these requirements under the RHR. However, that is not all that a state is required to do in establishing its RPGs. In establishing its RPGs for any Class I area, a state must "consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal."⁸⁸ The Arkansas RH SIP does not satisfy this requirement.

With regard to the comment that modeling projections show that the combination of already mandated controls will provide for a rate of progress that improves visibility conditions and result in the attainment of natural visibility conditions by 2064, EPA notes that the CENRAP modeled the projected visibility conditions anticipated at each Class I area in 2018. The CENRAP modeling is based on emissions reductions expected to result from Federal, State, and local control programs that are either currently in effect or with mandated future-year emission reduction schedules that predate 2018. The CENRAP modeling itself did not show that already mandated controls are expected to attain natural visibility conditions by 2064. Rather, the rate of visibility improvement anticipated by the CENRAP modeling in 2018, if sustained, would result in a return to natural visibility conditions prior to 2064. Therefore the comment that Arkansas is expected to ultimately achieve the national goal prior to 2064 assumes that the same level of reductions of visibility-impairing pollutants that is expected to occur during the first implementation period ending in 2018 will increasingly occur during each implementation period until the final implementation period ending in 2064. However, there is no guarantee that this will occur. The Arkansas RH SIP addresses the requirements of the RHR only for the first implementation period

⁸⁵ See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 5.0.

⁸⁶ See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 4.2.

⁸⁷ See EPA's Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 4.1.

⁸⁸ 40 CFR 51.308(d)(1)(i)(A).

ending in 2018. As such, EPA disagrees that we should approve Arkansas's RPGs because modeling demonstrates that Arkansas is expected to achieve the national goal prior to 2064.

Comment: The EPA should not have disapproved Arkansas's LTS since it is consistent with the CAA and the visibility impairment regulations. The EPA is proposing to disapprove Arkansas's LTS because Arkansas relied on the emissions reductions and schedules of compliance associated with Arkansas's BART determinations. The EPA's reliance on its disapproval of Arkansas's BART determinations as a basis for disapproving the LTS treads on the state's authority under the CAA. The EPA's disapproval of Arkansas's LTS elevates form over substance, disregards the underlying purpose of the visibility protection program, and does not recognize the purpose of the LTS. Arkansas's LTS complies with the CAA. The applicable regulations require each state to submit a long-term, 10- to 15-year strategy for making reasonable progress toward the national goal of natural visibility conditions in 2064. Given that Arkansas's LTS includes emission limits, compliance schedules and other measures necessary to achieve reasonable progress toward the national visibility goal and to ultimately achieve natural visibility prior to 2064, the EPA's proposed disapproval is baseless and further shows that EPA is acting beyond the scope of the visibility protection requirements of the CAA.

Response: We disagree that Arkansas's LTS fully satisfies the requirements of the CAA and the RH regulations. With regard to the LTS, the CAA requires that states establish:

"[A] long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal specified in subsection (a) of this section."⁸⁹

Consistent with the requirement of the CAA, 40 CFR 51.308(d)(3) requires that states include in their RH SIPs a LTS that includes "enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals" for all Class I areas within, or affected by emissions from, the state.⁹⁰ At a minimum, states must describe how each of the following seven factors listed below are taken into account in developing their LTS: (1) Emission reductions due to ongoing air pollution control programs, including measures to address RAVI; (2) measures to mitigate the impacts of construction

activities; (3) emissions limitations and schedules for compliance to achieve the RPG; (4) source retirement and replacement schedules; (5) smoke management techniques for agricultural and forestry management purposes including plans as currently exist within the state for these purposes; (6) enforceability of emissions limitations and control measures; and (7) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the LTS.⁹¹ Since 40 CFR 51.308(d)(3)(v)(C) requires that in developing its LTS, Arkansas consider emissions limitations and schedules of compliance to achieve the RPGs, the State included the BART emission limits it established for its subject to BART sources as part of its LTS. As explained in our proposed rulemaking on the Arkansas RH SIP, the BART emission limits established by Arkansas are an element of the LTS, and because we are disapproving a portion of Arkansas's BART determinations, it follows that the State did not properly consider emission limitations and schedules for compliance to include in its LTS, as required under 40 CFR 51.308(d)(3)(v)(C). Therefore, we cannot approve this element of the LTS. Furthermore, as pointed out in one of the comments we received, since Arkansas did not consider the four statutory factors under 40 CFR 51.308(d)(1)(i)(A) when establishing its RPGs, it is not possible to know at this point whether requiring additional controls for Arkansas source categories affecting visibility constitutes reasonable progress. Therefore, we find that Arkansas's LTS does not include those measures necessary to achieve reasonable progress toward the national visibility goal. This is in support of the finding that Arkansas has not properly considered emission limitations and schedules for compliance in establishing its LTS, as required under 40 CFR 51.308(d)(3)(v)(C).

We acknowledge that the CENRAP modeling shows that with the measures included in the RH SIP, Arkansas is projected to meet the URP for the first implementation period ending in 2018 for both of its Class I areas. However, with regard to the comment that Arkansas's LTS includes those measures necessary to ultimately achieve natural visibility prior to 2064, we note that the Arkansas's RH SIP (including the LTS) addresses the RHR requirements only for the first implementation period ending in 2018. The CENRAP modeling is based on emissions reductions

expected to result from Federal, State, and local control programs that are either currently in effect or with mandated future-year emission reduction schedules that predate 2018. The CENRAP modeling itself did not show that already mandated controls are expected to attain natural visibility conditions by 2064. Rather, the rate of visibility improvement anticipated by the CENRAP modeling in 2018, if sustained, will result in a return to natural visibility prior to 2064. This assumes that the same level of reductions of visibility-impairing pollutants that is expected to occur during the first implementation period ending in 2018 will increasingly occur during each implementation period until the final implementation period ending in 2064. However, there is no guarantee that this will in fact occur.

Comment: We agree with EPA's findings that ADEQ cannot rely solely on meeting the uniform rate of progress to conclude that its goals provide for reasonable progress. ADEQ needs to consider the four statutory factors required under 40 CFR 51.308(d)(1)(i)(A) to evaluate the potential controls for sources or source categories that contribute to visibility impairment.

Response: As explained in our proposed rulemaking and elsewhere in our response to comments, Arkansas's lack of consideration of the four statutory factors required under the RHR is the grounds for our disapproval of Arkansas's RPGs.

Comment: The EPA should disapprove Arkansas's LTS as well as the reasonable progress analysis because Arkansas's point source emissions of SO₂, the major pollutant contributing to visibility impairment in Arkansas's Class I area, are projected to increase instead of decreasing between 2002 and 2018. Source apportionment modeling by the CENRAP indicates that Arkansas's contribution to sulfate in Class I areas is projected to increase as contributions from surrounding states are projected to decrease. This is in contradiction to 40 CFR 51.308(d)(3)(ii) which requires that the State demonstrate that it has included in its implementation plan all measures necessary to obtain its share of the emissions reductions needed to meet the progress goal for the area.

Response: We agree that Arkansas's point source SO₂ emissions are projected to increase instead of decreasing between 2002 and 2018, and that the CENRAP modeling indicates that Arkansas's contribution to sulfate in class I areas is projected to increase as contributions from surrounding states

⁸⁹CAA section 169A(b)(2)(B).

⁹⁰40 CFR 51.308(d)(3).

⁹¹40 CFR 51.308(d)(3)(v).

are projected to decrease. However, we disagree that this is in contradiction with our proposed finding that the Arkansas RH SIP satisfies the requirements of 40 CFR 51.308(d)(3)(ii). The full reference to 40 CFR 51.308(d)(3)(ii) is the following:

“Where other States cause or contribute to impairment in a mandatory Class I Federal area, the State must demonstrate that it has included in its implementation plan all measures necessary to obtain its share of the emissions reductions needed to meet the progress goals for the area. If the State has participated in a regional planning process, the State must ensure that it has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process.”⁹²

A state can meet the requirements under 40 CFR 51.308(d)(3)(ii) if when establishing its LTS, the state can demonstrate that it has included in its RH SIP all measures necessary to obtain its share of the emissions reductions needed to meet the progress goals. This means that if a state participates in a regional planning process, the state must ensure that the RH SIP includes all agreed upon measures needed to achieve its apportionment of emission reduction obligations. Arkansas met part of this requirement by participating in a regional planning process and consulting with other states that cause or contribute to impairment at Arkansas’s Class I areas, with the participating states arriving at a consensus with regard to each states’ apportionment of emissions reduction obligations. Arkansas’s RH SIP includes the regional planning process but those emission reductions agreed to by all states in the consultation meetings will not be met by Arkansas because the reductions from the BART determinations we are disapproving will not be realized. This is consistent with 40 CFR 51.308(d)(3)(ii). As explained in our proposed rulemaking on the Arkansas RH SIP, we are finding that Arkansas satisfied its consultation requirements when establishing its LTS.⁹³

Comment: The EPA’s proposed disapproval of Arkansas’s RPGs is not consistent with its own guidance, treads on the State’s authority under the CAA, and disregards the underlying purpose of the visibility protection program by criticizing the technical aspect of Arkansas’s evaluation even though EPA acknowledges that Arkansas’s SIP provides for a rate of visibility improvement that achieves the national

goal before the time contemplated by the program itself.

Response: The EPA disagrees that EPA’s disapproval of Arkansas’s RPGs is not consistent with its own guidance. EPA’s RPG Guidance states the following with regard to the statutory factors under 40 CFR 51.308(d)(1)(i)(A):

“The regional haze rule requires you to clearly support your RPG determination in your SIP submission based on the statutory factors.”⁹⁴

As explained in more detail elsewhere in our response to comments, even if emission reductions anticipated from implementation of BART and other CAA programs during the initial planning period would result in a slightly greater rate of improvement in visibility than would be needed to attain the URP, the State must still consider the four statutory factors in setting its RPGs.

EPA also disagrees with the commenter’s statement that EPA’s proposed disapproval of Arkansas’s RPGs treads on the state’s authority under the CAA. The CAA requires that in determining reasonable progress, states should take into consideration the costs of compliance, the time necessary for compliance, and the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements.⁹⁵ Since the State has not taken into consideration these four factors, EPA’s disapproval of Arkansas’s RPGs is in accordance with the CAA. While we do recognize that the CENRAP’s modeling demonstrates that Arkansas is projected to meet the URP for the first implementation period ending in 2018 for both of its Class I areas, we emphasize that we cannot approve Arkansas’s RPGs because in setting its RPGs the State did not satisfy the requirements of the CAA § 169A(g)(1), the RHR,⁹⁶ and 40 CFR 51.308(d)(1)(i)(A).

Comment: With respect to establishment of RPGs, EPA has provided that the BART Rule does not require a definitive dv or percent improvement in visibility. All the BART Rule requires for each state is a demonstration of improvement of visibility. To that end, ADEQ did show in its RH SIP that there was a statistically significant improvement to visibility in the Class I areas modeled using the presumptive limits through

statistical analysis and photochemical modeling.

Response: It appears that the comment may have been referring to the RHR rather than the BART Rule, as it is the RHR that establishes the RPG requirements. While EPA agrees that the RHR does not require a definitive dv or percent improvement in visibility with respect to the establishment of RPGs,⁹⁷ we disagree that all the RHR requires in terms of RPGs is a demonstration of visibility improvement. The RHR requires that the RPGs provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period.⁹⁸ However, the RHR also establishes other analytical requirements states must satisfy in establishing their RPGs. Among these, is the requirement for states to consider the four statutory factors under 40 CFR 51.308(d)(1)(i)(A), which is a requirement that Arkansas has not satisfied.

Comment: The ADEQ acted consistently with the EPA’s RPG Guidance when it did not perform a four-factor analysis in establishing Arkansas’s RPGs. The RPG Guidance provides that if common sense dictates that a particular statutory factor cannot be applied to a particular source category (*i.e.* non-point sources), then the state’s analysis may reflect that, and emissions reductions from such sources may still be included in the SIP.

Response: The section of EPA’s RPG Guidance the comment refers to states that the guidance is primarily aimed at helping states apply the four statutory factors to point sources, and that EPA recognizes that even though states must look at all source categories affecting visibility when evaluating the four statutory factors, application of some of the statutory factors to certain non-point sources may not be practical.⁹⁹ The comment appears to imply that this section of EPA’s RPG Guidance supports the State’s decision not to conduct an evaluation of the four statutory factors. However, EPA’s RPG Guidance does not state, or in any way imply, that application of any of the statutory factors in considering control measures for point sources is not practical. On the contrary, EPA’s RPG Guidance clearly states that the guidance is mainly aimed

⁹⁷ 64 FR 35731.

⁹⁸ 64 FR 35734.

⁹⁹ See EPA’s Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 1.2.

⁹⁴ See EPA’s Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program (June 1, 2007), Section 2.4.

⁹⁵ CAA section 169A(g)(1).

⁹⁶ 64 FR 35731.

⁹² 40 CFR 51.308(d)(3)(ii).

⁹³ 76 FR 64216.

at helping states apply the four statutory factors to point sources.

Comment: There is no requirement in the BART Rule for a state to adopt control measures that it does not consider necessary or reasonable when it can be shown that its RPGs represent a rate of progress that it and other affected states have found to be reasonable. The EPA's role in evaluating a state's RPGs is to assure that other affected states have been consulted and are satisfied that the RPGs are appropriate. In fact, Arkansas's Class I areas as well as Missouri's Class I areas are on the glidepath and are expected to meet the rate of progress goals for the first implementation period ending in 2018.

Response: While EPA agrees that the BART Rule does not require a state to adopt control measures under reasonable progress if the state determines that such control measures are not reasonable, EPA notes that the state must make the determination of whether those controls are reasonable or not through an evaluation of the four statutory factors. The RHR states the following:

"Today's final rule requires the States to determine the rate of progress for remedying existing impairment that is reasonable, taking into consideration the statutory factors, and informed by input from all stakeholders."¹⁰⁰

Arkansas has not considered the four statutory factors, and therefore, cannot make the claim that additional control measures are not reasonable. This is especially troublesome in light of the fact that there are sources in Arkansas not subject to BART which impair visibility by more than 0.5 dv, as explained in more detail in our proposed rulemaking. While EPA agrees that one of EPA's roles in evaluating a state's RPGs is to assure that other affected states have been consulted and agree with the RPGs the state has established,¹⁰¹ EPA notes that our role is not limited to just that. The RH regulations state the following:

"In determining whether the State's goal for visibility improvement provides for reasonable progress towards natural visibility conditions, the Administrator will evaluate the demonstrations developed by the State pursuant to paragraphs d(1)(i) and (d)(1)(ii) of this section."¹⁰²

Among the demonstrations the state is required to develop pursuant to 40 CFR 51.308(d)(1)(i) is an evaluation of the four statutory factors. As such, EPA's role in evaluating a state's RPGs is not limited to ensuring that other affected

states have been consulted and agree that the state's RPGs are appropriate.

With regard to the comment that Arkansas Class I areas as well as Missouri's Class I areas are on the "glidepath," EPA notes that even if a state is projected to meet the URP for its Class I areas during the first implementation period ending in 2018, this is not a safe harbor from more stringent regulation. The RHR requires states to calculate the URP and determine what control measures would be needed to achieve this amount of progress during the first implementation period and to determine whether those measures are reasonable based on an evaluation of the four statutory factors.¹⁰³ The RHR states the following:

"If the State determines that the amount of progress identified through the analysis is reasonable based upon the statutory factors, the State should identify this amount of progress as its reasonable progress goal for the first long-term strategy, unless it determines that additional progress beyond this amount is also reasonable. If the State determines that additional progress is reasonable based on the statutory factors, the State should adopt that amount of progress as its goal for the first long-term strategy."¹⁰⁴

As such, being on the "glidepath" does not mean a state is allowed to forego an evaluation of the four statutory factors when establishing its RPGs. Based on an evaluation of the four statutory factors, states may determine that RPGs that provide for a greater rate of visibility improvement than would be achieved with the URP for the first implementation period are reasonable.

Comment: The EPA's statement in its proposed rulemaking that Arkansas's RH SIP fails to ensure adequate reasonable progress toward meeting the national visibility goal without Arkansas conducting additional analysis is not supported by the record. The EPA admits that under Arkansas's RPGs, natural visibility conditions will be obtained in 2062 for Caney Creek and 2063 for Upper Buffalo. Based on modeling approved by EPA, Arkansas will meet the visibility goals as set out in the RHR prior to the target date of 2064. Therefore, the EPA's position that Arkansas must undertake additional analysis even though Arkansas's proposed RPGs provide a greater rate of improvement in visibility to attain URP is incorrect and is an attempt to step on the state's authority.

Response: The EPA notes that the RHR requires states to determine what constitutes reasonable progress by,

among other things, consideration of the four statutory factors. The RHR states that the determination of what constitutes reasonable progress can only be made once the necessary technical analyses of emissions, air quality, and the reasonable progress factors have been conducted.¹⁰⁵

While in our proposed rulemaking we noted that Arkansas calculated that under its RPGs, it would attain natural visibility conditions in 2062 for Caney Creek and 2063 for Upper Buffalo, we would like to clarify that such calculation assumes that Arkansas would be able to achieve the rate of improvement reflected by the RPGs for the first implementation period ending in 2018, and each implementation period thereafter. The RHR states the following:

"Once a State has adopted a reasonable progress goal and determined what progress will be made toward that goal over a 10-year period, the goal itself is not enforceable. All that is 'enforceable' is the set of control measures which the State has adopted to meet that goal. If the State's strategies have been implemented but the State has not met its reasonable progress goal, the State could either: (1) Revise its strategies in the SIP for the next long-term strategy period to meet its goal, or (2) revise the reasonable progress goals for the next implementation period. In either case, the State would be required to base its decisions on appropriate analyses of the statutory factors included in 40 CFR 51.308(d)(1)(i)(A) and (B) of the final rule."¹⁰⁶

As such, there is no certainty that the State will achieve its RPGs for the first implementation period ending in 2018, let alone for each implementation period thereafter. With regard to the comment that the modeling approved by EPA shows that Arkansas will meet the visibility goals as set out in the RHR prior to the target date of 2064, EPA notes that the CENRAP modeled the projected visibility conditions anticipated at each Class I area in 2018. The CENRAP modeling is based on emissions reductions expected to result from Federal, State, and local control programs that are either currently in effect or with mandated future-year emission reduction schedules that predate 2018. The CENRAP modeling itself did not show that Arkansas will meet the visibility goals as set out in the RHR prior to 2064. Rather, the rate of visibility improvement anticipated by the CENRAP modeling projections for 2018, *if sustained*, will result in a return to natural visibility prior to 2064. This assumes that the same level of reduction of visibility impairment that is expected

¹⁰⁰ 64 FR 35731.

¹⁰¹ 40 CFR 51.308(d)(1)(iv).

¹⁰² 40 CFR 51.308(d)(1)(iii).

¹⁰³ 64 FR 35732.

¹⁰⁴ 64 FR 35732.

¹⁰⁵ 64 FR 35721.

¹⁰⁶ 64 FR 35733.

to occur during the first implementation period ending in 2018 will occur during each implementation period until the final implementation period ending in 2064. However, there is no guarantee that this will in fact occur.

As explained in our proposed rulemaking on the Arkansas RH SIP, in establishing its RPGs, the State is required by CAA § 169A(g)(1) and 40 CFR 51.308(d)(1)(i)(A) to consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal. An analysis of the four statutory factors is precisely the "additional analysis" EPA refers to in its proposed rulemaking on the Arkansas RH SIP.¹⁰⁷ The RHR does not exempt states from evaluating the four statutory factors if their RPGs provide a greater rate of improvement in visibility to attain URP. Since Arkansas has not satisfied this requirement, EPA disagrees that our disapproval of Arkansas's RPGs is an attempt to step on the state's authority.

Comment: The EPA's reliance on disapproving the Arkansas LTS based on the disapproval of ADEQ's BART determinations is incorrect and not consistent with the RHR. Under the RHR, states must develop a LTS that includes emissions limitations, compliance schedules, and other measures as necessary to achieve the RPGs for Class I areas within a state. Arkansas's LTS complies with the RHR by demonstrating that Arkansas will meet the visibility goals as set out in the RHR prior to the date of 2064 and the LTS will help Arkansas achieve its RPGs. As such, Arkansas should be given the maximum deference in attaining those RPGs. In addition, ADEQ's BART determinations are sound and are in compliance with the RH program. Thus, the EPA should approve the portion of the Arkansas RH SIP pertaining to its LTS.

Response: With regard to the comment that EPA's reliance on disapproving Arkansas's LTS based on the disapproval of some of Arkansas's BART determinations is incorrect and inconsistent with the RHR, EPA clarifies that the basis for EPA's partial disapproval of the State's LTS is that the state did not properly consider emission limits and schedules for compliance to include in its LTS, as required pursuant to 40 CFR 51.308(d)(3)(v)(C). Since 40 CFR 51.308(d)(3)(v)(C) requires that in

developing its LTS, Arkansas consider emissions limitations and schedules of compliance to achieve the RPGs, the State included the BART emission limits it established for its subject to BART sources as part of the LTS. As explained in our proposed rulemaking, EPA disagrees that all of Arkansas's BART determinations are in compliance with the RHR. The BART emission limits established by Arkansas are an element of the LTS, and because we are disapproving a portion of Arkansas's BART determinations, it follows that the State did not properly consider emission limitations and schedules for compliance to include in its LTS, as required under 40 CFR 51.308(d)(3)(v)(C). Therefore, we cannot approve this element of the LTS. Furthermore, as raised by another comment, since Arkansas did not consider the four statutory factors under 40 CFR 51.308(d)(1)(i)(A) when establishing its RPGs, it is not possible to know, at this point, whether requiring additional controls for Arkansas source categories affecting visibility constitutes reasonable progress. This further supports our finding that Arkansas has not properly considered emission limitations and schedules for compliance in establishing its LTS, as required under 40 CFR 51.308(d)(3)(v)(C).

The comment suggests that if a state develops a LTS that is expected to achieve the state's RPGs and meet the national visibility goal prior to 2064, the state will have met the LTS requirements in the RHR. While EPA agrees that the RHR requires states to develop a LTS that includes emissions limitations, compliance schedules, and other measures as necessary to achieve the RPGs established by states having mandatory Class I areas,¹⁰⁸ EPA notes that the RHR establishes several requirements a state must satisfy when establishing its LTS.¹⁰⁹ Among these is the requirement for states to consider, at a minimum, the seven factors under 40 CFR 51.308(d)(3)(v). As explained above, one of the factors states are required to consider is emission limitations and schedules for compliance to include in the LTS.¹¹⁰ Arkansas has not properly considered this factor. Furthermore, as already explained above, Arkansas did not establish RPGs in accordance with the RHR and CAA requirements. As such, EPA cannot approve those RPGs. Therefore, Arkansas has not demonstrated that its LTS includes

enforceable emissions limitations and compliance schedules, as necessary to achieve reasonable progress. EPA cannot fully approve Arkansas's LTS.

Comment: Despite the fact that the CENRAP's modeling for the year 2018 shows a significant improvement in visibility at Caney Creek and Upper Buffalo (3.88 dv and 3.75 dv, respectively), the available emissions data that was used to conduct this modeling suggests something different. This emissions data shows that SO₂ emissions from EGUs in Arkansas are projected to increase by roughly 35,000 tons per year (tpy) between 2002 and 2018. While non-EGU point source emissions of SO₂ in Arkansas are projected to decrease by 2018, overall point source emissions of SO₂ (EGU plus non-EGU emissions) in Arkansas are projected to increase by roughly 15,000 tpy. When emissions from all sources of SO₂ in Arkansas are summed together (point sources, onroad sources, and area sources), SO₂ emissions in 2018 are projected to be higher than 2002 levels.

NO_x emissions from non-EGUs are projected to be 25% higher in 2018 compared to 2002 levels. Even though NO_x emissions from non-EGUs are projected to decrease between 2002 and 2018, overall point source NO_x emissions (non-EGUs plus EGUs) are projected to increase in 2018 from 2002 levels. When emissions from all sources of NO_x in Arkansas are summed together (point sources, onroad sources, and area sources), NO_x emissions in 2018 are projected to be lower than 2002 levels, but most of these emissions reductions are from onroad sources in Arkansas. Also, 2018 emissions of PM_{2.5}, PM₁₀, and ammonia (NH₃) from Arkansas sources were also projected to increase somewhat compared to 2002 levels. Considering that sulfates are the significant contributor to visibility impairment at both Arkansas Class I areas on the majority of the 20% worst days, it is difficult to understand how the CENRAP 2018 modeling showed such a significant improvement in visibility when SO₂ emissions from Arkansas are projected to increase between 2002 and 2018.

EPA also indicated that there is an under-prediction bias in the model that must be considered when examining source apportionment results for sulfate. Given that the 2018 modeling reflects a low bias in the projection of visibility impacts due to sulfates, that there are significant projected increases in SO₂ emissions from Arkansas point sources in 2018, and that the 2018 point source emissions from NO_x and other visibility impairing pollutants are also projected

¹⁰⁸ 40 CFR 1.308(d)(3).

¹⁰⁹ 64 FR 35734.

¹¹⁰ 40 CFR 1.308(d)(3)(v)(C).

to be higher than 2002 emissions, the 2018 CENRAP modeling is questionable.

As discussed by EPA in Appendix A to its TSD for its proposed rulemaking on the Arkansas RH SIP, it appears that the bulk of the projected visibility improvement in 2018 in Arkansas's Class I areas may be based on projected emissions reductions from sources in Texas. However, Texas has acknowledged uncertainties in its 2018 emissions projections, and that the Texas emissions inventory is based on the Integrated Planning Model (IPM) Version 2.19, whereas other planning organizations used version 3.0 of the IPM, which EPA has indicated provides "significantly more accurate prediction of future EGU operating scenarios and emissions" (see Exhibit 21). Texas also stated that the IPM Version 2.19 used by the CENRAP projected approximately 14% increase in coal/lignite-fired generating capacity and a 32% increase in gas-fired capacity in Texas, whereas the Electric Reliability Council of Texas (ERCOT) predicted a greater percentage of growth in coal/lignite-fired generating capacity than natural gas-fired capacity (see Exhibit 21). Given the uncertainty in Texas' 2018 emission projections and that the 2018 modeling may under-predict visibility impacts from sulfates, Arkansas should not be allowed to forego performing an analysis of measures that would enable the state to ensure reasonable progress towards reaching natural background visibility conditions at the State's Class I areas. EPA must disapprove the Arkansas RH SIP for failure to include a four-factor analysis of reasonable progress milestones for the State's Class I areas. As part of a four-factor analysis of reasonable progress goals, Arkansas should evaluate emission control strategies that can be implemented to reduce Arkansas's share of visibility-impairing pollution.

Response: The EPA agrees that SO₂ emissions from EGUs in Arkansas are projected to increase considerably between 2002 and 2018, that overall point source emissions of SO₂ (*i.e.* EGU plus non-EGU emissions) in Arkansas are projected to increase by roughly 15,000 tpy, and that total SO₂ emissions in Arkansas (*i.e.* point sources, onroad sources, and area sources combined) are projected to increase between 2002 and 2018. We also agree that even though total NO_x emissions in Arkansas (*i.e.* point sources, onroad sources, and area sources combined) are projected to decrease in 2018 from 2002 levels, most of these emissions reductions are from onroad sources in Arkansas. As discussed in Appendix A of the TSD for our proposed action on the Arkansas RH

SIP, we agree that the modeling demonstrates that most of the projected visibility improvement in 2018 in Caney Creek appears to be based on projected emissions reductions from sources in Texas and that Texas has acknowledged that there are uncertainties in its 2018 emissions projections. Consistent with the points raised in the comment, we are disapproving Arkansas's RPGs for Caney Creek and Upper Buffalo. As discussed in our proposed rulemaking and in our response to previous comments, Arkansas must evaluate the four statutory factors when establishing its RPGs. As part of its evaluation of the four statutory factors Arkansas must determine what (if any) level of control is reasonable to require sources in Arkansas to comply with to achieve reasonable progress at Arkansas's Class I areas.

C. Comments on BART

1. Evaluation of the Most Stringent Level of Control in the BART Analysis

Comment: The EPA pointed out that Entergy White Bluff did not evaluate the most stringent level of control achievable in that it did not evaluate emission limits lower than the presumptive SO₂ BART emission limit of 0.15 lb/MMBtu for either a wet or a dry scrubber, but EPA did not mention that both wet and dry scrubbers can achieve greater than the control efficiencies assumed in the White Bluff analysis (*i.e.* greater than 95% control with a wet scrubber, and greater than 92% control with a dry scrubber). EPA pointed out that SO₂ emission rates as low as 0.065 lb/MMBtu have been documented with installation of dry scrubbers. EPA recently proposed a FIP requiring the installation of dry scrubbers as BART at six coal-fired EGUs in Oklahoma, to achieve the SO₂ BART emission limit of 0.06 lb/MMBtu on a 30-day rolling average basis (76 FR 16187–188, 16193–194). These units burn similar low sulfur coal as that primarily burned at the Entergy White Bluff Units 1 and 2. A limit of 0.06–0.065 lb/MMBtu would reflect 92.2% to 92.8% removal from the highest SO₂ rate identified by Entergy during the base case of 0.83 lb/MMBtu. Therefore, SO₂ emission rates much lower than 0.15 lb/MMBtu should be achievable with the installation of a wet scrubber or a dry scrubber/baghouse at White Bluff Units 1 and 2. Wet scrubbers can achieve 98–99% SO₂ removal and dry scrubbers can achieve 95% SO₂ removal (see Exhibits 17, 17A, 17B, 17C, and 17D). An October 2008 Sargent & Lundy study of SO₂ control technologies for White Bluff makes clear that dry

scrubbers are capable of 95% removal efficiency, and wet scrubbers are capable of 95–99% removal efficiency (see Exhibit 16). This study also indicates that the typical Powder River Basin coal SO₂ emission rates expected from wet scrubbers ranges from 0.03 to 0.10 lb/MMBtu, and for dry scrubbers ranges from 0.06 to 0.12 lb/MMBtu. Therefore, EPA should require consideration of emission limits more stringent than ADEQ's proposed SO₂ BART limit of 0.15 lb/MMBtu.

Response: The EPA agrees that wet scrubbers for control of SO₂ emissions have been demonstrated to achieve as high as 98–99% removal efficiency, while dry scrubbers have been demonstrated to achieve as high as 95% removal efficiency. SO₂ emission rates much lower than 0.15 lbs/MMBtu are achievable at Entergy White Bluff Units 1 and 2 with the installation of a wet or dry scrubber. This is consistent with our proposed rulemaking on the Arkansas RH SIP, in which we noted that the 0.15 lb/MMBtu presumptive SO₂ limit the State established for both the bituminous and sub-bituminous coal firing scenarios for White Bluff Units 1 and 2 corresponds to 82% control removal of the wet scrubber at Unit 1 and 80% control removal of the wet scrubber at Unit 2, while such controls are capable of a higher control efficiency.¹¹¹ EPA's proposed rulemaking proposed to disapprove the State's determination that SO₂ BART for White Bluff Units 1 and 2 is the presumptive limit of 0.15 lb/MMBtu for both the sub-bituminous and bituminous coal firing scenarios, as the State is required to evaluate the cost and visibility impact of operating controls at the maximum control efficiency achievable (*i.e.* to achieve the most stringent emission limit capable of being achieved by those controls).^{112,113}

Comment: A study conducted by Babcock & Wilcox at tangentially-fired units burning sub-bituminous Powder River Basin coal showed NO_x emission rates with ultra low NO_x burners and overfire air that were generally less than 0.13 lb/MMBtu (see Exhibit 17F). The proposed NO_x limits for White Bluff Units 1 and 2 of 0.15 lb/MMBtu when burning sub-bituminous coal and 0.28 lb/MMBtu when burning bituminous coal do not reflect the capability of the state of the art low NO_x burners and overfire air. Also, since the White Bluff Units 1 and 2 burn primarily sub-bituminous coal, EPA's presumptive BART limit for sub-bituminous coal

¹¹¹ 76 FR 64206.

¹¹² 64 FR 35740.

¹¹³ 76 FR 64206.

(and not for bituminous coal) should be evaluated. The BART Guidelines do not provide for prorating the presumptive BART limits based on the percentages of each coal burned. Presumptive limits should be defined by the coal type predominantly burned by the White Bluff units and BART must be based on the coal the units have historically burned, not on the type of coal that might be used in the future.

Response: The EPA agrees that the NO_x limits adopted by the State of 0.15 lb/MMBtu when burning sub-bituminous coal and 0.28 lb/MMBtu when burning bituminous coal for White Bluff Units 1 and 2 do not reflect the capability of the state of the art low NO_x burners and overfire air.

In addition, the BART Rule and the BART Guidelines do not specify whether a state can make separate BART determinations for each type of fuel burned by a given source. This should not be interpreted to mean that a state is not allowed to make separate BART determinations for each fuel type burned by a given source. The CAA and BART Rule give states broad authority in making BART determinations. Accordingly, States may determine it is appropriate to make BART determinations for each type of fuel burned by a given source. EPA acknowledges that the BART Guidelines do not specifically mention whether or not states can prorate the presumptive BART limits based on the percentages of each coal burned. However, if a source has a history of burning more than one type of fuel, then the BART determination must either be based on the fuel resulting in the greatest amount of emissions or the State must consider BART for each fuel type.

Comment: BART is not the maximum feasible technology but only the technology that is appropriate as determined by the state in weighing the public interest factors. EPA is incorrect in its assertion that the BART Guidelines require consideration of the most stringent control technology in the BART analysis. The EPA is going beyond the scope of the CAA by proposing that BART analysis requires identification and evaluation of the maximum control technology available when the state conducts BART evaluations.

Response: The EPA agrees that BART is not defined as the “maximum feasible technology.” However, EPA disagrees that EPA is going beyond the scope of the CAA by stating that states must evaluate the most stringent controls available in their BART evaluations. The BART Guidelines explicitly require consideration of the most stringent

control technology in the BART analysis. The CAA states the following:

“[I]n determining best available retrofit technology the State (or the Administrator in determining emission limitations which reflect such technology) shall take into consideration the costs of compliance, the energy and non-air quality environmental impacts of compliance, any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology * * *”¹¹⁴

In accordance with the CAA, EPA promulgated the BART Rule and the BART Guidelines to clarify the requirements of the RHR’s BART provisions. The BART Guidelines provide the following:

“In identifying “all” options, you must identify the most stringent option and a reasonable set of options for analysis that reflects a comprehensive list of available technologies. It is not necessary to list all permutations of available control levels that exist for a given technology—the list is complete if it includes the maximum level of control each technology is capable of achieving.”¹¹⁵

Furthermore, the RH regulations define BART as the best system of continuous emission control technology available and associated emission reductions achievable, as determined through an evaluation of the five statutory factors.¹¹⁶ As explained in our proposed rulemaking on the Arkansas RH SIP, the RHR states that since recent retrofits at existing sources provide a good indication of the current “best system” for controlling emissions, these controls must be considered in the BART analysis.^{117 118} EPA’s proposed rulemaking also explains that the RHR provides that in establishing source specific BART emission limits, a state’s BART analysis must identify and consider the maximum level of emission reduction that has been achieved in other recent retrofits at existing sources in the source category.^{119 120}

2. Evaluation of Post-Combustion Controls in the BART Analysis

Comment: We agree with EPA’s proposal that the White Bluff Units 1 and 2 BART analysis for NO_x in the Arkansas RH SIP only evaluated options to comply with the presumptive BART limits and the company failed to

evaluate add-on NO_x controls such as SCR and SNCR. NO_x emission limits as low as 0.05 lb/MMBtu, achieved by the installation of SCR, have been promulgated as BART limits for EGUs such as the San Juan power plant in New Mexico (76 FR 52390, 52439). SCR along with combustion controls are routinely required as BACT today for proposed new coal-fired power plants. SCR along with combustion controls have also been required as BART or to meet RH progress goals at several coal fired power plants, including the Boswell Energy Center Unit 3 and the Alan S. King Unit 1 facility in Minnesota (see Minnesota Air Pollution Control Agency revised draft RH SIP, July 2009); Naughton Unit 3 and Jim Bridger Units 3 and 4 in Wyoming (see Wyoming draft RH SIP, January 2011); San Juan Units 1–4 (see 76 FR 52388); Four Corners Units 1–5 (See 75 FR 64230); and Big Stone Unit 1 (see EPA’s November 29, 2011 proposed rulemaking on the South Dakota RH SIP). Installation of SCR along with combustion controls has been found to be cost-effective both in BART and BACT determinations, with costs ranging from approximately \$4200/ton NO_x removed all the way up to \$21,000/ton NO_x removed (see Exhibit 17, 17H, 17I, 17J, and 17K). According to data compiled by the National Parks Service, the cost effectiveness of SCR controls at units required to install such controls to meet RH requirements has ranged from \$2,200 to \$4,300/ton NO_x removed (see Exhibit 19). White Bluff would greatly reduce NO_x emissions beyond that achieved by the combustion controls proposed as BART if it were to install SCRs as BART at each unit. If SCR had been evaluated as BART at White Bluff Units 1 and 2, NO_x emissions would have been 78% lower when the units burn sub-bituminous coal and 82% lower when the units burn bituminous coal. Based on testimony before the Arkansas Public Service Commission, Entergy appears to be planning to install SCR at both units at some point in the near future (see Exhibit 17L). Entergy’s NO_x BART analysis for White Bluff cannot be considered complete without an evaluation of combustion controls plus SCR.

Response: The EPA agrees that installation and operation of SCR as BART could potentially result in the reduction of NO_x emissions beyond that achieved by operation of the combustion controls proposed by the State as BART for White Bluff Units 1 and 2. EPA also agrees that the State must evaluate SCR controls when it evaluates what is BART for Entergy

¹¹⁴ CAA section 169A(g)(2).

¹¹⁵ Appendix Y to Part 41, section IV.D.

¹¹⁶ 40 CFR 51.308(e)(1)(ii)(A).

¹¹⁷ 64 FR 35740.

¹¹⁸ 76 FR 64202.

¹¹⁹ 64 FR 35740.

¹²⁰ 76 FR 64202.

White Bluff Units 1 and 2. As explained elsewhere in this final rulemaking, we are finalizing our proposed disapproval of the State's NO_x BART determination (bituminous and sub-bituminous coal firing scenarios) for White Bluff Units 1 and 2.

Comment: Since EPA explicitly did not evaluate post combustion controls in establishing presumptive limits for EGUs that burn coal and do not have existing post-combustion controls for NO_x in the BART Guidelines, post combustion controls should not be required to be evaluated as part of Arkansas's NO_x BART evaluations of Entergy's White Bluff facility. In addition, since EPA explicitly did not evaluate post combustion technology when establishing presumptive limits for boilers other than cyclone units in the BART Guidelines, post combustion controls should not be required to be evaluated as part of the Arkansas BART evaluations for Lake Catherine facility.

Response: The EPA agrees that we did not evaluate post-combustion controls in providing NO_x presumptive emission limits for EGUs that burn coal and have no existing post-combustion controls. The EPA also points out the BART Guidelines did not provide presumptive limits for oil-fired units such as Entergy Lake Catherine Unit 4. This does not mean that Arkansas may forego an evaluation of post-combustion controls in its NO_x BART analyses for Entergy White Bluff Units 1 and 2 and Lake Catherine Unit 4. As stated in our proposed rulemaking on the Arkansas RH SIP, the purpose of the presumptive limits in the BART Guidelines was to identify controls that the Agency considered to be generally cost-effective across all affected units.¹²¹ Because EPA's extensive analysis found that these controls are generally cost-effective across all affected units and were anticipated to result in a substantial degree of visibility improvement, EPA concluded that such affected units should at least meet the presumptive limits unless the state finds that a more or less stringent emission limit is BART based on a consideration of the five statutory factors. EPA's intent was for these generally cost-effective controls to be used in the State's BART analysis considering the five factors specified in CAA section 169A(g)(2), and considering the level of control that is currently achievable at the time that the BART analysis is being conducted.

Further, in the BART Rule, EPA justified its decision not to establish presumptive NO_x limits based on the

use of SCR for units other than cyclone units, stating the following:

"For other units, we are not establishing presumptive limits based on the installation of SCR. Although States may in specific cases find that the use of SCR is appropriate, we have not determined that SCR is generally cost-effective for BART across unit types."¹²²

As such, in the BART Guidelines, EPA simply concluded that it could not reach a generalized conclusion as to the appropriateness of more stringent controls (*i.e.* post-combustion controls) for coal-fired EGUs without existing post-combustion controls. Similarly, EPA concluded that it could not reach a generalized conclusion as to the appropriateness of providing presumptive limits based on the installation of SCR (or even combustion controls for that matter) for oil-fired units. This does not mean that states should not evaluate post-combustion NO_x controls at affected sources. As explained elsewhere in this final rulemaking, in response to comments on the proposed BART Guidelines that the presumptive SO₂ EGU limits should be more stringent, EPA justified its decision to not provide more stringent presumptive emission limits by explaining that after considering the five statutory factors, States may find that a *more or less* stringent emission limit is BART [emphasis added].¹²³ Similar statements are made elsewhere in the BART Rule.

Furthermore, the RH regulations define BART as the best system of continuous emission control technology available and associated emission reductions achievable, as determined through an evaluation of the five statutory factors.¹²⁴ As explained in our proposed rulemaking on the Arkansas RH SIP, the RHR states that since recent retrofits at existing sources provide a good indication of the current "best system" for controlling emissions, these controls must be considered in the BART analysis.¹²⁵ EPA's proposed rulemaking also explains that the RHR provides that in establishing source specific BART emission limits, a state's BART analysis must identify and consider the maximum level of emission reduction that has been achieved in other recent retrofits at existing sources in the source category.¹²⁷ In most cases, the maximum level of emission reduction is achieved through the

installation and operation of post-combustion controls. Therefore, the State should evaluate post-combustion controls in its BART analysis for Entergy White Bluff Units 1 and 2.

Comment: The BART Guidelines indicate that States should only consider the installation of current combustion control technology on oil and gas-fired units. Therefore, EPA cannot disapprove BART determinations on the basis that post combustion control technology was not evaluated for Entergy's Lake Catherine Unit 4.

Response: The EPA disagrees that the BART Guidelines indicate that States should only consider the installation of current combustion control technology on oil and gas-fired units. The BART Guidelines state the following:

"For oil-fired and gas-fired EGUs larger than 200 MW, we believe that installation of current combustion control technology to control NO_x is generally highly cost-effective and should be considered in your determination of BART for these sources."¹²⁹

The context of the above statement is with regard to whether EPA believed a presumptive emissions limit is appropriate for gas fired and fuel oil fired EGUs. It was not intended to limit the consideration for BART for these sources to combustion controls only. The BART Guidelines should not be interpreted to mean that states should not consider NO_x post-combustion controls in their BART analyses for gas fired and oil fired units. The RH regulations define BART as the best system of continuous emission control technology available and associated emission reductions achievable, as determined through an evaluation of the five statutory factors.¹³⁰ As explained in our proposed rulemaking on the Arkansas RH SIP, the RHR states that since recent retrofits at existing sources provide a good indication of the current "best system" for controlling emissions, these controls must be considered in the BART analysis.¹³¹ EPA's proposed rulemaking also explains that the RHR provides that in establishing source specific BART emission limits, a state's BART analysis should identify and consider the maximum level of emission reduction that has been achieved in other recent retrofits at existing sources in the source category.¹³³ In most cases, the maximum level of emission reduction is achieved through the

¹²² 70 FR 39136.

¹²³ 70 FR 39132.

¹²⁴ 40 CFR 51.308(e)(1)(ii)(A).

¹²⁵ 64 FR 35740.

¹²⁶ 76 FR 64202.

¹²⁷ 64 FR 35740.

¹²⁸ 76 FR 64202.

¹²⁹ Appendix Y to Part 51, section IV.E.4.

¹³⁰ 40 CFR 51.308(e)(1)(ii)(A).

¹³¹ 64 FR 35740.

¹³² 76 FR 64202.

¹³³ 64 FR 35740.

¹³⁴ 76 FR 64202.

¹²¹ 76 FR 64201.

installation and operation of post-combustion controls. Therefore, the State must evaluate post-combustion control technology in its BART analysis for Entergy Lake Catherine Unit 4.

Comment: The EPA cannot disapprove the NO_x BART determinations for the Domtar Ashdown Mill Power Boilers No. 1 and 2 for not evaluating SNCR. While SNCR has been installed on several industrial boilers similar to Domtar's Boilers, at the time that the BART evaluation was conducted, SNCR was not available. Even if you considered SNCR and a 50% reduction in emissions (the upper level of control expected with SNCR) less than 10 days of impacts greater than 0.5 dv would be eliminated. Thus, the cost of SNCR is not appropriate, especially considering Arkansas is already achieving progress toward the overall goal of the RH program.

Response: The BART Guidelines provide the following:

"In order to provide certainty in the process, all technologies should be considered if available before the close of the State's public comment period. You need not consider technologies that become available after this date. As part of your analysis, you should consider any technologies brought to your attention in public comments. If you disagree with public comments asserting that the technology is available, you should provide an explanation for the public record as to the basis for your conclusion."¹³⁵

As pointed out in our proposed rulemaking on the Arkansas RH SIP, SNCR was available for industrial boilers similar to Domtar's boilers before the close of the State's public comment period.¹³⁶ As documented by Arkansas in Appendix 2.1 of its RH SIP, EPA provided comments to Arkansas on this matter on May 1, 2007. This was far in advance of the end of the State's public comment period. As documented in Appendix 2.1 of the Arkansas RH SIP, the State did not provide any form of response to EPA's comment, nor did the State evaluate operation and installation of SNCR at Domtar Ashdown Mill Power Boilers No. 1 and 2.

Since the State did not conduct modeling to evaluate the visibility impact of operation of SNCR at Domtar Power Boilers No. 1 and 2, it is not clear how one could reach a conclusion that SNCR would result in the elimination of less than 10 days of impacts greater than 0.5 dv. Furthermore, the RHR and BART Guidelines require states to consider all five statutory factors, and not just the visibility impact resulting from

operation of SNCR. The BART Rule states the following:

"[T]he degree of improvement in visibility which may reasonably be anticipated to result from the use of [BART]" is only one of five criteria that the State must consider together in making a BART determination."¹³⁷

A proper evaluation of SNCR, through a consideration of the five statutory factors, may demonstrate that installation and operation of SNCR at Domtar Power Boilers 1 and 2 is cost-effective. As such, EPA cannot approve the State's NO_x BART determinations for the Domtar Power Boilers No. 1 and 2.

Comment: The EPA is incorrect in stating that not all technically feasible options were considered and visibility impacts considered for the NO_x BART determination for Domtar. Methane De-NO_x (Mdn) is the only control technology deemed technically feasible for which modeling was not completed. The technical capability of Mdn is highly questionable. There is no reason to complete a modeling analysis for this option because it was cost prohibitive regardless of what visibility improvement may be gained from its use. Because of this, the decision was made to forgo the modeling. Such a decision is within ADEQ's discretionary authority to weigh the BART factors as they feel appropriate as spelled out in the BART Guidelines. This decision is reasonable since ADEQ is already achieving better than necessary progress towards attaining its visibility goals.

Response: The EPA stands by the statement made in its proposed rulemaking on the Arkansas RH SIP that not all technically feasible options were considered for the NO_x BART determination for Domtar Power Boilers 1 and 2. As explained in our proposed rulemaking and elsewhere in our response to comments, Arkansas did not evaluate SNCR controls even though such NO_x control is technically feasible, having been demonstrated at industrial boilers similar to Domtar Power Boilers No. 1 and 2 well in advance of the end of the State's public comment period for the Arkansas RH SIP.

EPA also stands by the statement made in its proposed rulemaking on the Arkansas RH SIP that the State did not evaluate the visibility impact of all technically feasible options. The preamble to the RHR states the following:

"We agree with commenters who asserted that the method for assessing BART controls

for existing sources should consider all of the statutory factors."¹³⁸

The BART Guidelines also provide the following with regard to the selection of BART:

"You have discretion to determine the order in which you should evaluate control options for BART. Whatever the order in which you choose to evaluate options, you should always (1) display the options evaluated; (2) identify the average and incremental costs of each option; (3) consider the energy and non-air quality environmental impacts of each option; (4) consider the remaining useful life; and (5) consider the modeled visibility impacts."¹³⁹

Therefore, in their BART evaluations, States must consider the visibility impact of a control option before eliminating it. In particular, for Domtar Power Boiler No. 1, for which the State determined that NO_x BART is no additional controls (resulting in no emissions reductions or visibility improvement beyond baseline levels), an evaluation of all five statutory factors is necessary before the State can make the determination that no retrofit controls are available for Domtar Power Boiler No. 1.

The EPA disagrees with the comment that the decision to forego modeling the visibility impacts of Methane De-NO_x (the only technically feasible control option the State identified for Domtar Power Boiler 1) is reasonable since ADEQ is already achieving better than necessary progress towards attaining its visibility goals. EPA would like to clarify that the State is not already achieving better than necessary progress towards attaining its visibility goals, as the commenter's statement is based on modeling projections based on emissions reductions resulting from BART and the implementation of other CAA requirements, and many of these emissions reductions have yet to take place. Furthermore, as explained in more detail in our proposed rulemaking on the Arkansas RH SIP and elsewhere in our response to comments, EPA is disapproving the State's RPGs because the State did not evaluate the four statutory factors under 40 CFR 51.308(d)(1)(i)(A). Therefore, the claim that Arkansas is already achieving better than necessary progress towards attaining its visibility goals cannot be made.

Comment: In addition to reducing visibility impairing regional haze, SCR systems can oxidize elemental mercury, making it easier to capture downstream in wet flue gas desulfurization (FGD) systems or PM collection devices.

¹³⁵ Appendix Y to Part 51, section IV.D.2.

¹³⁶ 76 FR 64209.

¹³⁷ 70 FR 39123.

¹³⁸ 70 FR 39131.

¹³⁹ Appendix Y to Part 51, section IV.E.2.

Industry improvements in SCR technology that would enhance mercury oxidation for all coal types are currently being developed. Significant mercury reductions would be a likely co-benefit if an SCR is coupled with a baghouse designed for state-of-the-art PM control.

Response: While EPA agrees that SCR technology coupled with a baghouse may result in significant reductions in mercury emissions, EPA notes that mercury is not considered a visibility impairing pollutant. As such, the control of mercury emissions is outside the scope of the RHR. However, if in evaluating control technologies for a BART pollutant for a given source, a state finds that two or more technologies (or combination of technologies) would have similar visibility benefits, the state may justify selection of one of the technologies on the basis of its non-air quality environmental benefits. For example, a state may justify selection of SCR technology coupled with a baghouse to control NO_x emissions over a different control option on the basis that SCR coupled with a baghouse would result in less mercury emissions going into the soil or a nearby body of water. That being said, as explained in our proposed rulemaking on the Arkansas RH SIP and elsewhere in our response to comments, Arkansas must evaluate NO_x post-combustion controls (*i.e.* SCR and SNCR) in its BART analyses for subject to BART sources.

Comment: SCR would remove up to 3,832 tpy NO_x per unit at Entergy White Bluff beyond what the combustion controls currently proposed to meet BART would remove. Visibility in the Region's Class I areas would further be improved by the NO_x emissions reductions achievable with combustion controls plus SCR at White Bluff Units 1 and 2, especially since, as EPA stated in its proposed rulemaking, a "considerable portion" of the visibility impairment in the Class I areas of Arkansas and Missouri is due to NO_x emissions (76 FR 64207). According to EPA's AirData Web site, in 2002, the most recent year of emissions data in the AirData system, White Bluff was the largest industrial source of NO_x emissions in the state. Therefore, it is necessary that a complete and proper evaluation of SCR and combustion controls be conducted to determine BART for White Bluff Units 1 and 2.

Response: Consistent with our proposed rulemaking on the Arkansas RH SIP and other responses to other comments, EPA agrees that the State must conduct a BART analysis that properly evaluates both combustion and post-combustion controls at Entergy White Bluff Units 1 and 2.

3. Comments on the State's PM BART Emission Limits We Proposed To Approve

Comment: BART is based on a five-factor analysis, and the requirement for a five-factor analysis stems from statutory and regulatory requirements regarding how BART is to be determined (see 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, 42 U.S.C. 7491(g)). A proper evaluation of BART for White Bluff Units 1 and 2 and Flint Creek Boiler No. 1 would have shown that each sources' existing PM limit does not reflect PM BART for the sources.

Response: In our review of the Arkansas RH SIP, we evaluated the determination by ADEQ that no additional PM controls were required at the AEP Flint Creek Boiler No. 1 or the Entergy White Bluff Units 1 and 2. For Flint Creek Boiler No. 1, ADEQ's determination was based on the pre-control modeling performed by ADEQ and on AEP SWEPSCO's statement that the PM visibility modeling did not "trip the BART impact threshold." We reviewed the pre-control modeling performed by ADEQ using the 24-hr actual maximum emissions from the baseline period. The modeling results in Appendix 9.2B of the Arkansas RH SIP and presented in Table 7-6 of Appendix A of the TSD,¹⁴⁰ indicate that PM contributes less than 0.5% of the total visibility impacts from Flint Creek Boiler No. 1 at all nearby Class I areas with the exception of Upper Buffalo. PM contributions to visibility impacts at Upper Buffalo from Flint Creek are less than 2% of the total visibility impairment at this Class I area. On the most impacted day at Upper Buffalo, modeling the 24-hr actual maximum emissions demonstrates that PM contributes only 0.07 dv of the total 3.781 dv modeled visibility impact from the source. Clearly, the most effective controls to address visibility impairment from the source are those that would reduce emissions of visibility impairing pollutants other than direct emissions of PM.

For White Bluff Units 1 and 2, we reviewed the data submitted by ADEQ, including pre-control modeling in Appendix 9.2B of the Arkansas RH SIP, to evaluate ADEQ and White Bluff's determination that the majority of visibility-causing emissions are due to emissions of NO_x and SO₂, and that no additional PM controls are warranted. The modeling results in Appendix 9.2B of the Arkansas RH SIP and presented in Table 7-7 of Appendix A of the TSD

for our proposed rulemaking, indicate that PM contributes less than 0.4% of the total visibility impacts at all nearby Class I areas. On the most impacted day at Caney Creek, modeling the 24-hr actual maximum emissions demonstrates that PM contributes only 0.03 dv of the more than 8 dv modeled visibility impact from the White Bluff Units 1 and 2. Clearly, the majority of visibility-causing emissions are due to emissions of NO_x and SO₂ and the most effective controls to address visibility impairment from the units are those that would reduce emissions of NO_x and SO₂ rather than direct emissions of PM.

As explained in our proposed rulemaking, in our evaluation for PM BART for these sources, we found that the visibility impact due to PM emissions alone is so minimal such that any additional PM controls could only result in very minimal visibility benefit that could not justify the cost of any upgrades and/or operational costs needed to operate the existing controls to achieve a more stringent emission limit. This is in keeping with the BART Rule, which provides the following:

"Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source's impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible. In a scenario, for example, where a source emits thousands of tons of SO₂ but less than one hundred tons of NO_x, the State could easily conclude that requiring expensive controls to reduce NO_x would not be appropriate."¹⁴¹

Therefore, we are approving the State's determination that PM BART for Flint Creek Boiler No. 1 and White Bluff Units 1 and 2 is the existing PM emission limit (*i.e.* no additional controls).

Comment: The EPA should not partially approve the State's BART determination for a given source for some pollutants and disapprove the BART determination for other pollutants without also concurrently promulgating BART requirements for the pollutants that have been disapproved. EPA should not approve

¹⁴⁰ These documents can be found in the docket associated with our final rulemaking.

¹⁴¹ 70 FR 39116.

the PM BART controls for the AEP Flint Creek Power Plant, the Entergy White Bluff Power Plant, and the No. 1 Power Boiler of the Domtar Ashdown Mill before knowing what the SO₂ and NO_x BART controls will be because the SO₂ or NO_x controls determined to be BART may increase PM emissions or otherwise affect the PM BART determination.

Response: You cannot infer from the RHR that the disapproval of the BART determination for one pollutant at a given source requires disapproval of BART determinations for other pollutants at the same source. Each BART analysis for an individual visibility impairing pollutant is separate. As such, disapproval of the SO₂ or NO_x BART determination does not affect the PM BART determination even though SO₂ and NO_x are precursors to PM. This is because when the BART determination is conducted for PM, it is analyzed without taking in account whether BART controls for SO₂ or NO_x are being adopted. As such, EPA may take action on the BART determinations for NO_x, SO₂, and PM for a given source in separate rulemaking actions. In addition, EPA may approve the BART determination for one pollutant for a given source while disapproving the BART determination for one or more pollutants at the same source. Therefore, EPA disagrees with the commenter that it cannot approve the PM BART determinations for the Flint Creek Boiler No. 1, the White Bluff Units 1 and 2, and the Domtar Ashdown Mill Power Boiler No. 1, and disapprove the SO₂ and NO_x BART determinations for these sources without promulgating SO₂ and NO_x BART determinations for these sources in the context of a FIP.

As explained in our proposed rulemaking and elsewhere in this final rulemaking, our disapproval begins a two year period after which if Arkansas has not provided a new SIP revision and EPA has approved that SIP revision correcting the deficiencies, EPA must promulgate a FIP. If in conducting the BART analyses for NO_x and SO₂, Arkansas, or EPA in the context of a FIP, determines that direct emissions of PM will increase because of the implementation of certain control technologies, the BART PM limit can be re-evaluated at that time and balanced against the potential visibility improvements from the reductions of the other pollutants.

Comment: In the testimony for a permit proceeding, Entergy's primary contractor for engineering and procurement of its BART controls showed that PM emission rates much lower than 0.1 lb/MMBtu could be met

with either a wet scrubber or with a dry scrubber and a baghouse installed at the Entergy White Bluff Units 1 and 2 (see Exhibits 12 and 16). Entergy's contractor indicated that if a dry scrubber and baghouse were installed at White Bluff Units 1 and 2, the baghouse would be designed to lower the PM emissions to 0.012 lb/MMBtu, giving an advantage of the dry scrubber over the wet scrubber. Since the selection of the SO₂ scrubber (wet vs. dry) will have an impact on the PM emissions rate that will be achievable at the White Bluff units, EPA should not take any action on PM BART for White Bluff until the SO₂ controls to meet BART are known.

Response: The comment points out that in the testimony for a permit proceeding before the Arkansas Public Service Commission,¹⁴² Entergy's contractor indicated that if a dry scrubber and baghouse are installed at the Entergy White Bluff Units 1 and 2, the baghouse would be designed to lower the PM emissions to an emission rate of 0.012 lb/MMBtu.¹⁴³ However, it has also been brought to EPA's attention that Entergy White Bluff has since canceled the proceeding before the Arkansas Public Service Commission to obtain a declaratory order approving the installation of those controls. Furthermore, the State has not submitted to EPA a revision to the RH SIP EPA received on September 23, 2008, August 3, 2010, and supplemented on September 7, 2011. As far as EPA is aware, the State has not adopted revisions to the Arkansas RH SIP with respect to BART for SO₂ for Entergy White Bluff Units 1 and 2 based on the proceeding before the Arkansas Public Service Commission. Therefore, what is before EPA is the Arkansas RH SIP submitted to EPA on September 23, 2008 August 3, 2010, and supplemented on September 7, 2011, which does not include installation of a dry scrubber and baghouse for control of SO₂ at White Bluff Units 1 and 2. As explained elsewhere in our response to comments, the RHR states that the BART determinations are made on a individual pollutant specific basis and this analysis is separate from the BART determinations for other pollutants at the same source. Therefore, EPA disagrees that it should not take action on PM BART for White Bluff Units 1

¹⁴² The Arkansas Public Service Commission is an appointed executive board in the Arkansas state government. The commission is responsible for regulating the rates and services of Arkansas's electricity, natural gas, water, phone, and pipeline safety utilities.

¹⁴³ See Exhibit 12 to Sierra Club's comment letter to EPA, found in the docket for this rulemaking action.

and 2 until the SO₂ controls to meet BART are known.

Our approval of the limit for direct PM emissions was based on the extremely low modeled visibility impact from these emissions. While reductions in PM may occur from future controls necessary to meet SO₂ BART, these PM reductions are not necessary to meet BART for PM.

Comment: The EPA's BART Guidelines specify that BART should be evaluated and defined for both PM₁₀ and PM_{2.5} (see 40 CFR part 51, appendix Y, section IV.A.). However, with the exception of the oil-firing scenario for Lake Catherine Unit 4, ADEQ did not adopt BART limits for PM_{2.5}, yet EPA did not identify this as a deficiency. EPA must disapprove the PM/PM₁₀ BART limits in the Arkansas RH SIP along with disapproving the RH SIP for the lack of BART limits for PM_{2.5}.

Response: The BART Guidelines do not specify that states must make BART determinations for PM_{2.5}. The BART Guidelines provide the following:

"You must look at SO₂, NO_x, and direct particulate matter (PM) emissions in determining whether sources cause or contribute to visibility impairment, including both PM₁₀ and PM_{2.5}."¹⁴⁴

This language in the BART Guidelines was meant to clarify that when a state is making a BART determination as to whether a source is subject to BART, the modeling evaluation to determine the source's impact on visibility has to account for both PM₁₀ and PM_{2.5} emissions. There are several instances in which we state in both the preamble to the RHR, and in the BART Guidelines that PM₁₀ may be used as indicator for PM_{2.5} in determining whether a source is subject to BART. However, neither the RHR nor the BART Guideline specify that states must set separate BART limits for PM_{2.5}. We have concluded that Arkansas's PM BART determinations for the natural gas firing scenario for Entergy Lake Catherine Unit 4; for the bituminous and sub-bituminous coal firing scenarios for Entergy White Bluff Units 1 and 2; for the AEP Flint Creek Boiler No. 1; and for the Domtar Ashdown Mill Power Boiler No. 1 are reasonable.

Comment: The existing PM limit of 0.1 lbs/MMBtu in the AEP Flint Creek Title V permit, which EPA proposed to approve as BART for PM, is based on EPA's New Source Performance Standards (NSPS) for Fossil-Fuel Fired Steam Generators that commenced construction after August 17, 1971 (40 CFR part 60, subpart D, § 60.42(a)(1)).

¹⁴⁴ Appendix Y to Part 51, section III.A.2.

This PM emission limit does not apply during periods of startup, shutdown, and malfunction (SSM) (see 40 CFR 60.8(c)); only applies to filterable PM emissions (see 40 CFR 60.46(b)(2) and EPA Method 5 in 40 CFR part 60, appendix A); and only applies during scenarios of firing coal and tire-derived fuel at Flint Creek (see Title V permit for Flint Creek, Permit No. 0276-AOP-R5, at 18 (Exhibit 3)). When the unit is firing coal with leachate injection a PM₁₀ emission limit of 778.4 lb/hr applies, which at maximum heat input capacity equates to 0.12 lb/MMBtu. Since the Title V permit directs Flint Creek to ask EPA for a determination regarding the applicability of NSPS Subpart D limits for oil-firing and coal-and-oil-firing scenarios, it is not clear whether any PM emission limit applies to Flint Creek during oil-firing and oil-and-coal-firing. EPA recently proposed to disapprove SSM exemptions from BART limits in the Kansas RH SIP (see 76 FR 52604, 52617–18 and section 302(k) of the CAA). Because BART must reflect the best system of continuous emission reduction, the BART limits must apply at all times. The existing PM limit in the Flint Creek Title V permit cannot satisfy BART because the existing PM limit in the Flint Creek Title V permit does not apply during SSM, and there does not appear to be a PM limit in the Flint Creek Title V permit during oil-firing and oil- and coal-firing. A proper BART evaluation would have shown that these limits do not reflect BART for Flint Creek's PM emissions.

Response: In our review of the Arkansas RH SIP, we evaluated the determination by ADEQ that no additional PM controls are required at the AEP Flint Creek Boiler No. 1. ADEQ's determination was based on the pre-control modeling performed by ADEQ and on AEP SWEPSCO's statement that the PM visibility modeling did not "trip the BART impact threshold." We reviewed the pre-control modeling ADEQ performed using the 24-hr actual maximum emissions from the baseline period. The modeling results in Appendix 9.2B of the Arkansas RH SIP and presented in Table 7–6 of Appendix A of the TSD¹⁴⁵ indicate that PM contributes less than 0.5% of the total visibility impacts from Flint Creek Boiler No. 1 at all nearby Class I areas with the exception of Upper Buffalo. PM contributions to visibility impacts at Upper Buffalo from Flint Creek are less than 2% of the total visibility impairment at this Class I area. On the most impacted day at Upper Buffalo,

modeling the 24-hr actual maximum emissions demonstrates that PM contributes only 0.07 dv of the total 3.781 dv modeled visibility impact from the source. Clearly, the most effective controls to address visibility impairment from the source are those that would reduce emissions of visibility impairing pollutants other than direct emissions of PM. In this action, we are finalizing our proposal to disapprove Arkansas's NO_x and SO₂ BART determinations for Flint Creek Boiler No. 1, as ADEQ did not properly identify and evaluate NO_x and SO₂ controls to address visibility impairment from the source.

As stated in our proposed rulemaking on the Arkansas RH SIP, we found that the source's visibility impact from PM emissions alone is so minimal such that the installation of any additional PM controls on the source could only result in very small visibility benefit that would not justify any upgrades to the existing controls. This is in keeping with the BART Rule, which states the following:

"Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source's impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible. In a scenario, for example, where a source emits thousands of tons of SO₂ but less than one hundred tons of NO_x, the State could easily conclude that requiring expensive controls to reduce NO_x would not be appropriate. In another situation, however, inexpensive NO_x controls might be available and a State might reasonably conclude that NO_x controls were justified as a means to improve visibility despite the fact that the source emits less than one hundred tons of the pollutant."¹⁴⁶

Therefore, we agreed with the State that PM BART for Flint Creek Boiler No. 1 is the existing PM emission limit (*i.e.* no additional controls). The BART Rule provides that states may determine that for a given source no additional control satisfies the BART requirement for a particular pollutant.¹⁴⁷ In our final approval of the Kansas RH SIP, we approved the State's determination that

no additional control (and no new emission limit) for PM is BART for a number of sources.¹⁴⁸ In our final approval of the Oklahoma RH SIP, we also approved the State's determination that no additional control (and no new emission limit) for PM is BART for a number of sources.¹⁴⁹ In the above cases, Kansas and Oklahoma adopted no new PM emission limit for PM BART for particular sources, and EPA approved this based on the low visibility impact attributable to PM emissions. As such, it was not necessary for Arkansas to establish a new PM emission limit for BART for Flint Creek Boiler No. 1, as "no additional controls" satisfies PM BART in this particular case. Since no additional controls satisfies BART for Flint Creek Boiler No. 1, it is not problematic that the existing PM emission limit that Arkansas adopted in Chapter 15 of APCEC Regulation No. 19 as meeting PM BART for Flint Creek Boiler No. 1 (*i.e.* the EPA NSPS, and also included in the Title V permit) does not apply on a continuous basis and only applies to filterable PM emissions. We also clarify that the distinction between our approval of an existing PM emission limit adopted in Arkansas's Chapter 15 of APCEC Regulation No. 19 for Flint Creek Boiler No. 1 that does not apply during SSM and our disapproval of an exemption of SSM for BART in the Kansas RH SIP is that the BART determinations that would have exempted SSM in the Kansas RH SIP were not based upon the minimal visibility impact from a particular pollutant. Therefore, we are finalizing our proposed approval of Arkansas determination that PM BART is the existing PM emission limit in Chapter 15 of APCEC Regulation No. 19 for Flint Creek Boiler No. 1.

That being said, we note that the 0.1 lb/MMBtu existing PM emission limit (for Flint Creek Boiler No. 1) in Chapter 15 of APCEC Regulation No. 19, which is based on EPA's NSPS standards (40 CFR part 60, subpart D, § 60.42(a)(1)), applies during the following firing scenarios: coal firing; coal and tire derived fuel (TDF) firing; and during coal firing with leachate injection.¹⁵⁰ We are finalizing our proposed approval of PM BART for the AEP Flint Creek Boiler No. 1.

Comment: The existing PM limit of 0.1 lbs/MMBtu in the Entergy White

¹⁴⁸ 76 FR 52604 and 76 FR 80754.

¹⁴⁹ 76 FR 16168 and 76 FR 81728.

¹⁵⁰ See section IV, specific conditions 3.a., 8.a., and 17.b of the ADEQ Operating Air Permit for AEP-Flint Creek Power Plant (Permit No. 0276-AOP-R5). This permit can be viewed at <http://www.adeq.state.ar.us/ftp/root/pub/WebDatabases/PermitsOnline/Air/0276-AOP-R5.pdf>.

¹⁴⁵ These documents can be found in the docket associated with our final rulemaking.

¹⁴⁶ 70 FR 39116.

¹⁴⁷ 70 FR 39116.

Bluff Title V permit, which EPA proposed to approve as BART for PM, is based on EPA's NSPS for Fossil-Fuel Fired Steam Generators that commenced construction after August 17, 1971 (40 CFR part 60, subpart D, § 60.42(a)(1)). This PM emission limit does not apply during SSM (see 40 CFR 60.8(c)), and only applies to filterable PM emissions (see 40 CFR 60.46(b)(2) and EPA Method 5 in 40 CFR part 60, appendix A). Since the Title V permit directs White Bluff to ask EPA for a determination regarding the applicability of NSPS Subpart D limits during fuel oil-firing and biodiesel firing during startup, shutdown and malfunction, it is not clear whether any PM emission limit applies to White Bluff for these scenarios. EPA recently proposed to disapprove SSM exemptions from BART limits in the Kansas RH SIP (see 76 FR 52604, 52617–18 and section 302(k) of the CAA). Because BART must reflect the best system of continuous emission reduction, the BART limits must apply at all times. The existing PM limit in the White Bluff Title V permit cannot satisfy BART because this limit does not apply during SSM, and there does not appear to be a PM limit in the White Bluff Title V permit during fuel oil-firing and bio-diesel firing. The existing PM limit in the White Bluff Title V permit cannot satisfy BART because it does not apply during all periods of operation of the unit.

Response: First, we disagree that we are approving the White Bluff Title V permit as BART for PM. We are approving the part of the Chapter 15 of APCEC Regulation No. 19 that applies to the Entergy White Bluff Units 1 and 2 as BART for PM. We agree that the part of the submitted rule that applies to the two White Bluff units is based on EPA's NSPS for Fossil-Fuel Fired Steam Generators that commenced construction after August 17, 1971 (40 CFR part 60, subpart D, § 60.42(a)(1)). Secondly, in our review of the Arkansas RH SIP, we evaluated the determination by ADEQ that no additional PM controls are required at the Entergy White Bluff Units 1 and 2. We reviewed the data submitted by ADEQ, including pre-control modeling in Appendix 9.2B of the Arkansas RH SIP, to evaluate the State's determination that the majority of visibility-causing emissions are due to emissions of NO_x and SO₂, and that no additional PM controls are warranted. The modeling results in Appendix 9.2B of the Arkansas RH SIP and presented in Table 7–7 of Appendix A of the TSD, indicate that PM contributes less than 0.4% of the total

visibility impacts at all nearby Class I areas. On the most impacted day at Caney Creek, modeling the 24-hr actual maximum emissions, PM contributes only 0.03 dv of the more than 8 dv modeled visibility impact from the White Bluff Units 1 and 2. Clearly, the majority of visibility-causing emissions are due to emissions of NO_x and SO₂ and the most effective controls to address visibility impairment from the units are those that would reduce emissions of NO_x and SO₂ rather than direct emissions of PM. In this action, we are finalizing our proposal to disapprove Arkansas's NO_x and SO₂ BART determinations for White Bluff Units 1 and 2, as the State did not properly evaluate and identify controls to address visibility impairment from these units.

As articulated in our proposed rulemaking on the Arkansas RH SIP, we are finding that the source's visibility impact from PM emissions alone is so minimal such that the installation of any additional PM controls on the two units could only result in such small visibility benefits that it could not justify any upgrades to the existing controls. This is in keeping with the BART Rule, which states the following:

“Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source's impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible. In a scenario, for example, where a source emits thousands of tons of SO₂ but less than one hundred tons of NO_x, the State could easily conclude that requiring expensive controls to reduce NO_x would not be appropriate. In another situation, however, inexpensive NO_x controls might be available and a State might reasonably conclude that NO_x controls were justified as a means to improve visibility despite the fact that the source emits less than one hundred tons of the pollutant.”¹⁵¹

Therefore, we agree with the State that PM BART for White Bluff Units 1 and 2 is the existing PM emission limit in Chapter 15 of APCEC Regulation No. 19 (*i.e.* no additional controls). The BART Rule provides that states may determine that for a given source no

additional control satisfies the BART requirement for a particular pollutant.¹⁵² In such cases, it is not necessary for a state to establish a new emission limit when no additional control is BART. In our final approval of the Kansas RH SIP, we approved the State's determination that no additional control (and no new emission limit) for PM is BART for a number of sources.¹⁵³ In our final approval of the Oklahoma RH SIP, we also approved the State's determination that no additional control (and no new emission limit) for PM is BART for a number of sources.¹⁵⁴ In the above cases, Kansas and Oklahoma adopted no new PM emission limit for PM BART for particular sources, and EPA approved this based on the low visibility impact attributable to PM emissions. As such, it was not necessary for Arkansas to establish a new PM emission limit for BART for White Bluff Units 1 and 2, as “no additional controls” satisfies PM BART in this particular case. As explained above, the distinction between our approval in the Arkansas RH SIP of an existing PM emission limit in Chapter 15 of APCEC Regulation No. 19 for White Bluff that does not apply during SSM and our disapproval of an exemption of SSM for BART in the Kansas RH SIP is that the BART determinations that would have exempted SSM in the Kansas RH SIP were not based upon the minimal visibility impact from a particular pollutant. Since no additional controls satisfies BART for White Bluff Units 1 and 2, it is not problematic that the existing PM emission limit that Arkansas adopted for PM BART for Units 1 and 2 does not apply on a continuous basis and only applies to filterable PM emissions. Therefore, we are finalizing our proposed approval of Arkansas determination that PM BART is the existing PM emission limit in Chapter 15 of APCEC Regulation No. 19 for White Bluff Units 1 and 2.

Comment: The technology available for control of the pollutant in question is the first factor that must be evaluated in a BART analysis. The most effective PM control technology is a fabric filter baghouse. ESPs can achieve control efficiencies of 99% or better, and baghouses can achieve PM control efficiencies as high as 99.9% or even higher. Baghouses have been installed since the 1970's and are the PM control technology of choice for new coal-fired EGUs. Several recent PSD permits have been issued with best available control technology (BACT) limits at 0.010 lb/

¹⁵² 70 FR 39116.

¹⁵³ 76 FR 52604 and 76 FR 80754.

¹⁵⁴ 76 FR 16168 and 76 FR 81728.

¹⁵¹ 70 FR 39116.

MMBtu, based on installation of a fabric filter baghouse. Matt Haber, EPA Region 9's BACT expert and current Deputy Director of the Air Division, concluded in 2002 that BACT for filterable PM at two existing PC boilers firing Powder River Basin coal and equipped with a baghouse was 0.006 lb/MMBtu based on a 3-hour average and monitored via EPA Method 5 and continuously using triboelectric broken bag detectors. Even though AEP Flint Creek and Entergy White Bluff are subject to BART, and not BACT, after evaluating the achievable emission rates with a new baghouse at these units, there is no reason why Flint Creek and White Bluff could not achieve PM emission rates similar to those of a new unit with a baghouse. Particularly since White Bluff will be installing new baghouses at the two units. Even these BACT limits fail to reflect the low levels of filterable PM emissions that can be achieved with fabric filter baghouses. As early as May 2004, at least 147 performance tests measured filterable PM/PM₁₀ at less than 0.010 lb/MMBtu and 82 recorded PM/PM₁₀ emissions less than 0.005 lb/MMBtu using fabric filter baghouses. The lowest reported PM/PM₁₀ emission rate was 0.0004 lb/MMBtu. Other states have made PM BART determinations that are much lower than ADEQ's proposed limit of 0.1 lb/MMBtu, based on use of a baghouse. South Dakota adopted and EPA recently approved a PM BART emission limit of 0.012 lb/MMBtu for the Big Stone Power Plant, a 600 MW power plant burning Powder River Basin coal, and with an existing baghouse. Even though Big Stone is located 431 km from the nearest Class I area, EPA did not exempt the plant from PM BART as EPA has proposed for Flint Creek.

Response: EPA agrees that baghouses have very high PM control efficiency capabilities. However, as articulated in our proposed rulemaking and further explained in our response to comments, due to the low visibility impact from the AEP Flint Creek Boiler No. 1 and the Entergy White Bluff Units 1 and 2 attributable to PM, we agree with Arkansas that the existing PM emission limit adopted for these sources in Chapter 15 of APCEC Regulation No. 19 satisfies BART for these units. As explained elsewhere in our response to comments, this is consistent with the BART Rule and EPA's action on other states' RH SIPs. We are finalizing our proposed approval of the existing PM emission limit as PM BART for the AEP Flint Creek Boiler No. 1 and Entergy White Bluff Units 1 and 2.

With regard to the comment that White Bluff will be installing baghouses

on Units 1 and 2, EPA is aware that Entergy White Bluff has canceled the proceeding before the Arkansas Public Service Commission to obtain a declaratory order approving the installation of these controls. Furthermore, as explained elsewhere in our response to other comments, the Arkansas RH SIP that is before EPA to act on does not include installation of a dry scrubber and baghouse for control of SO₂ and PM emissions at White Bluff Units 1 and 2. Therefore, EPA disagrees that it should disapprove the PM BART determination for White Bluff Units 1 and 2 because the source may be considering installing these controls.

Comment: Coal-fired boilers with hot-side ESPs, including the Navajo Power Plant Units, are meeting PM emission rates much lower than 0.1 lb/MMBtu. Even if EPA finds that it is acceptable to not evaluate additional control technologies for PM₁₀ at AEP Flint Creek, the PM₁₀ BART limit for Flint Creek must reflect the technology determined to represent BART. The 0.1 lb/MMBtu PM emission limit of Subpart D of the NSPS does not. Because the existing PM emission limit of 0.1 lb/MMBtu is much higher than the maximum 24-hour average PM₁₀ levels emitted by Flint Creek, the existing limit fails to reflect the best system of continuous emission reduction as required by the definition of BART in 40 CFR 51.302. There will be less incentive to properly operate and maintain the PM control equipment if the PM BART limit is unreasonably high.

Response: As articulated in our proposed rulemaking and further explained in earlier response to comments, due to the low visibility impact from the AEP Flint Creek Boiler No. 1 attributable to PM, we agree with Arkansas that the existing PM emission limit in Chapter 15 of APCEC Regulation No. 19 satisfies BART for this unit. EPA agrees with Arkansas that requiring the source to install and operate additional PM controls on this unit (including any upgrades to the existing PM controls) would not be justified because of the low visibility benefit that would result. As explained elsewhere in our response to comments, this is consistent with the BART Rule and EPA's action on other states' RH SIPs. We are finalizing our proposed approval of the existing PM emission limit in as PM BART for the AEP Flint Creek Boiler No. 1.

Comment: Even if it was determined that the existing ESPs represent BART for the White Bluff Units 1 and 2, the existing PM emissions limits fail to reflect BART. According to ADEQ, the maximum 24-hour actual PM₁₀ emission

rates at White Bluff Units 1 and 2 are much lower than the emissions allowed by the existing PM limit in the White Bluff Title V permit. At an emission rate of 0.1 lbs/MMBtu, while firing coal and a maximum allowable heat input capacity of 8,700 lbs/MMBtu, the maximum pound per hour emission rate would be 879 lb/hr. However, ADEQ modeled Entergy White Bluff's highest-24 hour actual PM₁₀ emission rate as 15.592 grams per second for Unit 1 and 16.653 grams per second for Unit 2, which equate to 123.7 lb/hr and 132.2 lb/hr, respectively. Assuming the highest actual PM₁₀ emission rate occurred during the time of maximum heat input capacity, the maximum 24-hour actual PM₁₀ emission rate modeled equates to 0.027 lb/MMBtu. In 2010, PM stack testing at White Bluff Units 1 and 2 showed the units were emitting filterable PM and total PM at rates much lower than ADEQ's PM BART limit of 0.1 lb/MMBtu, which under Subpart D of the NSPS only applies to filterable PM (see Exhibits 14 and 15). With the installation of a scrubber and NO_x controls to meet BART, the condensable PM emissions will be even lower than the 2010 stack testing results show. Even if EPA finds it acceptable to not evaluate additional control technologies for PM at White Bluff Units 1 and 2, the PM BART limit for the units must reflect the technology determined to represent BART, which in this case it does not. Because the existing PM emission limit of 0.1 lb/MMBtu is much higher than the maximum 24-hour average PM₁₀ levels emitted by White Bluff, the existing limit fails to reflect the best system of continuous emission reduction as required by the definition of BART in 40 CFR 51.302. There will be less incentive to properly operate and maintain the PM control equipment if the PM BART limit is unreasonably high.

Response: As articulated in our proposed rulemaking and further explained in our previous response to comments, due to the low visibility impact from the Entergy White Bluff Units 1 and 2 attributable to PM, we agree with Arkansas that the existing PM emission limit adopted in Chapter 15 of APCEC Regulation No. 19 satisfies BART for these units. EPA agrees with Arkansas that requiring the source to install and operate additional PM controls on these units (including any upgrades to the existing PM controls) is not justified based on the small visibility benefit. As explained elsewhere in our response to comments, this is consistent with the BART Rule and EPA's action on other states' RH

SIPs. We are finalizing our proposed approval of the existing PM emission limit as PM BART for White Bluff Units 1 and 2.

Comment: Other states have made PM BART determinations that are much lower than ADEQ's proposed limit of 0.1 lb/MMBtu for White Bluff Units 1 and 2. South Dakota adopted and EPA recently approved a PM BART emission limit of 0.012 lb/MMBtu for the Big Stone Power Plant, a 600 MW power plant burning Powder River Basin coal, and with an existing baghouse. Even though Big Stone is located 431 km from the nearest Class I area, neither South Dakota nor EPA exempt the plant from PM BART as EPA has proposed for White Bluff. In Big Stone's case, South Dakota and EPA are following the Federal regulations regarding BART, which requires that sources that are subject to BART obtain BART limits for "each pollutant emitted by" the BART-eligible source (see 40 CFR 51.301 and Appendix Y, section IV.A). The State of Wyoming has also adopted PM BART determinations for several EGUs that are lower than 0.1 lb/MMBtu, including 0.042 lb/MMBtu for Naughton Unit 1; 0.054 lb/MMBtu for Naughton Unit 2; 0.015 lb/MMBtu for Naughton Unit 3, Dave Johnson Units 3 and 4, and Wyodak; and 0.03 lb/MMBtu for Jim Bridger Units 1–4.

Response: The EPA agrees that other states have adopted PM emission limits more stringent than those adopted by Arkansas for PM BART. However, as articulated in our proposed rulemaking and further explained in our response to comments, due to the low visibility impact from White Bluff Units 1 and 2 attributable to PM, we agree with Arkansas that the existing PM emission limit in Chapter 15 of APCEC Regulation No. 19 satisfies BART for these units. EPA agrees with Arkansas that requiring the source to install and operate additional PM controls on these units (including any upgrades to the existing PM controls) is not justified based on the small visibility benefit. Such was not the case with regard to the visibility impact due to direct PM emissions from the sources in other states referenced in the comment. As explained elsewhere in our response to comments, this is consistent with the BART Rule and EPA's action on other states' RH SIPs. We are finalizing our proposed approval of the existing PM emission limit as PM BART for Entergy White Bluff Units 1 and 2.

Comment: The EPA proposed to approve Entergy's determination that PM BART for the natural gas firing scenario is the existing PM limit for Lake Catherine Unit 4, or 45.0 lb/hr (76

FR 64204). EPA identifies the PM emission limit as 45.0 lb/hr, but the permit identifies the PM₁₀ limit as 44.5 lb/hr (see Exhibit 21). EPA cannot approve the existing PM limit as meeting BART for Lake Catherine Unit 4 for the natural gas firing scenario because Lake Catherine's Title V permit does not include provisions to ensure the enforceability of the PM limit. There are no requirements in the permit for testing to determine compliance with this limit. The permit states that Condition 9, which is a requirement to install and maintain O₂ monitors and to maintain a positive O₂ reading when the boilers are operating, is to be used for compliance with the PM₁₀ and PM limits of the permit for Lake Catherine Unit 4 (see Exhibit 21). It is not clear how this will ensure compliance with the numerical PM₁₀ emission limit of 44.5 lb/hr. The provisions of Condition 9 appear to be operational standards, and if ADEQ was relying on the O₂ monitoring provision to meet BART for PM, the State would need to show that the operational standard will ensure equivalent results to the lb/hr emission limit assumed for BART (see 40 CFR 51.308(e)(1)(iii)). EPA cannot justify its approval of the unenforceable PM/PM₁₀ limit for Lake Catherine Unit 4 based on its statement that PM emissions are expected to be very low from natural gas firing. Once a unit is determined to be subject to BART, it must make a determination of BART for each pollutant emitted by the unit.

Response: In our review of the Arkansas RH SIP, we evaluated the determination by ADEQ that PM emissions from Entergy's Lake Catherine Unit 4 are inherently very low when burning natural gas and that as a result, no additional PM controls are required for the natural gas firing scenario. We agree with the State's conclusion, based on its modeling results, that the visibility impact of this unit from direct PM emissions alone is minimal. We note that the modeling results submitted by Arkansas in Appendix 9.2B of the Arkansas RH SIP indicate that under natural gas firing conditions, NO_x contributes over 99.9% of Lake Catherine Unit 4's total visibility impacts at all nearby Class I areas on the most impacted days. Based on the State's modeling results, the visibility impact of this unit from direct PM emissions alone is so minimal such that the requirement of any additional PM controls on this unit would only achieve minimal visibility benefit and would not be justified. It is clear that the most effective controls to address visibility impairment from the source during

natural gas firing are those that would reduce emissions of NO_x. Given these conclusions, we proposed to find that the State reasonably concluded that BART for PM for the natural gas firing scenario is the existing PM emission limit for Unit 4 in Chapter 15 of APCEC Regulation No. 19. This is consistent with the BART Rule, which states the following:

"Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source's impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible. In a scenario, for example, where a source emits thousands of tons of SO₂ but less than one hundred tons of NO_x, the State could easily conclude that requiring expensive controls to reduce NO_x would not be appropriate."¹⁵⁵

Based on our analysis of the data submitted by ADEQ in the Arkansas RH SIP, and our agreement that PM emissions from burning natural gas are inherently very low, we agree with the State that PM BART for Lake Catherine Unit 4 is the existing PM emission limit in Chapter 15 of APCEC Regulation No. 19 (*i.e.* no additional controls). The BART Rule provides that states may determine that for a given source no additional control satisfies the BART requirement for a particular pollutant.¹⁵⁶ In such cases, it is not necessary for a state to establish a new emission limit when no additional control is BART. In our final approval of the Kansas RH SIP, we approved the State's determination that no additional control (and no new emission limit) for PM is BART for a number of sources.¹⁵⁷ In our final approval of the Oklahoma RH SIP, we also approved the State's determination that no additional control (and no new emission limit) for PM is BART for a number of sources.¹⁵⁸ In the above cases, Kansas and Oklahoma adopted no new PM emission limit for PM BART for particular sources, and EPA approved this based on the low visibility impact attributable to PM emissions. Arkansas adopted the

¹⁵⁵ 70 FR 39116.

¹⁵⁶ 70 FR 39116.

¹⁵⁷ 76 FR 52604 and 76 FR 80754.

¹⁵⁸ 76 FR 16168 and 76 FR 81728.

existing PM emission limit from the facility's existing permit as BART for Lake Catherine Unit 4, which is consistent with the finding that "no additional controls" is sufficient to satisfy PM BART in this particular case. With regard to the commenter's concerns about the enforceability of the limit, because of the extremely low visibility impact of direct PM emissions from this source and the inherently low emissions of PM from natural gas combustion, the practical enforceability of this limit is not critical to our approval. We also note that NO_x contributes over 99.9% of Lake Catherine Unit 4's total visibility impacts at all nearby Class I areas on the most impacted days. Therefore, we are finalizing our proposed approval of Arkansas's determination that PM BART is the existing PM emission limit in Chapter 15 of APCEC Regulation No. 19 for the Entergy Lake Catherine Unit 4.

A review of the emissions based on AP-42 emissions factors substantiates that the PM emissions from natural gas combustion are inherently low. Table 1.4-2 of EPA's AP-42 *Compilation of Air Pollutant Emission Factors*¹⁵⁹ indicates the total PM (*i.e.* condensable plus filterable PM) emission factor from combustion of natural gas is 7.6 lb/10⁶

standard cubic feet, which is equivalent to an emission rate of 0.0074 lb/MMBtu.¹⁶⁰ A unit's maximum emission rate for a given pollutant can be calculated by using the following standard equation:

$$\text{Pollutant mass emission rate (lb/hr)} = \frac{\text{Pollutant emission rate (lb/MMBtu)} \times \text{Unit heat input rate (MMBtu/hr)}}{1}$$

Accordingly, Appendix 9.1A of the Arkansas RH SIP indicates that the Lake Catherine Unit 4 has a heat input rate of 5,850 MMBtu/hr. Based on Unit 4's heat input rate and the 0.0074 lb/MMBtu PM emission rate from natural gas combustion, the unit's maximum mass emission rate for PM is 43.29 lb/hr. This is actually slightly lower than the existing PM emission limit for Entergy Lake Catherine Unit 4 as of October 15, 2007 (*i.e.* 45 lb/hr).

With regard to the comment that the Entergy Whit Bluff Title V permit identifies the PM₁₀ limit as 44.5 lb/hr, EPA is approving the part of Chapter 15 of APCEC Regulation No. 19¹⁶¹ that establishes PM BART for the natural gas firing scenario for Entergy Lake Catherine Unit 4. The Title V permit that was in effect at the time of the State's adoption of Chapter 15, Regulation 19, which is Permit No. 1717-AOP-R4, required Unit 4 to meet

a PM emission limit of 45 lb/hr. The Title V permit referenced by the commenter is Permit No. 1717-AOP-R5, and appears to contain revisions to several emission limits, including the PM emission limit for Unit 4. However, EPA can act only upon what is submitted to it by a state as a SIP revision. Arkansas submitted Chapter 15, Regulation 19 as part of its RH SIP revision. The State's submitted RH Rule adopts the existing PM emission limit as of October 15, 2007 (*i.e.* 45 lb/hr) as the PM BART emission limit.

The EPA is finalizing its approval of the existing PM emission limit as meeting PM BART for Entergy Lake Catherine Unit 4 for the natural gas firing scenario.

4. Comments on the Capacity Factor Used in the State's BART Analyses for Entergy Lake Catherine and White Bluff

Comment: The EPA was incorrect in its assessment of Entergy's Lake Catherine BART determination that Entergy's Lake Catherine Unit 4 assumption of a 10% capacity unit needs to be supported by an enforceable limit. A 10% capacity factor for Catherine Unit 4 is a conservative assumption as demonstrated by the following table:

LAKE CATHERINE UNIT 4 ANNUAL CAPACITY FACTOR

| 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011
(1/1-11/31) |
|------|------|------|------|------|------|------|------|---------------------|
| 10.4 | 3.2 | 4.2 | 0.5 | 0.7 | 2.7 | 3.0 | 3.1 | 2.5 |

This is consistent with the BART Guidelines because the baseline emissions rate represents a realistic depiction of anticipated annual emissions for the source and actual emissions for existing sources subject to BART should be based from a baseline period by the state. The BART Guidelines provide that only if future operating parameters differ from past practices and they have a deciding effect in the BART determination, then these parameters need to be enforceable limits. Consistent with the BART Guidelines, annual emissions for Entergy Lake Catherine Unit 4 were estimated based on the continuation of past practice of using 10% capacity for future emissions. Therefore, an enforceable permit limitation is not

required for a 10% capacity use of Entergy Lake Catherine Unit 4.

Response: The EPA agrees that in our proposed rulemaking on the Arkansas RH SIP we made an error in our calculation of the capacity factor for recent years for Entergy Lake Catherine Unit 4. Based on certain statements made in the BART analysis for Lake Catherine, to the effect that in the future the unit was expected to be dispatched approximately 10% of the time only, we were under the impression that the source had factored into their cost analysis that the unit would only be operating 10% of the time when the unit has historically operated at considerably more than 10% of the time. Based on the information provided by the commenter, we agree that the source has

historically operated at less than a 10% capacity factor. We also agree that the BART Guidelines provide that for the purpose of calculating the cost of controls, the state may calculate baseline emissions based upon continuation of past practice.¹⁶²

However, our finding that the State did not properly document the cost analysis for NO_x controls for the fuel and gas firing scenarios and SO₂ and PM controls for the fuel oil firing scenario for Lake Catherine Unit 4 has not changed, as the proper documentation necessary to allow us to make an informed and proper evaluation of the BART analysis was not included in the SIP, as the BART Guidelines require. As explained in our proposed rulemaking, the RH SIP includes the results of a

¹⁵⁹ *Compilation of Air Pollutant Emission Factors*, Volume I: Stationary Point and Area Sources, AP-42, 5th Edition, January 1995.

¹⁶⁰ EPA's AP-42 emission factors are based on an average natural gas higher heating value of 1,020 Btu/standard cubic foot. As explained under Table 1.4-2 of EPA's AP-42 emission factors, to convert

from lb/10⁶ standard cubic feet to lb/MMBtu, divide by 1,020. Based on this calculation, the 7.6 lb/10⁶ standard cubic feet emission factor from combustion of natural gas is equivalent to an emission rate of 0.0074 lb/MMBtu.

¹⁶¹ The Arkansas RH SIP was originally submitted to EPA on September 23, 2008. We received a

revision to the RH SIP on August 3, 2010, and a supplemental submittal on September 27, 2011. The revisions to Chapter 15 of APCEC Regulation 19 that we are referring to were submitted to us in the August 3, 2010 RH SIP revisions.

¹⁶² Appendix Y to Part 51, section IV.4.

computerized model the source used to calculate the costs associated with each NO_x control technology for both the natural gas and fuel oil firing scenarios. However, the SIP includes no detailed breakdown of the costs. The only explanation of the computerized model is a paragraph in Appendix 9.3B, which points out that inputs that went into the model were based on inputs derived from the EPRI document entitled “Retrofit NO_x Control Guidelines for Gas and Oil Fired Boilers,”¹⁶³ which were further analyzed to reflect performance expected for Lake Catherine Unit 4, as according to the source “each specific boiler will perform differently due to the unique characteristics of that boiler.”¹⁶⁴ The BART Guidelines provide that states should include documentation for any additional information used for the cost calculations, including any information supplied by vendors that affects your assumptions regarding purchased equipment costs, equipment life, and other elements of the calculation.¹⁶⁵ This was not done in the Arkansas RH SIP.

Furthermore, as noted in our proposed rulemaking on the Arkansas RH SIP, the State did not properly consider NO_x post-combustion controls in the BART analysis for natural gas firing and fuel oil firing. As pointed out by another comment, the State eliminated post-combustion controls from consideration because they were found to be not cost-effective and the State eliminated two NO_x control options (for natural gas firing) involving a combination of combustion controls because of their incremental cost-effectiveness. Based on the information provided from the source’s computerized model, the cost-effectiveness of a combination of

combustion controls and SNCR is \$3,378/NO_x ton removed for the natural gas firing scenario and \$3,440/NO_x ton removed for the fuel oil firing scenario. This is not an unreasonably high cost-effectiveness value, and depending on the visibility impact of these controls and the consideration of any of the other statutory factors, the State may find that these controls are BART. In light of Entergy Lake Catherine’s pre-control visibility impact of 6.607 dv and post-control visibility impact of 3.671 dv at Caney Creek for the fuel oil firing scenario, which is based on the BART controls adopted by the State in Chapter 15, Regulation 19 (*i.e.* for NO_x BART this consists of boiler tuning, boiler modifications, and burners out of service), we believe that it is possible that NO_x and SO₂ controls more stringent than those adopted by the State, including post-combustion controls, would be cost-effective and help reduce the visibility impact of the source at Arkansas and Missouri Class I areas. Therefore, the State should have evaluated both the cost-effectiveness and the incremental cost-effectiveness in addition to the visibility impact of post-combustion controls and each of the other control options considered at each potentially affected Class I area before eliminating any given control option. It appears that the source and the State may have only considered the incremental cost-effectiveness of controls in eliminating post-combustion controls and all other controls more stringent than the controls adopted by the State for NO_x BART. The BART Guidelines provide that average cost-effectiveness (reported by the source to be \$1,701/ton NO_x removed and \$3,757/ton NO_x removed for the two sets of combination of controls mentioned above for the natural gas firing

scenario), in addition to the visibility impacts at each potentially affected Class I area, should also be taken into consideration before a BART determination is made.

In addition, as articulated in our proposed rulemaking on the Arkansas RH SIP, the State did not consider SO₂ post-combustion controls in the BART analysis for fuel oil firing. Furthermore, as noted in our proposed rulemaking, the use of a wet scrubber system that controls both SO₂ and PM emissions may prove to be cost-effective and provide for substantial visibility improvement. As explained elsewhere in our response to comments, in light of Entergy Lake Catherine’s pre-control visibility impact of 6.607 dv and post-control visibility impact of 3.671 dv at Caney Creek for the fuel oil firing scenario,¹⁶⁶ we believe that it is possible that NO_x, SO₂, and PM controls more stringent than those adopted by the State in Chapter 15 of APCEC Regulation No. 19, including post-combustion controls, would be cost-effective and help reduce the visibility impact of the source at Arkansas and Missouri Class I areas.

Therefore, we are finalizing our proposed disapproval of BART for the Entergy Lake Catherine Unit 4 for NO_x for both the natural gas and fuel oil firing scenarios, and SO₂ and PM for the fuel oil firing scenario.

Comment: The EPA was incorrect in criticizing the cost-analysis conducted for Entergy’s White Bluff Units 1 and 2 because the source assumed 85% utilization of the units without an enforceable limit when the EPA believes that the units are capable of utilization of 100% capacity factor. Utilization of 85% capacity factor for these units is a conservative assumption, as demonstrated by the following table:

WHITE BLUFF CAPACITY FACTORS

| Unit | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011
(1/1–11/31) |
|---------|------|------|------|------|------|------|------|------|---------------------|
| 1 | 75.3 | 73.4 | 63.1 | 55.1 | 81.3 | 78.2 | 71.1 | 82.5 | 60.7 |
| 2 | 58.7 | 74.4 | 63.0 | 74.8 | 54.3 | 71.5 | 74.6 | 65.5 | 71.9 |

This is consistent with the BART Guidelines because the baseline emissions rate represents a realistic depiction of anticipated annual emissions for the source and actual emissions for existing sources subject to BART should be based from a baseline

period by the state. The Guidelines provide that only if future operating parameters differ from past practices and they have a deciding effect in the BART determination, then these parameters need to be enforceable limits. Consistent with the Guidelines,

annual emissions from Entergy White Bluff Units 1 and 2 were estimated based on the continuation of past practice of using 85% capacity for future emissions. Therefore, an enforceable permit limitation is not

¹⁶³ EPRI document entitled “Retrofit NO_x Control Guidelines for Gas and Fired Boilers,” Version 2, June 1997.

¹⁶⁴ See Appendix 9.3B of the RH SIP.

¹⁶⁵ Appendix Y to Part 51, section IV.4.

¹⁶⁶ See Tables 9.4f and 9.4e of the Arkansas RH SIP. The pre- and post-control visibility impact reported is the maximum Δdv. The post-control

visibility impact is the visibility impact resulting from the BART controls adopted by the State.

required for an 85% capacity use of Entergy White Bluff Units 1 and 2.

Response: The EPA agrees that in our proposed rulemaking on the Arkansas RH SIP we made an error in our calculation of the capacity factor for recent years for Entergy White Bluff Units 1 and 2. Based on certain statements made in the BART analysis for White Bluff, to the effect that in the future the unit was expected to be dispatched approximately 85% of the time only, we were under the impression that the source had factored into their cost analysis that the unit would only be operating 85% of the time when the unit has historically operated at more than this. Based on the information provided the commenter, we agree that the source has historically operated at slightly less than an 85% capacity factor. We also agree that the BART Guidelines provide that for the purpose of calculating the cost of controls, the state may calculate baseline emissions based upon continuation of past practice.¹⁶⁷

However, our finding that the State did not properly document the cost analysis for NO_x and SO₂ controls for both the bituminous and sub-bituminous coal firing scenarios for White Bluff Units 1 and 2 has not changed. As articulated in our proposed rulemaking, the proper documentation necessary to allow an informed and proper evaluation of the BART analysis was not included in the SIP, as the BART Guidelines require. As pointed out in another comment, the annual cost estimates of NO_x combustion controls in the BART analysis for White Bluff Units 1 and 2 are significantly higher than those of similar controls at comparable facilities. The State must provide documentation of its cost calculations and a reasonably detailed breakdown of the costs. The State must also document the reason for any unusually high costs, which may require a higher level of detail in cost breakdown. Furthermore, the State did not properly consider the available controls and cost of controls because it did not evaluate SO₂ and NO_x controls that can achieve emission limits more stringent than the presumptive emission limits. As articulated in more detail in our proposed rulemaking, some of the control technologies evaluated by the State for SO₂ are capable of achieving a higher control efficiency than that evaluated by the State, and there are NO_x control technologies capable of achieving a more stringent limit than the presumptive limit. Because such controls have been found to be cost-

effective at similar facilities, the State must evaluate the costs and visibility impact of these controls before making a BART determination. Moreover, as articulated in our proposed rulemaking and in previous response to comments, the RHR, BART Guidelines, and CAA require that states consider the controls available, including the most stringent control technology, as well as the maximum level of control achievable by each technology.

Therefore, we are finalizing our proposed disapproval of the NO_x and SO₂ BART determinations for the Entergy White Bluff Units 1 and 2 for both the bituminous and sub-bituminous coal firing scenarios.

5. Comments on the State's Cost Evaluations

Comment: The "cost of compliance" is a BART consideration factor that should be properly left to the states and EPA cannot void a state's cost assessment on the grounds that EPA would have used a different analysis or would have reached a different conclusion if it had primary jurisdiction.

Response: The EPA agrees that the BART Rule provides states with some flexibility in how they calculate and consider costs.¹⁶⁸ However, our grounds for disapproving Arkansas's NO_x BART determinations (natural gas and fuel oil firing conditions) and SO₂ BART determination (fuel oil firing conditions) for Entergy Lake Catherine Unit 4 and the NO_x and SO₂ BART determinations (bituminous and sub-bituminous coal firing conditions) for Entergy White Bluff Units 1 and 2, as articulated in our proposal, are not based on EPA arriving at a different BART determination. Our disapproval of the above BART determinations is based in part on the fact that the State did not provide the proper documentation, as required by the BART Guidelines.¹⁶⁹ The BART Guidelines provide that states must develop estimates of capital and annual costs and document the basis for equipment cost estimates either with data supplied by a vendor (*i.e.* budget estimates or bids) or by a referenced source (such as the OAQPS Control Cost Manual).¹⁷⁰ The BART Guidelines also provide that cost estimates should be based on the OAQPS Control Cost Manual, where possible, to maintain and improve consistency, and that states should include documentation for any additional information used in cost calculation. The State did not satisfy

this requirement in the above BART determinations because the State provided no documentation, breakdown, or any sufficiently detailed supporting information for its cost analyses. Without the documentation, neither we nor the public have the basis to verify the validity of either the cost estimates or Entergy's BART determination based on the cost estimation. As pointed out in another comment, the annual cost estimates of NO_x combustion controls in the State's BART analysis for White Bluff Units 1 and 2 are significantly higher than those of similar controls at comparable facilities. In summary, our disapproval for these BART determinations is based (among other reasons) on the fact that the proper documentation necessary to allow us to make an informed and proper evaluation of the BART analysis was not included in the SIP, as the BART Guidelines require.

Comment: The EPA claims that Arkansas's BART determinations should be disapproved because they rely on cost estimates that are not adequately documented or that lack sufficiently detailed supporting information (76 FR 64206), yet EPA fails to provide any specific discussion in the proposed rule's preamble of the purported shortcomings in the state's cost information and fails to describe the type or degree of documentation it believes is mandated. In other similar RH SIP rulemakings, EPA has described a level of cost estimate documentation that is of such an extensive and detailed nature that it cannot be reasonably deemed an appropriate requirement of a BART cost assessment (76 FR 52388, 52396).

Response: The EPA disagrees that our proposed rulemaking did not provide any specific discussion on the type or degree of documentation needed in a state's cost evaluation. Our proposed rulemaking and the TSD for our proposed rulemaking both specify that the basis for equipment cost estimates should be documented either with data supplied by an equipment vendor or by a referenced source, such as the OAQPS Control Cost Manual. Our proposed rulemaking also specified that for the SO₂ BART analysis for fuel oil firing for Entergy Lake Catherine Unit 4, the State should clearly indicate the quantity of fuel oil consumption on which the State's annual cost calculation is based. However, the BART Guidelines set specific requirements regarding this matter. The BART Guidelines provide that states should base their cost estimates on the OAQPS Control Cost Manual, where possible, and that the level of detail in the Cost Control

¹⁶⁸ 70 FR 39127.

¹⁶⁹ Appendix Y to Part 51, section IV.4.

¹⁷⁰ Appendix Y to Part 51, section IV.4.

¹⁶⁷ Appendix Y to Part 51, section IV.4.

Manual addresses most control technologies in sufficient detail for a BART analysis. In general, a state should include a reasonably detailed line by line breakdown of the cost estimates, and document the vendor and/or referenced source. However, as explained in the BART Guidelines, where unusual costs due to site-specific design or other conditions are factored into the cost calculation, this should also be documented properly. For cases involving unusual costs, such as was the case at the San Juan Generating Station in New Mexico,¹⁷¹ which was subject to a FIP for BART controls (which the comment references), a higher level of detail in documentation may be necessary. Furthermore, the State is encouraged to work with EPA to determine the appropriate level of detail needed for any future BART analyses to be submitted to EPA as SIP revisions.

Comment: The EPA found that Entergy's cost evaluation for BART for NO_x and SO₂ for White Bluff Units 1 and 2 was deficient because the company assumed 85% utilization of the two units when they are not subject to any federally enforceable limit on utilization, and the units are capable of 100% utilization. We agree with EPA's concerns that by assuming 85% utilization of the White Bluff units under the proposed NO_x and SO₂ BART limits, Entergy underestimated the tons of NO_x and SO₂ emissions that would be reduced and overestimated the costs per ton of pollutant removed for the combustion controls evaluated. The EPA also found that the cost analysis is inadequate because Entergy did not take into account the achievable emissions reductions with the control technologies evaluated. We agree with EPA's finding that Entergy did not adequately evaluate the cost-effectiveness of controls in the NO_x and SO₂ BART analyses for White Bluff Units 1 and 2.

Response: Based on comments received during the public comment period, it has come to our attention that we made an error in the calculation of the capacity factors for White Bluff Units 1 and 2. Based on the information provided, we agree that the source has historically operated at a slightly less than 85% capacity factor. The BART Guidelines provide that for the purpose of calculating the cost of controls, the state may calculate baseline emissions based upon continuation of past practice.¹⁷² However, our finding that the State did not properly document the cost analysis for NO_x and SO₂ controls for White Bluff Units 1 and 2 has not

changed, as the proper documentation necessary to allow us to make an informed and proper evaluation of the BART analysis was not included in the SIP, as the BART Guidelines require. As pointed out in another comment, the annual cost estimates of NO_x combustion controls in the BART analysis for White Bluff Units 1 and 2 are significantly higher than those of similar controls at comparable facilities. In addition, the State did not properly consider the available controls and cost of controls because it did not evaluate SO₂ and NO_x controls to achieve emissions limits more stringent than the presumptive emission limits. As articulated in more detail in our proposed rulemaking, some of the control technologies evaluated by the State for SO₂ are capable of achieving a higher control efficiency than that evaluated by the State, and there are NO_x control technologies capable of achieving a more stringent limit than the presumptive limit. Because such controls have been found to be cost-effective at similar facilities, the State must evaluate the costs and visibility impact of these controls in making a BART determination. Furthermore, as articulated in our proposed rulemaking and in previous response to comments, the RHR, BART Guidelines, and CAA require that states consider the most stringent control technology, as well as the maximum level of control achievable by each technology.

Comment: Comparing Entergy's stated costs for SO₂ controls with those found in other companies' SO₂ BART evaluations, it appears that Entergy has overstated the costs of SO₂ controls. Entergy assumes much higher cost numbers for SO₂ controls in its revised 2008 BART analysis for White Bluff than in its 2006 BART analysis (see Exhibit 11). The SO₂ control cost numbers in Entergy's revised 2008 BART analysis for White Bluff are much higher than the cost numbers in other plants' SO₂ BART analyses (see Exhibit 17). Even though Entergy's revised 2008 BART analysis for White Bluff is not before EPA for approval, these comments are being provided now in case the revised 2008 BART analysis is eventually submitted to EPA. EPA should require that Entergy's cost-effectiveness calculations are based on the emission reductions achievable with the controls being evaluated and that Entergy's cost-analysis is well-documented, sound, and that the documentation and details be made publicly available.

Response: The EPA agrees that the 2008 BART analysis for Entergy White Bluff is not before EPA to take action on.

As far as EPA is aware, the State has not revised the RH SIP to include Entergy White Bluff's revised analysis. As such, it is unclear whether the State plans to submit it to EPA in the future as a SIP revision. However, we do agree that the cost numbers in the 2008 analysis are considerably higher than those in the 2006 BART analysis that is before EPA to take action on. Consistent with the action we are taking on the Arkansas RH SIP in this rulemaking, if the State submits the revised 2008 BART analysis to EPA in the future in the context of an official RH SIP revision, the State must provide documentation of its cost calculations and a reasonably detailed breakdown of the costs. The State will also have to document the reason for any unusually high costs, which may require a higher level of detail in cost breakdown. If the State anticipates submitting a revised BART analysis for White Bluff or any other source to EPA as a SIP revision, EPA encourages the State to work with us to resolve any uncertainties it may have with regard to the level of detail needed in the cost analysis. Consistent with the action we are taking on the Arkansas RH SIP in this rulemaking, we agree that the State must ensure that its BART analyses evaluate the most stringent emission limit achievable by each control considered, and that the cost-analysis be well-documented, sound, and that the documentation and all other relevant details are made publicly available.

Comment: It appears that the annual cost estimates of NO_x combustion controls in Entergy's December 2006 BART analysis for the Entergy White Bluff Units 1 and 2 are very high (\$5.2 million for Unit 1 and \$5.3 million for Unit 2) compared to the cost estimates for similar controls at other coal-fired EGUs, such as those at the Boardman Power Plant (617 MW, \$3.7 million), the Four Corners Power Plant (790 MW, \$3.0 million), and the Sherburne County Power Plant (690 MW, \$2.2 million) (see Exhibit 19). Since neither Entergy nor ADEQ have provided the specific details that went into these cost estimates, it is difficult to discern why Entergy's cost estimates are much higher.

Response: The EPA agrees with the comment that the cost estimates Arkansas provided in the cost evaluation of NO_x combustion controls in the 2006 Entergy White Bluff BART analysis are considerably higher than the cost estimates for similar controls at the other coal fired EGUs. The EPA notes that the Entergy White Bluff Units 1 and 2 have a slightly greater generating capacity (850 MW each), but because of the lack of detail in Entergy White Bluff's cost calculations, it is not

¹⁷¹ 76 FR 52388.

¹⁷² Appendix Y to Part 51, section IV.A.

clear what issues are attributing to the wide difference in the annualized cost estimates. As explained in our proposed rulemaking, the State must provide proper documentation of all cost calculations, and a reasonably detailed breakdown in costs. In cases where the State finds that cost of controls are unusually high, especially in comparison to the cost of the same controls at other similar sources, the State must provide a more detailed breakdown of costs, as provided in the BART Guidelines.¹⁷³

Comment: The EPA was incorrect in its assessment of Entergy's Lake Catherine Unit 4 BART determination that Entergy provided no documentation or detailed breakdown of cost. Entergy only included the expected capital cost and any impacts the control technology will have on the unit heat rate in the cost estimate, which is a conservative cost estimate of the cost of each control technology. Entergy's methods of calculations are described in the Appendix of the Determination Report. This approach is supported by EPA's BART Guidelines. In addition, by incorporating the costs provided by Entergy in the RH SIP Arkansas supports Entergy's cost analysis.

Response: The comment appears to be in contradiction with what was documented in Arkansas's RH SIP. In Appendix 9.3B of the Arkansas RH SIP, Entergy states that a computerized model was used to evaluate electrical generating unit performance and the capital and operation and maintenance cost associated with each identified control technology. As such, the State should provide proper documentation of the equipment costs with data supplied by an equipment vendor or by a referenced source, and include a reasonably detailed breakdown of all cost estimates. The Appendix to the Determination Report referenced in the comment appears to be "Appendix A: Cost and Emissions Estimates for NO_x and SO₂ Control Options."¹⁷⁴ This document contains the total annual cost (with no breakdown), the cost-effectiveness and the incremental cost-effectiveness calculated by Entergy of the controls considered in the BART analysis, along with formulas that were used by the source in calculating costs (*i.e.* total capital requirement, leveled control cost, etc.). But the actual calculations or numbers that went into these formulas are not included. As explained in our response to other

comments, this approach is not supported by the BART Guidelines. We also note that the State's support for a particular cost analysis alone is not grounds for EPA approval. The EPA must evaluate the details of a cost analysis and determine whether it meets the RH requirements and BART Guidelines before we can consider it in approving or disapproving a BART determination.

Comment: Entergy demonstrated that post-combustion NO_x controls for Lake Catherine Unit 4 are not economically viable. Thus, EPA should not have disapproved Lake Catherine Unit 4's BART determination on the grounds that post-combustion controls were not evaluated. ADEQ noted that in the BART analysis for Lake Catherine facility Entergy used a computerized model that evaluated EGU performance and the cost associated with each identified technology. Entergy's analysis started with the most economical control technology and then conducted a stepped approach where the next economical control was analyzed. The analysis continued with a combination of all identified control technologies. Entergy reported the combination of control technologies until that combination was no longer cost effective. This is consistent with the BART Guidelines which provide that in the BART review, one or more of the available control options may be eliminated from consideration if it is demonstrated to be technically infeasible or to have unacceptable energy, cost, or non-air quality environmental impacts on a case by case basis. The incremental NO_x control cost of \$41,739/ton (option 5) and \$10,101/ton (option 4) shown in the Lake Catherine BART analysis do not pass the cost test as described in the BART Guidelines. This is consistent with the BART Guidelines, which provide that installation of current combustion control technology is cost-effective and should be considered in determining BART for oil- and gas-fired sources.

Response: As noted in our proposed rulemaking, we agree that the RH SIP includes the results of a computerized model the source used to calculate the costs associated with each technology. However, the SIP includes no detailed breakdown of the costs. The only explanation of the model is a paragraph in Appendix 9.3B, which points out that inputs that went into the model were based on inputs derived from the EPRI document entitled "Retrofit NO_x Control Guidelines for Gas and Oil Fired

Boilers,"¹⁷⁵ which were further analyzed to reflect performance expected for Lake Catherine Unit 4, as "each specific boiler will perform differently due to the unique characteristics of that boiler."¹⁷⁶ The BART Guidelines provide that States should include documentation for any additional information used for the cost calculations, including any information supplied by vendors that affects the assumptions regarding purchased equipment costs, equipment life, and other elements of the calculation.¹⁷⁷ We find that this documentation was not provided by Arkansas.

The comment states that post-combustion controls were eliminated from consideration because they were found to be not cost-effective. Based on the information provided from the Entergy's computer model, the cost-effectiveness of a combination of combustion controls and SNCR is \$3,378/NO_x ton removed. Again, the issue of documentation aside, we find that Arkansas should have evaluated the visibility impact of this and each of the other control options considered at each potentially affected Class I area before eliminating any given control option. The comment also notes that some control options, including options 4 and 5 that are each a combination of combustion controls, were eliminated from consideration based on their incremental cost-effectiveness. However, the BART Guidelines provide that the average cost-effectiveness (which was reported by the source to be \$1,701/ton for option 4 and \$3,757/ton for option 5), in addition to the visibility impacts from the installation of controls at each potentially affected Class I area, should also be taken into consideration before a BART determination is made. Based on average cost effectiveness, these options should not be eliminated from consideration. As the BART Guidelines explain, cost effectiveness cannot be assessed without an analysis of the projected visibility benefit. This holds true even for control options evaluated on the basis of their incremental cost effectiveness. In the preamble to the BART Rule, in response to comments that modeling should not be included as part of a BART review, EPA supported its decision to include modeling by stating that CAA section 169(g)(2) clearly requires an evaluation of the expected degree of improvement

¹⁷⁵ EPRI document entitled "Retrofit NO_x Control Guidelines for Gas and Fired Boilers," Version 2, June 1997.

¹⁷⁶ See Appendix 9.3B of the RH SIP.

¹⁷⁷ Appendix Y to Part 51, section IV.4.

¹⁷³ Appendix Y to Part 51, section IV.4.

¹⁷⁴ See "BART Analysis for Lake Catherine Plant-Unit 4," prepared by Robert Paine, dated December 2006 (Appendix 9.3A of the Arkansas RH SIP).

in visibility from BART Controls.¹⁷⁸ The BART Rule also states the following:

“We believe that modeling, which provides model concentration estimates that are readily converted to deciviews, is the most efficient way to determine expected visibility improvement.”¹⁷⁹

Furthermore, in the preamble to the BART Rule, in response to comments received, we stated the following:

“We agree with commenters who asserted that the method for assessing BART controls for existing sources should consider all of the statutory factors.”¹⁸⁰

Therefore, Arkansas must evaluate all five statutory factors before eliminating a given control option, especially if there are no unusual circumstances that would make it clear that a particular control option should be eliminated before all five statutory factors are considered. With regard to the comment that the BART Guidelines provide that installation of current combustion control technology is cost-effective and should be considered in determining BART for oil- and gas-fired sources, we note the context of that statement is with regard to whether we believed a presumptive emission limit was appropriate for oil and gas fired EGUs.¹⁸¹ It was not intended to limit the consideration for BART of possible post-combustion control options.

Comment: Arkansas’s failure to consider the actual costs of compliance for its BART determination is reflected by the APCEC rulemaking record for the Arkansas RH SIP. No actual costs of compliance with presumptive limits for the White Bluff and Flint Creek facilities are provided. The petition to initiate rulemaking before the APCEC contains no information about the costs to install the required control technology at these two plants nor does it identify or contain any explanation of the five BART factors that the APCEC is supposed to consider under the CAA. The financial documentation filed in support of the petition contains no indication of the actual costs of compliance. The documentation suggests that the financial impact of the rule to the citizens and ratepayers of Arkansas would be zero. Thus, Arkansas should not have adopted EPA’s presumptive limits for the Entergy White Bluff Units 1 and 2 and AEP Flint Creek Boiler 1 without first determining whether the assumptions underlying those presumptive emission limits,

including the costs of compliance, were still valid and reasonable.

Response: EPA notes that the APCEC is the State’s rulemaking body for environmental regulations. EPA agrees that the rulemaking record for the Arkansas RH SIP lacks sufficient information to support the State’s BART determinations for the two facilities. As reflected in our proposed rulemaking and in our previous response to comments, the State should have conducted a proper evaluation of the five statutory factors before adopting the NO_x and SO₂ presumptive limits for BART for Entergy White Bluff Units 1 and 2 and Flint Creek Boiler 1.

6. Comments on the August 2008 Revised BART Analysis for White Bluff

Comment: The EPA’s evaluation of the BART submittal for Entergy White Bluff Units 1 and 2 is based on a December 2006 BART analysis submitted by Entergy Arkansas Inc., and included in the Arkansas RH SIP in Appendix 9.3A. Entergy subsequently submitted a revised BART analysis to ADEQ for White Bluff on August 8, 2008 (see Exhibit 11), stating that this revised document should supersede the Entergy’s original December 2006 BART determination for White Bluff. It does not appear that ADEQ ever adopted the revised BART analysis as part of the Arkansas RH SIP, but in 2009 ADEQ did propose to issue a Title V permit for White Bluff that proposed to incorporate the control equipment proposed by Entergy in its revised 2008 BART analysis to meet BART. These controls differed from the controls assumed to meet BART in Entergy’s 2006 BART analysis. Specifically, the 2006 BART analysis proposed to install wet scrubbers to achieve the SO₂ presumptive limit of 0.15 lb/MMBtu and no additional controls for PM, while the revised 2008 BART analysis proposed to install dry scrubbers and baghouses to meet the SO₂ presumptive limit of 0.15 lb/MMBtu and no additional controls for PM. Although ADEQ never issued the permit it proposed in 2009, it appears that Entergy may intend to change its planned controls to meet BART. The EPA’s proposal does not mention Entergy’s revised 2008 BART analysis because it has not yet been adopted by Arkansas as a SIP revision, and it is therefore not before EPA to approve or disapprove. However, as EPA acts on the Arkansas RH SIP, it must consider that Entergy may be installing a baghouse as part of its SO₂ controls. Since a baghouse is more effective at controlling PM emissions than an ESP, EPA should not act on the state’s

proposed PM BART limit until it has a complete and approvable suite of BART controls that it is acting on or otherwise promulgating as a FIP.

Response: The EPA agrees that the December 2006 White Bluff BART analysis is what was included in Appendix 9.3A of the Arkansas RH SIP received by EPA on September 23, 2008. As such, that is the BART analysis that is before EPA to take action on. EPA does not have the authority to take action on a SIP revision that has never been officially submitted by the State. As the comment notes, the controls assumed to meet BART in Entergy’s 2008 revised BART analysis differ from those in the 2006 BART analysis that was submitted to EPA as part of the Arkansas RH SIP. However, since to the best of EPA’s knowledge, the State has never officially adopted the 2008 revised BART analysis as a revision to the Arkansas RH SIP and since the State never issued the permit that proposed to install the controls in the 2008 revised BART analysis, it is not clear if the State is even considering submitting such a revised SIP to EPA. As such, EPA can only review what has been submitted to it by Arkansas. Therefore, we are basing our decision upon Arkansas’s submitted RH SIP and our review of comments. As articulated in our proposed rulemaking and elsewhere in our response to comments, we find that the current permit limit (*i.e.* no additional controls) is PM BART for Entergy White Bluff Units 1 and 2 for both bituminous and sub-bituminous coal firing scenarios.

Comment: The EPA cannot propose to disapprove the BART determination for SO₂ for the Entergy White Bluff Units 1 and 2 because the EPA did not evaluate the most recent and more detailed BART analysis conducted for Entergy’s White Bluff facility when making its decision. The EPA’s proposal references the 2006 BART analysis as the basis for EPA’s decision on Arkansas’s White Bluff BART determinations and not the 2008 revised BART analysis. The 2008 revised BART analysis considered additional non-air quality environmental impacts and provided a detailed BART five factor analysis. The 2008 revised BART report was evaluated by ADEQ and provided to EPA. Even though EPA did not consider the 2008 revised BART analysis in its proposed rulemaking, it agreed with its findings in a 2009 letter to ADEQ staff that installation of dry scrubber technology is BART for the White Bluff facility. The EPA’s lack of consideration of the most current and accurate BART analysis and determination for the White Bluff facility makes EPA’s

¹⁷⁸ 70 FR 39129.

¹⁷⁹ 70 FR 39129.

¹⁸⁰ 70 FR 39130.

¹⁸¹ Appendix Y to Part 51, section IV.E.5.

proposed rule regarding the White Bluff facility inaccurate and arbitrary.

Response: The EPA notes that the December 2006 White Bluff BART analysis is the BART analysis that was included in Appendix 9.3A of the Arkansas RH SIP received by EPA on September 23, 2008. As such, the December 2006 White Bluff BART analysis is what is before EPA to take action on. The EPA does not have the authority to take action on a SIP revision that has never been officially submitted by the State. The EPA is aware that in a letter dated August 8, 2008, sent by Entergy to ADEQ, the source requests that the 2008 revised BART analysis supersede the 2006 BART analysis.¹⁸² The EPA notes that the CAA places the authority and duty to submit SIPs on the states. Under the RH regulations, it is the State who is authorized to make BART determinations for inclusion in the RH SIP submitted to EPA. As such, even if a source submits a revised BART analysis to the State and requests that the revised version supersede the one currently in the RH SIP, EPA is not authorized to take action on the revision if the State does not adopt the revised version as a revision to the RH SIP, allow the FLM to review the proposed RH SIP revision at least 60 days prior to holding any public hearing, undergo reasonable notice and public hearing, and submit the revision to EPA in the context of an official SIP submission. This did not happen.

While EPA did provide comments in a letter dated November 25, 2009, to the State on the 2008 revised BART analysis for White Bluff, this was done in the context of EPA's review of a draft Title V/Prevention of Significant Deterioration (PSD) permit for White Bluff.¹⁸³ Since the draft Title V permit proposed by the State proposed to incorporate the control equipment proposed by Entergy in the 2008 revised BART analysis for White Bluff, the 2008 BART analysis was provided as an attachment to the proposed permit. Our review of the draft Title V permit did not involve a full review of the 2008 BART analysis, as we were only reviewing that BART analysis in the context of providing comments to the State on the draft Title V permit. In the comment letter EPA sent to the State, we did note that we agreed that dry

scrubber technology is generally considered BART, but we also noted that we did not agree that the SO₂ emission limit proposed by the source is reflective of the control efficiency this control technology is capable of achieving, and that we did not agree that this SO₂ emission limit of 0.15 lb/MMBtu is BART. Our superficial review of the 2008 revised BART analysis also revealed that many of the same flaws we identified in our proposed rulemaking for the 2006 White Bluff BART analysis are also found in the 2008 White Bluff analysis. Furthermore, the draft Title V permit that proposed to incorporate the control equipment proposed by Entergy in the 2008 revised White Bluff BART analysis was never issued by the State.

We disagree that our rulemaking regarding White Bluff Units 1 and 2 is inaccurate and arbitrary because the EPA did not rely on the 2008 revised White Bluff BART analysis, as the 2008 revised White Bluff BART analysis is not before EPA to take action on.

7. Other Comments Related to BART

Comment: The EPA's proposed disapproval of BART for the Entergy White Bluff auxiliary boiler is legally incorrect because the unit is not BART eligible. The EPA disapproved ADEQ's BART determination that BART for the White Bluff auxiliary boiler is a restriction to operate no more than 4360 hours annually. However, the White Bluff auxiliary boiler has only a heat input capacity of 183 MMBtu/hr, which is less than the BART-eligible threshold of 250 MMBtu/hr. The BART Guidelines supports this finding that units which are located at a steam electric plant, but which themselves are not in any of the 26 BART source categories, such as the White Bluff auxiliary boiler, should not be considered BART-eligible. Further, the Guidelines state that for fossil-fuel boilers more than 250 MMBtu/hour heat input, this category includes only those boilers that are individually greater than 250 MMBtu/hour heat input.

Response: The EPA agrees that the Auxiliary Boiler (SN-05) at the Entergy White Bluff Plant does not fall into "Category 2" (*i.e.* fossil-fuel boilers of more than 250 million BTU/hr heat input) under the BART Guidelines. However, as noted in our proposed rulemaking, it does fall into "Category 1" (*i.e.* steam electric plants of more than 250 million BTU/hr heat input) under the BART Guidelines. The BART Guidelines state the following regarding the BART eligibility of steam electric plants of more than 250 MMBTU/hr heat input:

"Because the category refers to 'plants,' we interpret this category title to mean that

boiler capacities should be aggregated to determine whether the 250 million BTU/hr threshold is reached. This definition includes only those plants that generate electricity for sale."¹⁸⁴

The BART Guidelines also provide the following example to help states determine whether a boiler at a steam electric plant of more than 250 MMBtu/hr heat input falls into "Category 1" (*i.e.* steam electric plants of more than 250 million BTU/hr heat input) under the BART Guidelines:

"Example: A stationary source includes a steam electric plant with three 100 million BTU/hr boilers. Because the aggregate capacity exceeds 250 million BTU/hr for the 'plant,' these boilers would be identified in Step 2."¹⁸⁵

Therefore, even though the Auxiliary Boiler (SN-05) at the Entergy White Bluff Plant is individually only 183 MMBtu/hr, since it is located at a plant where the aggregate capacity exceeds 250 MMBtu/hr, the Auxiliary Boiler is BART eligible and, as explained in our proposed rulemaking, subject to BART. As such, our proposed disapproval of BART for the auxiliary boiler is consistent with the BART Guidelines and is legally correct. For the reasons articulated in our proposed rulemaking, we are finalizing our proposed disapproval of BART for the Auxiliary Boiler (SN-05) at the Entergy White Bluff plant.

Comment: The EPA has not demonstrated in its proposed partial disapproval of Arkansas RH SIP that post-combustion controls are cost-effective. The EPA has also not demonstrated that Arkansas's reliance on presumptive limits without analyzing post-combustion controls abused its authority to determine the appropriateness of the selected BART technologies.

Response: The BART Guidelines provide that in identifying all options, you must identify the most stringent option as well as a reasonable set of options for analysis.¹⁸⁶ The RHR also provides that in establishing source specific BART emission limits, the State should identify and consider in the BART analysis the maximum level of emission reduction that has been achieved in other recent retrofits at existing sources in the source category.¹⁸⁷ The visibility regulations define BART as "an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission

¹⁸² Letter from Mark C. Bowles, Arkansas Environmental Support Manager, to Mike Bates, Air Division Chief, ADEQ, dated August 8, 2008. Please see the docket for this rulemaking for a copy of this letter.

¹⁸³ Letter from Jeff Robinson, Air Permits Chief, EPA Region 6, to Tom Rheaume, Permits Branch Manager, ADEQ, dated November 25, 2009.

¹⁸⁴ Appendix Y to Part 51, section II.A.

¹⁸⁵ Appendix Y to Part 51, section II.A.

¹⁸⁶ Appendix Y to Part 51, section IV.D.

¹⁸⁷ 64 FR 35740.

reduction.” Since recent retrofits at existing sources provide a good indication of the current “best system” for controlling emissions, these controls must be considered in the BART analysis. As explained in our proposed rulemaking, post-combustion controls for NO_x, SO₂, and PM have been demonstrated to be technically feasible and cost-effective controls at fossil fuel fired EGUs that are similar to those that are subject to BART in Arkansas. As articulated in our proposed rulemaking (and also discussed elsewhere in our response to comments), EPA is also aware of at least one type of NO_x post-combustion control (SNCR) that has been demonstrated to be technically feasible for a power boiler at a kraft pulp mill with similar design specifications as Domtar Ashdown Mill Power Boilers No. 1 and 2. Therefore, states must consider post-combustion controls in their BART analyses for NO_x, SO₂, and PM if such controls have been recently installed as retrofits at existing sources in the source category.

Furthermore, our disapproval of some of Arkansas’s BART determinations where the State did not consider post-combustion controls, is not based on a demonstration by EPA that post-combustion controls are cost-effective at any of Arkansas’s subject to BART sources. Instead, it is based on our finding that some of the State’s BART analyses did not satisfy the RHR and applicable EPA guidance. We did not perform a source specific BART analysis to determine if post-combustion controls are cost-effective at Arkansas’s subject to BART sources nor are we required to perform such an analysis in reviewing a SIP revision. As explained in our response to other comments and as required by CAA section 169A(g)(2) and 40 CFR 51.308(e)(1)(ii)(A), it is the State’s responsibility to conduct a five factor BART analysis that satisfies the RHR and BART Rule using the NO_x and SO₂ presumptive emission limits as a starting point in the BART analysis. In addition, as explained above, states must consider post-combustion controls in their BART analyses for NO_x, SO₂, and PM if such controls are technically feasible. It is EPA’s responsibility to review the adequacy of this analysis.

Comment: The EPA’s proposed disapproval is inconsistent with EPA’s guidance and regulations concerning visibility protection causing regulatory uncertainty among the EGU industry. The EPA’s proposed disapproval action should be withdrawn in favor of approval of the Arkansas RH SIP.

Response: Because the comment is not specific about what aspect of our proposed disapproval is believed to be

inconsistent with EPA guidance and RH regulations, it is not possible for EPA to address in this response any specific concerns. Several similar comments raised very specific concerns. Our responses to these can be found elsewhere in our responses to comments. As articulated in our proposed rulemaking and further explained in our responses to other comments, EPA’s partial approval and partial disapproval of the Arkansas RH SIP is consistent with the CAA, the RHR, BART Rule, and EPA guidance. Since our rulemaking is consistent with the above, we disagree that it causes regulatory uncertainty among the EGU industry.

Comment: Arkansas’s BART determinations are consistent with the BART Guidelines and EPA should defer to the state’s decision. Instead of deferring to the state’s judgment about the necessary measures to implement BART within its borders, EPA proposed to substitute its judgment concerning what constitutes BART and what constitutes an acceptable LTS for making reasonable progress toward the national goal.

Response: The EPA disagrees that all of Arkansas’s BART determinations satisfy the CAA, the RHR, BART Rule, and EPA guidance. For some BART determinations, Arkansas adopted NO_x and SO₂ presumptive limits without conducting a source-specific analysis of appropriate levels of control when those sources have the capability of more stringent controls. This is in contradiction with the RHR and the BART Guidelines. We have determined that Arkansas’s failure to conduct the BART analysis despite the evidence that the BART analysis might result in adoption of a different emissions limit was significant enough to result in BART determinations that were unreasoned and unjustified. Accordingly, those BART determinations, that adopted presumptive limits without conducting any additional BART analysis when information exists that may affect the BART determination, are not approvable. For some BART determinations, Arkansas did not perform a full BART analysis by not considering one or more factors it is required to consider in determining whether retrofit control should be required. We have determined that not considering one or more BART factors by Arkansas in its BART determinations, when it is demonstrable that this lack of analysis could alter the BART determination, is unreasoned and unsupported. Thus, those BART determinations, which lack the

consideration of one or more BART factors when it can be demonstrated that lack of consideration of the BART factor has the potential to alter the BART determination, are not approvable. We are also disapproving Arkansas’s LTS because it does not satisfy the requirements under 40 CFR 51.308(d)(3) by relying on BART determinations that are inconsistent with the CAA and the RHR as detailed in our BART disapproval actions.¹⁸⁸ As explained in our response to other comments, EPA agrees that States have broad authority and flexibility under the RHR.

Furthermore, we are not substituting our judgment and forcing Arkansas to adopt any specific BART determination. Rather, we are disapproving portions of Arkansas’s RH SIP that address BART, the LTS, and the RPGs because the State omitted critical analyses and made flawed assumptions that may compromise any decisions that arise from it. In doing so, the State did not satisfy the requirements of the CAA, RHR, and the BART Rule. The state could submit and EPA would approve RH SIP revisions that reached identical determinations as the current SIP submittal if Arkansas’s analyses in reaching those determinations are consistent with the CAA, RHR, and BART Rule.

Comment: Because of the limited ability to combust fuel oil on a short-term basis for the Domtar Ashdown Mill Power Boiler No.1, a higher SO₂ emission rate was proposed of 1.12 lb/MMBtu even though the average long-term emissions are low. The EPA is incorrect in stating that there is a mismatch between ADEQ’s high BART SO₂ emission limit and the emission needs of the Domtar Power Boiler No.1 when you take into account the actual operation of and the fuels used by the boiler.

Response: As articulated in our proposed rulemaking, as part of its BART analysis, the State should have conducted a fuel inventory for Domtar Power Boiler No. 1 and investigated sources of potential sulfur emissions. If the source believes that burning fuel oil on a relatively long-term basis is the primary source of high SO₂ emissions from Domtar Power Boiler No. 1, the State should consider in its BART analysis establishing a limit on the sulfur content of the fuel oil burned at the boiler and/or lowering the limit of fuel oil usage. In addition, if the boiler operator wishes to burn fuel oil on a long-term basis and this is the primary source of SO₂ emissions from the boiler, the State should evaluate SO₂ post-

¹⁸⁸ 76 FR at 64186, at 64187.

combustion controls in its BART analysis. A proper BART evaluation of SO₂ controls may demonstrate that the installation and operation of an SO₂ scrubber is cost-effective and would result in significant visibility improvement.

Comment: With regard to the evaluation of upgrades to the existing scrubber at Domtar's Power Boiler No. 2, multiple scrubber upgrades were considered including the addition of a spray tower and/or a third scrubber. Preliminary estimates of capital costs for the third scrubber exceed \$10 million not taking into account the expenses of installing the technology in a limited space. Considering Arkansas's progress towards the overall goal of the RH program, such costs are clearly not justified.

Response: As articulated in our proposed rulemaking, the BART Guidelines provide that if a state determines that a source has controls already in place that are the most stringent controls available and that all possible improvements to any control devices have been made, it may take a streamlined approach for the BART analysis for this source. Since the source has an existing wet scrubber for control of SO₂ emissions, Arkansas has elected to take this streamlined approach for Power Boiler No.2. As explained in our proposed rulemaking, we agree that SO₂ post-combustion controls are typically the most stringent technology available for control of SO₂. However, we disagree that a BART emission limit of 1.2 lb/MMBtu for SO₂ is reflective of the most stringent controls available. Further, the State has not provided sufficient documentation of the upgrades considered for the existing wet scrubber. In addition, based on the information available, it also appears that the State has not considered all possible improvements to the scrubber. As articulated in our proposed rulemaking, the BART Guidelines state that there are numerous scrubber enhancements available to upgrade the average removal efficiencies of all types of existing scrubber systems, including increasing a scrubber system's reliability (and conversely decreasing its downtime) by way of optimizing operational procedures, improving maintenance practices, adjusting scrubber chemistry, and increasing auxiliary equipment redundancy.¹⁸⁹ The BART Guidelines also provide the following detailed list of potential scrubber upgrades that have been proven in the industry as cost-effective

means to increase overall SO₂ removal of wet systems:

- Elimination of Bypass Reheat
- Installation of Liquid Distribution Rings
- Installation of Perforated Trays
- Use of Organic Acid Additives
- Improve or Upgrade Scrubber Auxiliary System Equipment
- Redesign Spray Header or Nozzle Configuration

Based on the limited information that has been provided to EPA, it does not appear that the State has evaluated all possible improvements to the existing wet scrubber at Domtar Ashdown Mill Power Boiler No. 2. Therefore, the State must either consider all possible improvements to the existing wet scrubber (including proper documentation of these) or conduct a full five factor BART analysis that satisfies the requirements of the RHR and the BART Rule for Power Boiler No. 2. EPA is finalizing our proposed disapproval of the State's SO₂ BART determination for the Domtar Power Boiler No. 2.

Comment: The EPA should not question if the proposed SO₂ BART limit of 1.2 lb/MMBtu represents 90% control for Domtar's Power Boiler No. 2. The 90% control value has never been confirmed via testing. Rather this control efficiency was estimated based on a comparison of the actual maximum daily emissions measured via CEMS and the uncontrolled emission rate predicted by EPA's AP-42 data. It may be overestimated, but the percent control value is somewhat irrelevant due to the BART limit on a lb/MMBtu basis.

Response: As articulated in our proposed rulemaking, we agree that SO₂ post-combustion controls are typically the most stringent technology available for control of SO₂. However, we disagree that a BART emission limit of 1.2 lb/MMBtu for SO₂ is necessarily reflective of the most stringent controls available. Since Arkansas has elected to take the streamlined approach for the SO₂ BART analysis for this source, it must ensure that the source has controls already in place that are the most stringent controls available and that all possible improvements to any control devices have been made. This has not been done. Since the State is relying on the fact that the source has the most stringent controls in place to take a streamlined approach to the BART analysis, we disagree that the control efficiency of the existing wet scrubber is irrelevant. As explained elsewhere in our response to comments, the State must either ensure it has the most stringent controls in place and consider

all possible improvements to the existing wet scrubber (including proper documentation of these) or conduct a five factor BART analysis that satisfies the requirements of the RHR and the BART Rule for Domtar Power Boiler No. 2. EPA is finalizing our proposed disapproval of the State's SO₂ BART determination for Domtar's Power Boiler No. 2.

Comment: Since EPA is proposing to partially approve and partially disapprove portions of the Arkansas SIP, EPA should clarify that the compliance dates are all based on the same final approval date of the entire SIP. Compliance should be five years after final approval by EPA.

Response: The EPA disagrees that compliance with the BART requirements is contingent upon full approval of the entire Arkansas RH SIP. 40 CFR 51.308(e)(iv) requires subject to BART sources to install and operate BART as expeditiously as practicable, but in no event later than 5 years after the approval of the implementation plan revision. Therefore, in the event of a partial approval of the RH SIP, those sources whose BART determinations for a particular pollutant have been approved by EPA are required to install BART as expeditiously as practicable, but in no event later than 5 years after the partial approval of the BART determination. The RH regulatory language in no way conditions the BART compliance dates on EPA's full approval of the entire RH SIP.

Comment: Arkansas did a proper BART evaluation for Entergy Lake Catherine Unit 4 and White Bluff Units 1 and 2 when it adopted the presumptive limits. Arkansas did the BART five factor analyses, which is consistent with the BART Guidelines. EPA's proposed disapproval of Arkansas's NO_x and SO₂ BART determinations for Entergy's White Bluff and Lake Catherine facilities is based on EPA's incorrect evaluation of Arkansas's BART analyses and prioritizes EPA's disagreements with Arkansas concerning available technologies and the associated costs of compliance over the visibility protection program's fundamental purpose of remedying visibility impairment by 2064, which the Arkansas's RH SIP achieves. The EPA's disapproval for Arkansas's BART determinations for Entergy Lake Catherine and White Bluff facilities is a disagreement with the results of the BART determination as to the appropriate level of control for the Lake Catherine and White Bluff facilities. Accordingly, EPA should withdraw its proposed partial disapproval and approve the existing Arkansas RH SIP.

¹⁸⁹ Appendix Y to Part 51, section IV.E.4.

Response: As explained in our proposed rulemaking,¹⁹⁰ we disagree that Arkansas did a proper five factor BART evaluation for NO_x and SO₂ BART when it adopted the presumptive limits for White Bluff Units 1 and 2, and we also disagree that Arkansas did a proper five factor BART evaluation for NO_x BART (natural gas and fuel oil firing) and SO₂ and PM BART (fuel oil firing) for Lake Catherine Unit 4. We do note that in our proposed rulemaking on the Arkansas RH SIP, we proposed to find that Arkansas did not appropriately consider the costs of controls when they assumed a 10% capacity factor for Lake Catherine Unit 4 and an 85% capacity factor for White Bluff Units 1 and 2. Based on comments received during the public comment period, we have found that we made an error in proposed rulemaking in our calculation of the historical capacity factors for these units. We agree that assuming a 10% capacity factor for Lake Catherine and an 85% capacity factor for White Bluff Units 1 and 2 in the calculation of emissions reductions achieved and cost of controls is appropriate and in accordance with the BART Guidelines (see our response to similar comments for a more detailed explanation).

However, we still find that Arkansas did not appropriately consider a number of factors (as articulated in our proposed rulemaking and explained elsewhere in our response to comments) in its five-factor BART analysis for NO_x BART (natural gas and fuel oil firing), and SO₂ and PM (fuel oil firing) BART for Lake Catherine Unit 4, and for NO_x and SO₂ BART (bituminous and sub-bituminous coal firing) for White Bluff Units 1 and 2. The State's BART analyses for Lake Catherine Unit 4 and White Bluff Units

1 and 2 for the aforementioned pollutants do not satisfy all the requirements of the RHR and BART Guidelines. As such, our disapproval of the BART determinations for Lake Catherine Unit 4 and White Bluff Units 1 and 2 is not based on our disagreement with the results of the BART determination as to the appropriate level of control for the Lake Catherine and White Bluff facilities. Instead, our disapproval is based on our finding that Arkansas's BART analyses for these units and pollutants do not satisfy all the requirements of the RHR and BART Guidelines. The State omitted critical analyses and made flawed assumptions that compromise the resulting BART determinations. As such, until a proper five-factor BART analysis is conducted for these pollutants that satisfies all the statutory and regulatory RH requirements and adheres to the applicable guidelines, it will not be possible to know whether the level of control adopted by the State or a different level of control is BART for these units and pollutants. The state could submit and EPA would approve RH SIP revisions that reached identical determinations as the current SIP submittal if Arkansas's analysis in reaching those determinations is consistent with the RHR and applicable EPA Guidance. As explained elsewhere in our response to comments, even if the CENRAP's modeling shows that the State is expected to meet the URP for the first implementation period ending in 2018 and is projected to meet the natural visibility goal by 2064 if the same level of visibility improvement expected to take place during the first implementation is achieved for every remaining implementation period, the State of Arkansas has not satisfied all its BART requirements. We are finalizing our disapproval of BART for NO_x (natural gas firing and fuel oil firing) and SO₂ and PM (fuel oil firing) for Lake Catherine Unit 4 and BART for NO_x and SO₂ (bituminous and sub-bituminous coal firing) for White Bluff Units 1 and 2.

Comment: It appears that EPA agrees with the State's approach of developing BART determinations for each fuel-burning scenario for subject to BART units that are permitted to burn more than one type of fuel. Setting separate, individual BART limits for each fuel type that a source is physically capable of burning and permitted to burn is a generally reasonable approach to addressing multi-fuel units. Other approaches may also be reasonable if chosen by the State, so long as they do not amount to a redefinition of the

source, as would occur if use of a particular fuel-type, otherwise permitted, were prohibited or made infeasible as a result of the imposition of a BART limit.

Response: The EPA generally agrees with the State's approach of developing BART determinations for each fuel burning scenario for subject to BART sources that are permitted to burn more than one type of fuel, as was done for Entergy Lake Catherine Unit 4 and Entergy White Bluff Units 1 and 2. There is nothing in the RHR or the BART Guidelines prohibiting a State from doing so. Although the BART Guidelines provide that we do not consider BART as a requirement to redesign the source when considering available control alternatives,¹⁹¹ we do note that if a State considers it appropriate, it may consider a fuel switch (*i.e.* switch from burning fuel oil to natural gas), which does not necessarily constitute a redesign of the source, as one of the options in the BART analysis for a particular source. This was done by the State of Kansas, which determined that a switch from fuel oil to natural gas satisfied the BART requirements for SO₂ and NO_x for Westar Energy Gordon Evans Unit 2 (the unit can burn both fuel oil and natural gas).¹⁹² The EPA approved Kansas' aforementioned BART determination.

Comment: As stated by EPA in its proposed action on the Arkansas RH SIP, neither AEP nor ADEQ performed a five-factor BART analysis for Flint Creek Boiler No. 1 (76 FR 64203). The company commented that since it was proposing to meet the presumptive BART limits for SO₂ and NO_x, it did not need to undertake a five-factor BART analysis. This does not constitute a proper BART analysis, and EPA was right in proposing disapproval of Arkansas's SO₂ and NO_x BART requirements for Flint Creek. The presumptive limits in EPA's BART Guidelines do not exempt a source from a five-factor BART analysis. If ADEQ or AEP-SWEPCO had performed a five-factor analysis for Flint Creek, the BART limits would likely have been lower than 0.15 lbs/MMBtu for SO₂ and 0.23 lbs/MMBtu for NO_x.

Response: As explained elsewhere in this final rulemaking, we are finalizing our proposed disapproval of BART for NO_x and SO₂ for Flint Creek Boiler No. 1 because the State did not conduct a five factor BART analysis for the source.

Comment: The SO₂ and NO_x emission limits for Flint Creek Boiler No. 1 do not reflect the best system of continuous

¹⁹⁰ EPA notes that in our proposed rulemaking on the Arkansas RH SIP, we proposed to find that Arkansas did not appropriately consider the costs of controls when they assumed a 10% capacity factor for Lake Catherine Unit 4 and an 85% capacity factor for White Bluff Units 1 and 2. Based on comments received during the public comment period, we have found that we made an error in proposed rulemaking in our calculation of the historical capacity factors for these units. We agree that assuming a 10% capacity factor for Lake Catherine and an 85% capacity factor for White Bluff Units 1 and 2 in the calculation of emissions reductions achieved and cost of controls is appropriate and in accordance with the BART Guidelines (see our response to other comments in our response to comments for a more detailed explanation). However, we still find that Arkansas did not appropriately consider a number of factors (as articulated in our proposed rulemaking and explained elsewhere in our response to comments) in its five factor BART analysis for NO_x BART (natural gas and fuel oil firing), and SO₂ and PM (fuel oil firing) BART for Lake Catherine Unit 4, and for NO_x and SO₂ BART (bituminous and sub-bituminous coal firing) for White Bluff Units 1 and 2. Therefore, we are finalizing our disapproval of BART for the aforementioned pollutants and units.

¹⁹¹ Appendix Y to Part 51, section IV.D.1.

¹⁹² 76 FR 52604 and 76 FR 80754.

SO₂ and NO_x emission reduction and EPA cannot find that these emission limits satisfy the legal BART requirements without a five-factor BART analysis. The proposed SO₂ BART limit of 0.15 lbs/MMBtu for Flint Creek reflects only 67% removal from the uncontrolled 2010 average annual SO₂ emission rate of 0.46 lbs/MMBtu. The best system of continuous SO₂ emission reductions is a wet scrubber, which can achieve 95–99% removal. The next best system of continuous SO₂ emissions reductions is a dry scrubber, which can achieve 90–95% SO₂ removal. EPA recently proposed and finalized as a FIP the installation of dry scrubbers as BART at six coal-fired EGUs in Oklahoma to achieve the SO₂ BART emission limit of 0.6 lbs/MMBtu on a 30-day rolling average basis. The Oklahoma units are all similar to Flint Creek in size and coal type. This provides evidence that had a proper five factor BART analysis been done for Flint Creek, the SO₂ BART limit would have been lower than 0.15 lb/MMBtu. Similarly, a five-factor analysis for NO_x at Flint Creek would have required the evaluation of SCR and SNCR, which can achieve NO_x emission limits lower than 0.23 lbs/MMBtu. If SCR had been evaluated as BART for NO_x, emissions would have been 78% lower, providing significant benefits to the State's Class I areas. NO_x BART emission limits as low as 0.5 lb/MMBtu have been promulgated (76 FR 52390, 52439).

Response: The EPA agrees that we cannot approve the State's BART determinations for SO₂ and NO_x for Flint Creek Boiler No. 1 because the State adopted presumptive limits as meeting BART for the source without conducting a BART five-factor analysis. The EPA also believes that a proper evaluation of the five statutory factors is likely to demonstrate that emission limits lower than the NO_x and SO₂ presumptive emission limits are BART for Flint Creek Boiler No. 1. We are finalizing our proposed disapproval of the State's BART determinations for SO₂ and NO_x for Flint Creek Boiler No. 1.

With regard to the comment that a wet scrubber is the "best system of continuous emissions reductions" for SO₂ and a dry scrubber is the next "best system of continuous emissions reductions" for SO₂, we note that 40 CFR 51.308(e)(1)(ii)(B) directs States to identify the "best system of continuous emissions control technology" taking into account "the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use at the source, and the

remaining useful life of the source." Therefore, while we agree that a wet scrubber and a dry scrubber are generally the two most stringent control technologies available for control of SO₂ emissions and have been found to be BART for many sources, we disagree that a wet scrubber or a dry scrubber will necessarily be BART in every case.

Comment: The EPA's proposal is correct that the White Bluff BART analyses for SO₂ and NO_x in the Arkansas RH SIP are incomplete and inadequate because the company only evaluated options to comply with the presumptive BART limits rather than evaluating emission limits reflective of the best system of continuous emission reduction at White Bluff Units 1 and 2. In Entergy's 2006 BART analysis, which is part of the Arkansas RH SIP, the company did not explain why it proposed a 0.15 lb/MMBtu SO₂ emission limit for either a wet scrubber or a dry scrubber, when the higher control efficiency associated with a wet scrubber would result in the ability to meet a lower SO₂ emission limit. Also, the proposed SO₂ BART limit of 0.15 lb/MMBtu only reflects approximately 80% control from the base case SO₂ emission rates, and not the 95% and 92% control efficiency capable of being achieved by a wet and dry scrubber, respectively. Entergy's 2006 BART analysis did note that the resulting SO₂ emission limit from either control technology would "depend on the future coal sulfur content" (see Appendix 9.3 of Arkansas RH SIP). Entergy's revised 2008 BART analysis, which has not been adopted by Arkansas or submitted to EPA as a RH SIP revision, elaborated on this, explaining that 2 lb/MMBtu SO₂ is assumed as the highest coal sulfur content for dry scrubbing and 3 lb/MMBtu is assumed for wet scrubbing. Taking into account Entergy's projected future coal sulfur content (which varies depending on the control technology used) and Entergy's claimed percent removal efficiencies for the control technologies considered, the resulting emission limit just happens to equal EPA's presumptive BART limit for SO₂ of 0.15 lb/MMBtu. White Bluff is not authorized to burn coal of unlimited sulfur or ash content, and the higher uncontrolled coal sulfur content that Entergy assumed in its December 2006 BART analysis (as well as in its revised 2008 BART analysis) is prohibited from being utilized at the White Bluff units under the terms of the White Bluff permit. It would be virtually impossible for White Bluff to comply with Permit Condition IV.6 in its Title V permit and

burn coal with uncontrolled SO₂ emissions at the inlet to the scrubber of 2 lb/MMBtu, much less 3 lb/MMBtu. The future uncontrolled SO₂ emission rate must not be raised above the level of uncontrolled SO₂ emissions/coal sulfur content authorized by the White Bluff permit and EPA must make clear that the assumed uncontrolled SO₂ emission rate cannot be improperly inflated in proposing a BART emission limitation. EPA has commented on the BART determinations of the Wisconsin Department of Natural Resources as well as other states that BART cannot be based on characteristics of coal that might be burned in the future (see Exhibit 18). Instead, it is to be based on the fuel characteristics during the base case. If Entergy plans to burn higher sulfur coal in the future as compared to that utilized in the base case, that must be made clear in the BART analysis because sulfur content of coal should be considered in determining whether it is most beneficial to install a wet scrubber or a dry scrubber.

Response: The EPA agrees that in its SO₂ BART analysis for White Bluff Units 1 and 2, the State did not explain why it proposed a 0.15 lb/MMBtu SO₂ emission limit for either a wet scrubber or a dry scrubber, when the higher control efficiency associated with a wet scrubber would result in the ability to meet a lower SO₂ emission limit. EPA also agrees that the State's proposed SO₂ BART limit of 0.15 lb/MMBtu only reflects approximately 80% control from the base case SO₂ emission rates, and not the 95% and 92% control efficiency capable of being achieved in many cases by a wet and dry scrubber, respectively. EPA also agrees that the BART Guidelines provide that BART must be based on the fuel characteristics during the base case. If a source projects that future operating parameters (*i.e.* limited hours of operation or capacity utilization, type of fuel, raw materials or product mix or type) will differ from past practice, resulting in greater (or less) emissions, the State must make this clear in the BART evaluation, as it may have an impact on the cost analysis and the ultimate selection of BART. Since the State did not properly document the cost of the SO₂ control options considered in the BART analysis (including a reasonably detailed line by line breakdown of costs), we were not able to determine if the parameters assumed in the State's cost analysis for White Bluff Units 1 and 2 are reflective of the base case. As explained elsewhere in this final rulemaking, we are finalizing our proposed disapproval of SO₂ BART for

Entergy White Bluff Units 1 and 2 for both the bituminous and sub-bituminous coal firing scenarios.

Comment: The EPA's proposed disapproval of the SO₂, NO_x, and PM BART determinations for fuel oil firing for Entergy Lake Catherine Unit 4 is correct because Entergy's BART analyses for the fuel oil firing scenario are inadequate. Neither Entergy nor ADEQ considered and evaluated post-combustion controls for the fuel oil firing scenario, and Entergy improperly assumed only a 10% capacity factor in the cost-effectiveness calculations, even though the unit's capacity factor is not limited by any enforceable requirement. The EPA is also correct in not allowing the unit to be exempt from BART for the fuel oil firing scenario until the Lake Catherine permit is revised to prohibit Unit 4 from burning fuel oil.

Response: The EPA agrees that the State did not evaluate any SO₂ post-combustion controls and did not properly evaluate NO_x post-combustion controls for Entergy Lake Catherine Unit 4 for the fuel oil firing scenario.

Based on comments received during the public comment period, it has come to our attention that we made an error in our calculation of the capacity factor for recent years for Lake Catherine Unit 4. Based on the information provided, we agree that the source has historically operated at less than a 10% capacity factor. The BART Guidelines provide that for the purpose of calculating the cost of controls, the State may calculate baseline emissions based upon continuation of past practice.¹⁹³ However, as explained in more detail in our response to other comments and in our proposed rulemaking, we find that the State did not properly document the cost analysis for NO_x, SO₂, and PM controls for fuel oil firing for Entergy Lake Catherine Unit 4 because the proper documentation necessary to allow us to make an informed and proper evaluation of the BART analysis was not included in the SIP, as the BART Guidelines require.

Therefore, we are finalizing our proposed disapproval of BART for NO_x for both the natural gas and fuel oil firing scenarios, and SO₂ and PM for the fuel oil firing scenario.

Comment: The EPA's proposed disapproval of Arkansas's BART determinations for SO₂, NO_x, and PM for AECC's Bailey Unit 1 and McClellan Unit 1 is correct. ADEQ must comply with the requirement that once a unit is determined to be subject to BART, a BART determination must be made for all pollutants emitted by the source

(see 40 CFR part 51, § 51.301 and Appendix Y, section IV.A). EPA must also disapprove the PM BART requirements because there was no determination of BART for PM_{2.5}.

Response: While we are finalizing our proposed disapproval of the State's BART determinations for SO₂, NO_x, and PM for AECC's Bailey Unit 1 and McClellan Unit 1, we disagree that we must disapprove the PM BART determination because the State did not make a BART determination for PM_{2.5}. The BART Guidelines do not specify that States must establish a BART limit for both PM₁₀ and PM_{2.5}. The BART Guidelines provide the following:

"You must look at SO₂, NO_x, and direct particulate matter (PM) emissions in determining whether sources cause or contribute to visibility impairment, including both PM₁₀ and PM_{2.5}."¹⁹⁴

This language in the BART Guidelines was intended to clarify to States that when determining whether a source is subject to BART, the modeling evaluation to determine the source's impact on visibility has to account for both PM₁₀ and PM_{2.5} emissions. There are several instances in which we state in both the preamble to the RHR, and in the BART Guidelines that PM₁₀ may be used as indicator for PM_{2.5} in determining whether a source is subject to BART. Neither the RHR nor the BART Guidelines specify that States must make separate BART determinations for PM₁₀ and PM_{2.5}. Therefore, we disagree that we must disapprove the PM BART determination for AECC's Bailey Unit 1 and McClellan Unit 1 on the basis that a BART determination for PM_{2.5} was not made.

Comment: The EPA's proposed disapproval of the SO₂ and NO_x BART determinations for the Domtar Power Boilers No. 1 and 2 the EPA's proposed disapproval of the PM BART determination for Domtar Power Boiler No. 2 are correct for the reasons given by EPA in its proposed rulemaking (76 FR 64207–210).

Response: Consistent with the comment, we are finalizing our proposed disapproval of the State's SO₂ and NO_x BART determinations for the Domtar Power Boilers No. 1 and 2 and the State's PM BART determination for Domtar Power Boiler No. 2

Comment: There is significant interest in the application of appropriate BART requirements for the Flint Creek Power Plant, the White Bluff Steam Electric Station, the AECC Carl E. Bailey Generating Station, and the AECC John L. McClellan Generating Station. It is critical to ensure that ratepayers are not

burdened by improper and/or unnecessary requirements. EPA's proposed rule will impose unnecessary and/or improper costs and requirements on these and other Arkansas facilities. ADEQ's original RH SIP submission fully met the requirements of the CAA and its implementing regulations.

Response: We disagree that our final action will impose unnecessary and improper requirements on Arkansas's subject to BART sources. In fact, for the BART determinations we are disapproving, we are not imposing or requiring a specific BART emission limit or cost. As explained elsewhere in our response to comments, our partial disapproval of Arkansas's RH SIP is a proper exercise of our authority under the CAA. Our role is to review the RH SIP submittal and determine if the state met the applicable statutory and regulatory requirements. When reviewing state SIPs, we must consider not only whether the State considered the appropriate factors in making decisions but also whether it acted reasonably in doing so. Some of Arkansas's BART determinations for its subject to BART sources, among other portions of the RH SIP, were not developed in accordance with the RHR and the BART Guidelines, as discussed in our proposed rulemaking and elsewhere in this final rulemaking. We are not imposing additional requirements beyond what the RHR and the BART Guidelines require. Therefore, we disagree that our proposed rulemaking, as finalized in this rulemaking, imposes unnecessary requirements on Arkansas's subject to BART sources.

Comment: Since limiting the sulfur content of fuel oil to 1.0% by weight at the Bailey Unit 1 and McClellan Unit 1 is cost-effective and post-control modeling predicted that visibility impacts to Class I areas would be below the 0.5 dv contribution threshold, this control option was selected as BART. It is unnecessary to perform additional analyses for lower sulfur fuel oil for Bailey Unit 1 and McClellan Unit 1.

Response: While we agree that limiting the sulfur content of fuel oil to 1.0% by weight at the AECC Bailey Unit 1 and McClellan Unit 1 is extremely cost-effective (\$54.90/ton SO₂ removed for Bailey Unit 1 and \$158.60/ton SO₂ removed for McClellan Unit1), we find that it is very likely that other options that would result in greater visibility improvement may also be found to be cost effective. According to the Arkansas RH SIP, the post-control modeling demonstrates that with the SO₂ BART controls selected by the State for AECC Bailey Unit 1, the visibility

¹⁹³ Appendix Y to Part 51, section IV.A.

¹⁹⁴ Appendix Y to Part 51, section III.A.2.

impact would be 0.897 dv at Caney Creek, 0.574 dv at Upper Buffalo, 0.809 dv at Hercules Glades, and 0.766 dv at Mingo.¹⁹⁵ According to the Arkansas RH SIP, the post-control modeling demonstrates that with the SO₂ BART controls selected by the State for AECC McClellan Unit 1, the visibility impact would be 1.011 at Caney Creek and 0.487 dv at Upper Buffalo.¹⁹⁶ We note this constitutes approximately a 50% improvement in visibility across all areas. As such, if Arkansas conducts a proper five factor BART analysis that considers all five statutory factors and evaluates more stringent controls, such as a 0.5% or lower limit for the sulfur content of fuel oil used, Arkansas may find one or more of these more stringent controls to be cost-effective and result in even more visibility improvement than that resulting from the control option it selected. As explained in our proposed rulemaking, the visibility regulations define BART as “an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction.” Since recent retrofits at existing sources provide a good indication of the current “best system” for controlling emissions, these controls must be considered in the BART analysis. The BART Guidelines provide that in identifying all options, States must identify the most stringent option (*i.e.* maximum level of control each technology is capable of achieving) as well as a reasonable set of options for analysis.¹⁹⁷ The RHR states that in establishing source specific BART emission limits, the State should identify and consider in the BART analysis the maximum level of emission reduction that has been achieved in other recent retrofits at existing sources in the source category.¹⁹⁸ Fuel oil with a sulfur content of 0.5% by weight or less is being utilized in industry. In considering use of fuel oil with low

sulfur content as a control option in the BART analysis, AECC did not identify and consider the maximum level of control achievable from the use of low sulfur fuel oil, and therefore, did not satisfy the RHR requirements.

In addition, as pointed out in the TSD for our proposed rulemaking on the Arkansas RH SIP, even though the State’s cost analysis showed that wet scrubbers are cost-effective (\$2,108.25/ton SO₂ removed and \$1,658.32/ton SO₂ removed), Arkansas did not evaluate the visibility impact of this control option. As explained in more detail elsewhere in our response to comments, the BART Guidelines require a State to evaluate all five statutory factors before eliminating a particular control option for BART.¹⁹⁹ As articulated in our proposed rulemaking on the Arkansas RH SIP, the State must perform a cost analysis in which all cost estimates are properly documented and must evaluate the visibility impacts of all technically feasible control options considered before making a BART determination. This was not done in Arkansas’s SO₂ BART analysis for the AECC Bailey Unit 1 and McClellan Unit 1. As such, the BART analysis for SO₂ for AECC Bailey Unit 1 and McClellan Unit 1 does not satisfy the RHR and CAA requirements.

Therefore, we believe that it is necessary for Arkansas to perform additional analyses to evaluate the cost and visibility impact of using lower sulfur fuel oil at Bailey Unit 1 and McClellan Unit 1. It must also evaluate the visibility impact of wet scrubbers and any other control options considered in the BART analysis before making a BART determination.

Comment: The results of the initial BART modeling performed in 2006, which was cumulative modeling of SO₂, NO_x, and PM, indicated that both the AECC Bailey Unit 1 and McClellan Unit 1 cause visibility impacts at one or more Class I areas. Pollutant-specific modeling was then performed and the results of the pollutant-specific modeling for NO_x were all less than 0.5 dv, demonstrating that NO_x neither caused nor contributed to visibility impacts. For this reason, a NO_x engineering analysis was unnecessary and not performed. The EPA previously had an opportunity to comment on this issue about two years prior to ADEQ submitting its draft SIP to EPA, when ADEQ forwarded a question to EPA in an email dated October 19, 2006, asking whether or not five factor analyses were required for NO_x and PM since both pollutants showed no impacts. No

response to the question was ever received by ADEQ from EPA.

Response: While we regret any kind of miscommunication or lapse of communication that may have occurred between us and Arkansas, we note that it is ultimately the State’s duty to make sure that its RH SIP satisfies all the regulatory and statutory requirements and is consistent with all applicable EPA guidance. As explained elsewhere in our response to comments, the pollutant-specific analysis approach for NO_x and SO₂ used to evaluate controls at these AECC units does not take into consideration the chemical interaction between these two pollutants and ammonia present in the atmosphere. A reduction in sulfate emissions, while most likely reducing visibility impairment overall, can result in an increase in visibility impairment from nitrate due to the increase in ammonia available to react with nitrate to form visibility impairing aerosol. The pre-control modeling results indicate that nitrate is a significant contributor to visibility impairment on some days and this contribution can increase under conditions of decreased SO₂ emissions. Therefore, NO_x and SO₂ emissions should be modeled together and emission control technologies should be evaluated for both pollutants. We are finalizing our proposed disapproval of the State’s NO_x, SO₂, and PM BART determinations of the AECC Bailey Unit 1 and McClellan Unit 1.

Comment: We do not agree with EPA’s proposed approval of no BART determination for SO₂ for the gas-firing scenario for Entergy Lake Catherine Unit 4 (76 FR 64203–204). Once a source is determined to be subject to BART, a BART determination must be made for all pollutants emitted by the source (see 40 CFR part 51, § 51.301 and appendix Y, section IV.A). Since the unit emits some SO₂ when firing gas, it must be subject to a BART limit. EPA cannot exempt the unit from an SO₂ BART analysis when firing natural gas just because SO₂ emissions are considered to be low when combusting such fuel. A BART analysis may show that the SO₂ limit currently in the Lake Catherine Title V permit satisfies BART, but that will not be known until a BART analysis is done.

Response: In our review of the Arkansas RH SIP, we evaluated the determination by ADEQ that SO₂ emissions when burning natural gas are very low and that no additional SO₂ controls are required at Entergy Lake Catherine Unit 4. Furthermore, the modeling results submitted by Arkansas in Appendix 9.2B of the Arkansas RH SIP indicate that under natural gas firing

¹⁹⁵ See Table 9.4b of the Arkansas RH SIP. Note that the pre and post control visibility impact shown on Table 9.4b is the modeled maximum visibility impact at each affected Class I area. As explained in our proposed rulemaking, the original meteorological databases generated by CENRAP did not include observations as EPA guidance recommends. Therefore, in their evaluation to determine if a source exceeds the 0.5 dv contribution threshold at nearby Class I areas, states used the 1st high values (*i.e.* maximum value) of modeled visibility impacts instead of the 8th high values (*i.e.* 98th percentile value). The use of the 1st high modeled values was agreed to by EPA, representatives of the Federal Land Managers, and CENRAP stakeholders.

¹⁹⁶ See Table 9.4c of the Arkansas RH SIP. Note that the pre and post control visibility impact shown on Table 9.4c is the modeled maximum visibility impact at each affected Class I area.

¹⁹⁷ Appendix Y to Part 51, section IV.

¹⁹⁸ 64 FR 35740.

¹⁹⁹ 70 FR 39130 and 39131.

conditions, NO_x contributes over 99.9% of Lake Catherine Unit 4's total visibility impacts at all nearby Class I areas on the most impacted days. Based on the State's modeling results, the visibility impact of this unit from SO₂ emissions alone is so minimal such that any requirement for additional SO₂ controls on this unit would have virtually no visibility benefit. It is clear that the most effective controls to address visibility impairment from the source during natural gas firing are those that would reduce emissions of NO_x. Therefore, in our proposed rulemaking, we agreed that it was appropriate for the State to not establish an SO₂ BART emission limit (*i.e.* no additional controls) for the natural gas firing scenario. This is consistent with the BART Rule, which states the following:

"Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source's impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible. In a scenario, for example, where a source emits thousands of tons of SO₂ but less than one hundred tons of NO_x, the State could easily conclude that requiring expensive controls to reduce NO_x would not be appropriate."²⁰⁰

Based on our analysis of the data submitted by ADEQ in the Arkansas RH SIP, and our agreement that SO₂ emissions from burning natural gas are very low, we proposed to find that it is appropriate for the State to establish no additional control for SO₂ BART. The BART Rule provides that states may determine that for a given source no additional control satisfies the BART requirement for a particular pollutant.²⁰¹ In such cases, it is not necessary for a state to establish an emission limit when no additional control is BART. For example, in our final approval of the Kansas RH SIP, we approved the State's determination that no additional control (and no new

BART emission limit) for PM is BART for a number of sources.²⁰² In our final approval of the Oklahoma RH SIP, we also approved the State's determination that no additional control (and no new BART emission limit) for PM is BART for a number of sources.²⁰³ In the above cases, Kansas and Oklahoma adopted no new PM emission limit for PM BART, and we approved this based on the sources' low visibility impact attributable to PM emissions. As such, our proposed approval of Arkansas's determination that no additional controls for SO₂ for the natural gas firing scenario satisfies SO₂ BART for Lake Catherine Unit 4 is consistent with the BART Rule and consistent with our action on the RH SIPs of other states.

D. Comments on the Arkansas Pollution Control and Ecology Commission Variance for Subject to BART

Comment: The EPA cannot approve any of the BART determinations because each of the BART determinations is premised by Arkansas to implement only 5 years after EPA fully approves the entire RH SIP. Arkansas's enforceability of BART requirements are codified in Chapter 15 of Regulation No. 19 and modified in March 2010. Since EPA has not yet proposed full approval of the Arkansas RH SIP, EPA's partial approval of some pollutant-specific BART requirements in Regulation No. 19 for some of Arkansas's subject to BART sources will not meet the requirements of 40 CFR 51.308(e)(iv). Also, the APCEC variance does not account for the possibility that EPA may impose a partial FIP for RH in Arkansas, and thus, under the variance, the backstop BART compliance deadline will be delayed indefinitely.

Response: We do not believe that the 2008 submitted Chapter 15 of APCEC Regulation No. 19 and its subsequent modification submitted to us on August 3, 2010, creates an enforceability timeframe less stringent than that required under 40 CFR 51.308(e)(iv). We do not read that the partial approval of Arkansas BART determination means that the enforceability timeframe is 5 years from the *full* approval of the AR RH SIP. Section 110(k)(3) of the amended Act addresses the situation in which an entire submittal, or a separable portion of a submittal, meets all applicable requirements of the Act. In the case where a separable portion of the submittal meets all the applicable requirements, partial approval may be used to approve that part of the submittal and disapprove the

remainder. Since the portions of the RH SIP submittal we are approving are separable from the portions we are disapproving as explained above, each approved BART determination for a particular pollutant for a given source will have an enforceable date of 5 years from the date of EPA's approval. If Arkansas fails to submit a revised RH SIP that is approvable for the severable BART determinations we are disapproving today, we will promulgate a FIP for the disapproved BART determinations; in that case, the compliance deadline will be no later than 5 years from the date of the FIP promulgation.

As explained in our proposed rulemaking and as pointed out in another comment, the APCEC variance granted to Arkansas's subject to BART sources on March 26, 2010, will require compliance with BART requirements "as expeditiously as practicable but in no event later than five (5) years after EPA approval of the Arkansas Regional Haze SIP."²⁰⁴ As explained in our response to that comment, we agree that the APCEC variance was never submitted to EPA as a revision to the SIP. The operative rule before us is Chapter 15 of Regulation No. 19 (*i.e.* the State RH Rule), which requires compliance with BART either six years after the effective date of the State's regulation or five years after EPA approval of the Arkansas RH SIP, whichever is first.²⁰⁵ Although we believe this timeframe is consistent with the requirements under 40 CFR 51.308(e)(iv), because of the variance granted to all Arkansas subject to BART sources, the State of Arkansas no longer has the legal authority to enforce compliance within the timeframe required by Chapter 15 of APCEC Regulation No. 19, which is before us to act upon. Specifically, Arkansas no longer has the authority to enforce compliance with BART within six years after the effective date of its regulation. 40 CFR 51.230 requires that a state must show it has the legal authority to enforce a rule that is submitted as part of the SIP. Therefore, we are disapproving the portion of the BART compliance provision found in the 2008 submitted Chapter 15 of APCEC Regulation No. 19 that requires compliance with BART requirements no later than six years after the effective date of the State's regulation. For

²⁰⁴ A copy of the March 26, 2010, APCEC Minute Order granting all Arkansas subject to BART sources a variance from the compliance deadline imposed by the State's RH Rule can be found in the docket associated with this rulemaking.

²⁰⁵ The State's BART compliance requirements are found at Reg. 19.1504(B).

²⁰⁰ 70 FR 39116.

²⁰¹ 70 FR 39116.

²⁰² 76 FR 52604 and 76 FR 80754.

²⁰³ 76 FR 16168 and 76 FR 81728.

purposes of our action on the RH SIP submissions, we are partially approving and partially disapproving the portion of the BART compliance provision in Chapter 15 of APCEC Regulation No. 19, that requires each Arkansas subject to BART source to install and operate BART as expeditiously as practicable, but in no event later than five years after EPA approval of the Arkansas RH SIP, such that our disapproval is of those portions of the regulation that correspond to portions of the Arkansas RH SIP we are disapproving. We find that this is consistent with the requirements under 40 CFR 51.308(e)(iv). Arkansas's inclusion of the compliance provision that would require Arkansas subject to BART sources to install and operate BART no later than six years after the effective date of the State's regulation (if such date takes place before five years from EPA approval of the Arkansas RH SIP) is not a required element of the Regional Haze SIPs to be developed and submitted by States pursuant to section 169 of the CAA. Therefore, we are finalizing our approval of the BART determinations for which we proposed approval.

Comment: Arkansas has not submitted the APCEC variance to EPA as part of the Arkansas RH SIP. The version of APCEC Regulation No. 19 that EPA is proposing to approve requires compliance with BART emission limitations no later "than 6 years after the effective date of [Chapter 15 of APCEC Regulation No. 19] or five years after EPA approval of the Arkansas Regional Haze State Implementation Plan * * *" (see APCEC Reg. 19.1504(B) in EPA-R06-OAR-2008-0727-0004). Compliance with BART under the version of APCEC Reg. 19.1504(B) that has been submitted to EPA is required by October 15, 2013, yet ADEQ will have no authority to enforce compliance with the deadline that will be in effect under the version of APCEC Regulation No. 19 being proposed for approval by EPA. EPA's proposed partial approval would be of a rule that ADEQ has no authority to enforce. Given that States are required to have legal authority to enforce the requirements of the SIP (see 40 CFR 51.230(b)), EPA cannot legally approve the BART compliance deadline in APCEC Reg. 19.1504(B) until Arkansas properly revises its SIP to address the terms of the variance and submits it to EPA for approval. EPA seemingly ignores the fact that the variance was not adopted by the State as a SIP revision, was not submitted to EPA as a SIP revision, and is not being acted on

by EPA in this proposed rulemaking action. Further, the APCEC variance allows for BART compliance deadlines less stringent than the BART compliance deadlines of 40 CFR 51.308(e)(iv) of the Federal RH regulations because under the variance, compliance would not be required until 5 years from EPA's full approval of the Arkansas RH SIP. Therefore, EPA cannot approve any of the BART determinations in the Arkansas RH SIP.

Response: As stated in our proposal, Chapter 15 of APCEC Regulation No. 19, was submitted by ADEQ on September 23, 2008, as part of the RH SIP submittal. The 2008 submitted Chapter 15 of Regulation No. 19 requires each subject to BART source to install and operate BART as expeditiously as practicable, but in no event later than six years after the effective date of Arkansas's Chapter 15 of APCEC Regulation No. 19 or five years after approval of the SIP or plan revision by EPA, whichever comes first. ADEQ did revise APCEC Regulation No. 19, including Chapter 15, and submitted these changes to EPA in 2010 but this revised submittal did not include revisions to the provision for BART compliance timeframe. We agree with the comment that the APCEC variance that requires BART compliance as expeditiously as practicable but in no event later than five years after our approval of the Arkansas RH SIP has never been submitted to us as a revision to the SIP. We do not believe, however, this means we cannot finalize the approval of the BART determinations for which we proposed approval. We agree that because of the APCEC variance, Arkansas no longer has the authority to enforce compliance with BART within six years after the effective date of the State's regulation. 40 CFR 51.230 requires that a state must show it has the legal authority to enforce a rule that is submitted as part of the SIP. Therefore we are disapproving the portion of the BART compliance provision found in the 2008 submitted Chapter 15 of Regulation No. 19 that requires compliance with BART requirements no later than six years after the effective date of the State's regulation. For purposes of our action on the RH SIP submissions, we are partially approving and partially disapproving the portion of the BART compliance provision that requires each Arkansas subject to BART source to install and operate BART as expeditiously as practicable, but in no event later than five years after our approval of the Arkansas RH SIP. We find that this is consistent with the

requirements under 40 CFR 51.308(e)(iv). Arkansas's inclusion of the compliance provision that would require Arkansas subject to BART sources to install and operate BART no later than six years after the effective date of the State's regulation (if such date takes place before five years from EPA approval of the Arkansas RH SIP) is not a required element of the Regional Haze SIPs to be developed and submitted by States pursuant to section 169 of the CAA. We also note that with the exception of the PM BART determination for the Domtar Ashdown Mill Power Boiler No. 1, our partial approval of the State's BART determinations is based on a finding that no additional control is required. Therefore the compliance date is not relevant for RH purposes since no additional controls would be expected for these sources.

Our actions approving some BART determinations and disapproving some BART determinations for Arkansas sources are severable. We can approve some of the rules and disapprove the rest as long as the rules that are disapproved do not affect those that are approved. This is the case in our partial approval and partial disapproval action, in which we are disapproving the severable BART determinations for some of the units and approving the severable BART determinations for some of the units in Arkansas's RH SIP. Since the portions of the RH SIP submittal we are approving are severable from the portions we are disapproving as explained above, each approved BART determination for a particular pollutant for a given source will have an enforceability of 5 years from the date of EPA's approval. If EPA cannot approve a revised RH SIP for the severable BART determinations EPA is disapproving today before the end of the 2 year FIP clock, EPA will promulgate a FIP for the severable BART determinations EPA is disapproving today. In that case, the compliance deadline will be as expeditious as practicable, but no later than 5 years from the date of the FIP promulgation. Therefore, EPA disagrees that compliance is required no later 5 years from EPA's *full* approval of the *entire* Arkansas RH SIP.

Comment: Under the Federal RH regulations, compliance with BART is required "as expeditiously as practicable," and in no event later than five years after approval of the SIP (see 40 CFR 51.308(e)(iv), and 42 U.S.C. 7491(b)(2)(A)). However, all parties seem to ignore this regulatory requirement. Considering this regulatory requirement and the significant delay in

getting an approved RH SIP or FIP in place for Arkansas, EPA must consider tighter deadlines for BART compliance.

Response: It is our role to determine if the State SIP submittal meets the requirements of the CAA. Only in the context of a FIP are we in a position to make our own determination about the appropriate compliance deadline. It is our expectation that the State will correct the deficiencies in the SIP and submit a revised plan that we can approve before the expiration of the mandatory FIP clock for the portions of the SIP we are disapproving in this final rulemaking action. However, if this does not occur and we are forced to promulgate a FIP, we will consider at such time what the appropriate compliance deadline is in light of the final BART determination.

E. Comments on BART and the Forthcoming MACT Requirements

Comment: Flint Creek Boiler No. 1 and White Bluff Units 1 and 2 will be subject to EPA's forthcoming EGU MACT requirements, and the BART Guidelines provide that MACT requirements should be taken into account in determining BART (see 40 CFR part 51, appendix Y, section IV.C). The EPA has proposed a total PM limit for existing EGUs of 0.03 lb/MMBtu, as a surrogate limit for non-mercury metal hazardous air pollutants (HAPs) (see 76 FR 24975). EPA should not approve the lax PM limit of 0.1 lb/MMBtu for Flint Creek Boiler No. 1 and Entergy White Bluff Units 1 and 2 as meeting BART for PM because that emission limit is much less stringent than the forthcoming PM MACT requirement. Recent stack testing for White Bluff Units 1 and 2 show that the units will not be able to meet EPA's proposed mercury MACT limit for existing units of 1.2 lb/MMBtu. It is likely that both Flint Creek Boiler No. 1 and White Bluff Units 1 and 2 will need to install baghouses to meet EPA's mercury MACT limit for existing EGUs. It is well known that coal-fired boilers equipped with baghouses achieve better control of mercury than those equipped with ESPs. Activated carbon, a sorbent which adsorbs mercury, is typically much more effective when a baghouse is used compared to an ESP. According to EPA, the form of mercury most easily removed is HgCl₂ and the formation of this compound depends on how much chlorine is in the coal—the lower the chlorine content of the coal, the less HgCl₂ is formed. EGUs that burn low chlorine coal, such as Flint Creek, often achieve better control of mercury via existing SO₂ scrubbers and PM controls. A fabric filter baghouse provides additional opportunities for mercury

removal compared to a particle scrubber or a dry ESP.

Response: We would like to clarify that the section of the BART Guidelines the comment refers to was not meant to require States to take into account MACT requirements in determining BART, but rather to provide States with the option to streamline the BART analysis for sources subject to the MACT standards by relying on the MACT standards for purposes of BART.²⁰⁶ We received the originally submitted Arkansas RH SIP on September 23, 2008 and a revision on August 3, 2010, while EPA proposed the National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units (EGU MACT Rule) on March 16, 2011.²⁰⁷ The EPA issued the EGU MACT final rule on December 16, 2011.²⁰⁸ As such, it would be unreasonable for EPA, when taking action on states' RH SIPs, to consider EGU MACT standards proposed years after a state submitted its RH SIP. This would potentially create an endless review loop for States as new MACT standards are issued by EPA. In addition, the limits in the MACT standards are established by EPA for reasons that are much different than the reasons for the limits established in Regional Haze SIPs. Our approval of limits on direct PM emissions in Arkansas for RH purposes is based on minimal contribution to visibility impairment at Class I areas and is in no way related to the reasons a lower emission limit was established under section 112 of the Act. Therefore, EPA disagrees that it should disapprove the PM BART limit of 0.1 lb/MMBtu adopted by the State for Flint Creek Boiler No. 1 and White Bluff Units 1 and 2 because it is much less stringent than the PM emission limit in the EGU MACT Rule recently promulgated by EPA or because the sources may need to install baghouses to meet the mercury emission limit for existing EGUs in EPA's EGU MACT Rule. EPA expects that these sources will have to comply with these limits under the EGU MACT standard as well.

Comment: The EPA's reason for proposing to approve a limit of 0.07 lb/MMBtu and a wet ESP as PM BART for Domtar Power Boiler No. 1 is based on an outdated 2004 Boiler MACT PM standard of 0.07 lb/MMBtu and because according to EPA, the BART Guidelines provide that unless there are new

technologies subsequent to the MACT standards which would lead to cost-effective increases in the level of control, sources may rely on the MACT standards for purposes of BART (76 FR 64207). EPA's proposed approval ignores the fact that the 2004 MACT PM standard upon which the Domtar Power Boiler No. 1 BART determination is based was vacated and remanded and that EPA subsequently promulgated revised boiler MACT standards in 2011 which were more stringent. The new 2011 standards require existing solid fuel-fired boilers like Domtar's Power Boiler No. 1 to meet a PM emission limit of 0.039 lb/MMBtu on a 30-day rolling average, which is 44% lower than the vacated 2004 0.07 lb/MMBtu PM MACT limit (76 FR 15608, 15689 at Table 2). Even though EPA has delayed the effective date of the new 2011 Boiler MACT rule until completion of reconsideration of the rule and recently reissued a reconsideration proposal, there is no legitimate legal basis in the applicable regulations for exempting sources from a five-factor BART analysis based on their meeting an outdated and formally vacated PM MACT standard as reflecting BART when that MACT standard has been replaced with a more stringent proposed MACT standard. EPA should disapprove the PM BART determination for Power Boiler No. 1 either because it is less stringent than required by the MACT standards for PM currently being proposed by EPA or because there was no five-factor evaluation for BART for PM.

Response: The EPA acknowledges that on June 8, 2007, the United States Court of Appeals for the District of Columbia Circuit vacated and remanded the national emission standards for hazardous air pollutants for new and existing industrial/commercial/institutional boilers and process heaters (*i.e.* the 2004 Boiler MACT Rule) promulgated by EPA on September 13, 2004. However, it should be noted that the effective date of this vacatur was July 30, 2007, which was after the close of the public notice and comment period for Arkansas's proposed RH Rule, which codifies all the BART determinations made by the State. On March 21, 2011, the EPA issued a final rule to regulate emissions of hazardous air pollutants (HAPs) from industrial, commercial, and institutional boilers and process heaters located at major sources of HAP emissions (*i.e.* the "Major Source Boiler MACT," or Boiler MACT Rule). As noted in the comment, the Major Source Boiler MACT Rule established a PM emission limit of 0.039 lb/MMBtu on a 30-day rolling average

²⁰⁶ Appendix Y to Part 51, section IV.C.

²⁰⁷ 76 FR 25091.

²⁰⁸ See <http://www.epa.gov/ttn/atw/utility/utilitypg.html> for a copy of the signed final rule.

that applies to existing boilers designed to burn solid fuel, such as the Domtar Ashdown Mill Power Boiler No. 1. However, EPA promulgated the Major Source Boiler MACT Rule years after the end of the State's public notice and comment period and years after the date of Arkansas's submission to EPA of the RH SIP. As such, it would be unreasonable to disapprove the State's PM BART determination for Domtar on the basis that it is less stringent than the emission limit in the Major Source Boiler MACT Rule issued by EPA on March 21, 2011. Furthermore, on May 18, 2011, EPA published a final rule delaying the effective date for the Major Source Boiler MACT Rule until the proceedings for judicial review of the rule is completed or the EPA completes its reconsideration of the rule, whichever is earlier.²⁰⁹ And on December 2, 2011, EPA issued a proposed rule for reconsideration of the final Major Source Boiler MACT Rule.²¹⁰ The proposed rule for reconsideration and the uncertainty surrounding the Major Source Boiler MACT Rule is another reason why it is unreasonable for EPA to disapprove the State's PM BART determination for Domtar on the basis that it is less stringent than the emission limit in the 2011 Major Source Boiler MACT Rule.

With regard to the comment that EPA should disapprove the State's PM BART determination for Domtar Power Boiler No. 1 because there was no five-factor evaluation for BART for PM, EPA holds that the State did not conduct a BART analysis for PM for Domtar Power Boiler No. 1 because at the time of the State's analysis, it was relying on the MACT standards for purposes of BART. Furthermore, the comment disregards the reason why the BART Guidelines provide that States could take a streamlined BART approach for sources subject to MACT standards. The BART Guidelines provide the following:

"Any source subject to MACT standards must meet a level that is as stringent as the best controlled 12 percent of sources in the industry * * * We believe that, in many cases, it will be unlikely that States will identify emission controls more stringent than the MACT standards without identifying control options that would cost many thousands of dollars per ton."²¹¹

Accordingly, the reason why the BART Guidelines anticipated that states could streamline their analysis by relying on the MACT standards for purposes of BART is because EPA believes that such controls are among

the most stringent available and that emission controls more stringent than this are very likely not cost-effective. Notwithstanding the court's vacatur of the 2004 Boiler MACT Rule, at the time Arkansas performed its analysis and adopted the 0.07 lb/MMBtu emission limit for PM BART for the Domtar Ashdown Mill Power Boiler No. 1 based on the 2004 Boiler MACT PM standard, the emissions controls reflected by that PM standard were among the most stringent controls available at that time and emission controls more stringent than this were at that time likely not cost-effective for purposes of addressing visibility. Therefore, EPA disagrees that we should disapprove the PM BART determination for the Domtar Ashdown Mill Power Boiler No. 1.

F. Comments on Modeling

Comment: ADEQ conducted pre-control CALPUFF modeling to show that PM₁₀ and PM_{2.5} emissions from AEP Flint Creek No. 1 Boiler have minimal visibility impacts. The EPA utilized modeling results to exempt White Bluff Units 1 and 2 from a PM BART analysis, while ADEQ and Entergy exempted the units from a PM BART analysis based on their belief that most of the visibility-causing emissions from Units 1 and 2 are due to SO₂ and NO_x while PM₁₀ emissions are well-controlled with existing electrostatic precipitators (ESPs). The existing PM emission limit of 0.1 lbs/MMBtu, which ADEQ adopted as BART for PM, fails to reflect the best system of continuous particulate matter reduction at the White Bluff units, especially if Entergy is considering the installation of a dry scrubber and baghouse at each White Bluff unit to meet BART.

In addition, the impact threshold used in this analysis is problematic because it is likely that ADEQ applied a 0.5 dv threshold, although the discussion in the Arkansas RH SIP on the modeling is limited or not present. Given the number of sources impacting visibility at Class I areas, a 0.5 dv threshold is not appropriate for one visibility impairing pollutant. The RHR and BART Guidelines do not provide for exempting a source from BART for one visibility impairing pollutant. A BART determination must be made for each pollutant and EPA cannot exempt Flint Creek Boiler No. 1 and White Bluff Units 1 and 2 from a BART analysis for PM based on modeling that shows that PM visibility impacts do not trip the BART impact threshold.

Furthermore, the PM modeling used to exempt the source from a PM BART determination utilized an emission rate much lower than the proposed BART

limit. The pre-control modeling for Flint Creek included the 24-hr actual maximum emissions rate, which is 70% lower than the proposed BART limit of 0.1 lbs/MMBtu. ADEQ modeled White Bluff Unit 1's highest 24-hour actual PM₁₀ emission rate of 15.592 grams per second and White Bluff Unit 2's highest 24-hour actual PM₁₀ emission rate of 16.653 grams per second in determining whether the plant's emissions were subject to BART, which is 85% lower than the proposed BART limit of 0.1 lbs/MMBtu. The emission limits in the April 2007 ENVIRON Report titled "Cumulative Modeling of Subject to Best Available Retrofit Technology (BART) Facilities as a Requirement of ADEQ's BART Modeling Protocol" (Appendix 9.2D of the Arkansas RH SIP) are even lower than those used in the pre-control modeling.

Response: In our review of the Arkansas RH SIP, we evaluated the determination by ADEQ that no additional PM controls are required for the AEP Flint Creek Boiler No. 1 and the Entergy White Bluff Units 1 and 2. In the case of Flint Creek, ADEQ's determination was based on the pre-control modeling performed by ADEQ and a review of AEP SWEPCO's statement that the PM visibility modeling did not "trip the BART impact threshold." We reviewed the pre-control modeling performed using the 24-hr actual maximum emissions from the baseline period. The modeling results in Appendix 9.2B of the AR RH SIP and presented in Table 7-6 of Appendix A of the TSD,²¹² indicate that PM contributes less than 0.5% of the total visibility impacts from Flint Creek Boiler No. 1 at all nearby Class I areas with the exception of Upper Buffalo. PM contributions to visibility impacts at Upper Buffalo from Flint Creek are less than 2% of the total visibility impairment at this Class I area. On the most impacted day at Upper Buffalo, modeling the 24-hr actual maximum emissions, PM contributes only 0.07 dv of the total 3.781 dv modeled visibility impact from the source. Clearly, the most effective controls to address visibility impairment from the source are those that would reduce emissions of visibility impairing pollutants other than direct emissions of PM.

For Entergy White Bluff units 1 and 2, we reviewed the data submitted by ADEQ, including pre-control modeling in Appendix 9.2B of the Arkansas RH SIP, to evaluate ADEQ and White Bluff's determination that the majority of visibility-causing emissions are due to

²¹² These documents can be found in the docket for our rulemaking.

²⁰⁹ 76 FR 28662.

²¹⁰ 76 FR 80598.

²¹¹ Appendix Y to Part 51, section IV.C.

emissions of NO_x and SO₂, and that no additional PM controls are warranted. The modeling results in Appendix 9.2B of the Arkansas RH SIP and presented in Table 7–7 of Appendix A of the TSD, indicate that PM contributes less than 0.4% of the total visibility impacts at all nearby Class I areas. On the most impacted day at Caney Creek, modeling the 24-hr actual maximum emissions, PM contributes only 0.03 dv of the more than 8 dv modeled visibility impact from the White Bluff Units 1 and 2. Clearly, the majority of visibility-causing emissions are due to emissions of NO_x and SO₂ and the most effective controls to address visibility impairment from the units are those that would reduce emissions of NO_x and SO₂ rather than direct emissions of PM. In this action, we are finalizing our proposal to disapprove the NO_x and SO₂ BART determinations for these units as ADEQ did not properly evaluate and identify controls to address visibility impairment from these units.

In both cases, it is clear that the visibility impact from PM emissions alone is so minimal such that the installation of any additional PM controls on these units (including any upgrades to the existing controls) could only have minimal visibility benefit and therefore would not be justified. This is in keeping with the BART Rule, which states the following:

“Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source’s impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible. In a scenario, for example, where a source emits thousands of tons of SO₂ but less than one hundred tons of NO_x, the State could easily conclude that requiring expensive controls to reduce NO_x would not be appropriate. In another situation, however, inexpensive NO_x controls might be available and a State might reasonably conclude that NO_x controls were justified as a means to improve visibility despite the fact that the source emits less than one hundred tons of the pollutant.”²¹³

In reviewing the State’s PM BART determinations for Flint Creek Boiler No. 1 and White Bluff Units 1 and 2, we

utilized ADEQ’s pre-control screening modeling using 24-hr maximum actual emissions from the baseline period as recommended in the BART guidelines. We did not rely on the cumulative modeling results found in Appendix 9.2D of the AR RH SIP in our review of ADEQ’s PM BART determination for sources at these two facilities. Based on our analysis of the data submitted by ADEQ in the Arkansas RH SIP, we find that no additional controls are required for PM and therefore are finalizing our proposal to find that the existing PM emission limits are acceptable to satisfy the PM BART requirements of Flint Creek Boiler No. 1 and White Bluff Units 1 and 2.

Comment: Even though the modeling for Entergy’s White Bluff Units 1 and 2 deviated from the standard modeling protocol in evaluating wet and dry scrubbers, these deviations did not impact the BART analysis and subsequent BART determination for these units. The use of the 8th highest day rather than the maximum visibility impact did not impact the BART determination because the units were still determined to be subject-to-BART and the BART decision was not based upon modeling. Therefore, ADEQ’s acceptance of the modeling should be approved by EPA.

Response: The modeling conducted for Entergy White Bluff Units 1 and 2 was not conducted appropriately for its purpose and affected the BART analysis and subsequent BART determinations for these units. The modeling for wet and dry scrubbers at Entergy’s White Bluff units 1 and 2 evaluated both control technologies at an emission limit of 0.15 lb/MMBtu for SO₂. However, wet scrubbers and dry scrubbers are capable of achieving a lower emission limit than was modeled by ADEQ, and similar facilities use these controls to control SO₂ emissions below the 0.15 lb/MMBtu limit included in the analysis. The lowest emission limit achievable must be included in the BART analysis. ADEQ evaluated the control effectiveness of the two control options of wet and dry scrubbing, stating the wet scrubber can achieve up to 95% control efficiency while the dry scrubber can achieve up to 92% control efficiency. An emission limit of 0.15 lbs/MMBtu represents a control efficiency of only approximately 80% at White Bluff Units 1 and 2. Therefore, the visibility modeling is flawed because it did not evaluate the level of visibility improvement reasonably achievable due to the use of these technologies at the emission rate these technologies are capable of achieving.

Furthermore the original meteorological databases generated by CENRAP did not include observations as our guidance recommends. The use of meteorological databases that do not include observations may lead, to less conservatism in the CALPUFF modeled visibility results compared with modeling that uses meteorological databases with observations. To account for this, the use of the 1st High modeling values rather than 8th high modeling values was agreed to by EPA, representatives of the Federal Land Managers, and CENRAP stakeholders. The modeling conducted for Entergy’s White Bluff Units 1 and 2 deviated from this accepted modeling protocol by using the 8th highest day rather than the maximum impacted day and failed to account in any other way for the loss in conservatism that results from using the CENRAP database that does not include observations. In summary, an approvable visibility analysis would follow the agreed upon modeling protocol for BART and evaluate the visibility benefits for the lowest emission limit achievable by each technologically feasible control as required by the RHR.

Comment: We agree with EPA’s finding that the visibility impact analysis of the SO₂ control options for Entergy White Bluff Units 1 and 2 was not properly conducted because ADEQ’s modeling for White Bluff Units 1 and 2 considered both wet and dry scrubbers at the same emission rate of 0.15 lb/MMBtu rather than modeling the emission rates that these technologies are capable of achieving. In addition, the modeling for Entergy’s White Bluff Units 1 and 2 deviated from ADEQ’s modeling protocol by using the 98th percentile value of visibility impacts rather than the highest day of impacts.

Response: As explained elsewhere in our response to comments, we find that the visibility impact analysis of the SO₂ control options for the White Bluff units 1 and 2 was not properly conducted because ADEQ’s modeling for White Bluff Units 1 and 2 considered both wet and dry scrubbers at the same emission rate of 0.15 lb/MMBtu rather than modeling the emission rates that these technologies are capable of achieving. We find that ADEQ’s modeling for Entergy’s White Bluff Units 1 and 2 deviated from ADEQ’s modeling protocol by using the 98th percentile value of visibility impacts rather than the highest day of impacts.

Comment: ADEQ performed the BART determination modeling in accordance with the guidance provided by EPA. ADEQ modeled SO₂ and NO_x together, both pre-control and post-

²¹³ 70 FR 39116.

control. Modeling results showed the pollutant that impacted visibility was SO₂ and not NO_x. Utilizing this information and in compliance with the EPA's BART Guidelines, ADEQ did not make BART determination for that source or group of sources (or for certain pollutants for those sources) when ADEQ's analysis showed that an individual source or group of sources (or certain pollutants from those sources) is not reasonably anticipated to cause or contribute to any visibility impairment in a class I area.

Response: We agree that ADEQ pre-control and post-control modeling was performed modeling all pollutants (NO_x, SO₂, and PM) together. We note that to properly evaluate the visibility benefit from a control, NO_x and SO₂ emissions should be modeled together.

It is unclear which facility the comment is referring to regarding ADEQ not making a BART determination for NO_x based on modeling that showed SO₂ impacted visibility and not NO_x. ADEQ did make NO_x BART determinations for all but two subject-to-BART sources. Our concerns with these BART determinations are discussed in detail in a separate response to comment.

For AECC Bailey Unit 1 and AECC McClellan Unit 1, ADEQ determined, based on pollutant-specific modeling performed subsequent to the initial pre-control screening modeling, that NO_x contributions were less than the 0.5 dv threshold and, as a result, incorrectly determined a NO_x BART determination was not needed for these two units. ADEQ made a NO_x BART determination for all other sources they determined to be subject-to-BART. In the case of the two AECC units, as stated in our proposal, our evaluation of the screening modeling results for these units reveals that on some of the most impacted days, nitrate is a significant contributor to the visibility impairment due to these units. Post-control modeling performed by ADEQ, applying the use of 1% sulfur fuel, show that these units would continue to cause or contribute to visibility impairment at a number of Class I areas, with NO_x emissions responsible for over 50% of the impairment on some days under this control scenario. The pollutant-specific analysis approach for NO_x and SO₂ used to evaluate controls at these AECC units does not take into consideration the chemical interaction between these two pollutants and ammonia present in the atmosphere. A reduction in sulfate emissions can result in an increase in visibility impairment from nitrate due to the increase in ammonia available to react with nitrate to form visibility

impairing aerosol. The pre-control modeling results indicate that nitrate is a significant contributor to visibility impairment on some days and this contribution can increase under conditions of decreased SO₂ emissions. Therefore, NO_x and SO₂ emissions should be modeled together and emission control technologies should be evaluated for both pollutants. In light of the relatively high impacts due to nitrate, a combination of NO_x and SO₂ controls may prove to be cost-effective and provide for substantial visibility improvement and must therefore be evaluated. We further discuss the importance of evaluating all the emissions (NO_x, SO₂, and PM) together from BART sources when assessing the benefit in visibility impairment from reductions of NO_x and/or SO₂ in another response to comment and also in past EPA guidance.²¹⁴

Comment: The EPA is inconsistent in its approach to the contribution threshold to visibility impairment. The EPA initially approved ADEQ's selection of a threshold of 0.5 dv in the Arkansas RH SIP. However, the EPA later on states that a lower threshold value is needed in evaluating pollutant-specific modeling for sources that emit more than one visibility impairing pollutant. Arkansas properly modeled the visibility impacts of NO_x and SO₂ emissions separately from one another. Arkansas's application of the 0.5 dv threshold in considering the impacts of NO_x, SO₂, and PM on a per-pollutant basis is consistent with the BART Guidelines. The EPA argues that the 0.5 dv threshold in the BART Guidelines applies to all three visibility impairing pollutants combined, and requires the state to lower the threshold value in evaluating pollutant-specific modeling for sources that emit more than one visibility impairing pollutant. This is unsupported as a legal, factual, and policy matter, and it is unclear what EPA actually expects states to do on this issue.

The EPA's proposed rule does not provide any guidance on EPA's views as to how Arkansas and other states should modify the 0.5 dv threshold to account for separate modeling of PM, on the one hand, and NO_x and SO₂, on the other hand. The EPA cannot reasonably purport to require the state to apply a new, untested, and previously unarticulated standard in its BART analyses if it does not provide guidance

²¹⁴ BART Guidelines; Memo from Joseph Paisie (Geographic Strategies Group, OAQPS) to Kay Prince (Branch Chief EPA Region 4) on Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations, July 19, 2006; EPA Q and A—September 26, 2006.

on how it should do so. Consistent with the 2006 EPA memorandum cited by EPA in its proposal, it is believed that numerous BART contribution analyses separating PM from NO_x and SO₂ have been performed without revising the 0.5 dv contribution threshold on this basis alone. EPA has not previously stated or suggested that any such revision is necessary and there is no basis for any suggestion that such a revision is necessary. EPA should recognize that states may use the default 0.5 dv contribution threshold and allow the application of this threshold regardless of how pollutants are modeled. EPA's proposed new approach needlessly complicates the analysis, is inappropriate and unsupported, and should be withdrawn. ADEQ's selection of a threshold of 0.5 dv is reasonable and appropriate, and should be approved by EPA.

Response: We reviewed ADEQ's methodology to initially identify which sources were subject-to-BART. This methodology included modeling all pollutants together and applying a contribution threshold of 0.5 dv. As discussed in our proposed rule, we agree with ADEQ's selection of the 0.5 dv threshold as it applies to the initial screening modeling performed by ADEQ when all three pollutants, NO_x, SO₂ and PM are considered together.

We disagree with the characterization of the 0.5 dv threshold as a default value. The BART Guidelines state that "the appropriate threshold for determining whether a source contributes to visibility impairment' may reasonably differ across states," but, "[a]s a general matter, any threshold that you use for determining whether a source 'contributes' to visibility impairment should not be higher than 0.5 deciviews." 70 FR 39104, 39161. The 0.5 dv threshold is not set as a default value but rather a ceiling to what may be determined to be appropriate in any situation. Further, in setting a contribution threshold, the BART Guidelines say that states should "consider the number of emissions sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts." 70 FR 39104, 39161. The BART Guidelines affirm that states are free to use a lower threshold if they conclude that the location of a large number of BART-eligible sources in proximity of a Class I area justifies this approach.

The pollutant-specific approach is acceptable only for PM BART contribution analyses. Furthermore, as

stated in the 2006 EPA memorandum²¹⁵ referenced in the comment, using CALPUFF on a pollutant-specific basis for PM is only appropriate in certain situations, such as if a State chooses to adopt the Clean Air Interstate Rule (CAIR) program/CSAPR to address emissions of SO₂ and NO_x from EGUs. In such an instance, the CAIR/CSAPR may satisfy the requirements for BART for these pollutants from these sources. However, the State must determine whether its BART-eligible EGUs are subject to review under BART for direct emissions of PM.

Arkansas did not rely on CAIR to address emissions of SO₂ and NO_x. Therefore, pollutant specific analysis is not appropriate for a single source analysis. For non-CAIR situations, it is necessary to model the source's total emissions (NO_x and SO₂) in any CALPUFF modeling to estimate visibility impairment or change in visibility impairment from the potential installation of controls or no controls. Separate pollutant-specific analyses for NO_x and SO₂ do not take into consideration the chemical interaction in the atmosphere. Such modeling does not take into account the competition/balance of these two pollutants chemical reactions with ammonia present in the atmosphere. A reduction in sulfate emissions can result in an increase in visibility impairment due to nitrate due to the increase in ammonia available to react with nitrate to form visibility impairing aerosol. Therefore, NO_x and SO₂ emissions should be modeled together and emission control technologies should be evaluated for both pollutants.²¹⁶

ADEQ's approach to modeling a single source on a pollutant specific basis could allow for a BART applicable source to model below 0.5 for each of the pollutants individually (NO_x, SO₂, and PM), which could lead to a potential cumulative impact of up to 1.47 dv (3 x 0.49 dv) and yet the source would not be evaluated for controls. This process would allow a determination to be made in this maximum hypothetical case that a 1.47 dv impact from a subject to BART source, which is above the 1.0 dv impact that would result in the source causing a significant visibility

impairment, would "screen" out of a full BART analysis using ADEQ's approach. This is not appropriate and is inconsistent with our BART Guidelines and guidance. In evaluation of pollutant-specific impacts from a source (*i.e.* visibility impacts from PM emissions), consideration of the amount of visibility impairment contribution from a source's PM emissions can be evaluated against the visibility impairment contribution from the source's combined NO_x and SO₂ emissions.²¹⁷

EPA also disagrees that we have developed or implemented any new guidance in our proposal. EPA's approach is based on the 2005 BART guidelines, and additional guidance provided in 2006.

Comment: Although the use of daily maximum emissions for BART modeling purposes meets the modeling protocol, this protocol should be revisited due to the fact that using daily maximum emissions is completely unrealistic and overly conservative in most cases, as it assumes that such an emission rate occurs every day for three years. This is especially overly conservative for Unit 1 of the Carl E. Bailey Generating Station and Unit 1 of the John L. McClellan Generation Station, as these units primarily fire natural gas and have rarely fired fuel oil over the past few years. With upcoming EPA environmental regulations such as the Utility MACT Rule being promulgated, these units are likely to continue the trend of low capacity factors of fuel use. Any controls required to be implemented on these units will only be used 5% or less of the time, and it is certainly not cost-effective. Logic and practicality dictate that the minimal use of fuel oil at these two units requires an accommodation in this instance.

Response: We agree that the modeling protocol and the BART Guidelines state that the daily maximum emissions should be used for modeling visibility impacts during the baseline period. We note that the BART Guidelines do allow for consideration of limited operation of a source or fuel type. Given that there are no permit requirements in place that would limit the time of operation of the AECC units when burning fuel oil, the facilities can legally be operated well above the 5% capacity factor that AECC assumes it will be operating under in the future. It is likely that if the fuel oil burning capacity of these units is significantly limited, installation of controls to address the emissions during fuel oil burning would prove to be not

cost-effective on a dollar per ton removed basis. A federally enforceable limit must be in place that can be relied upon to limit the emissions of the source during fuel oil burning scenarios. We are disapproving the SO₂ BART analysis for these two units because ADEQ did not consider the option of burning fuel oils with sulfur content less than 1.0%. As articulated in our proposal, the use of fuel oil with a 0.5% sulfur content or lower is technically feasible and ADEQ should have evaluated its cost effectiveness and visibility impact for the AECC Bailey Unit 1 and the AECC McClellan Unit 1. Alternatively, an operating air permit restriction to use only natural gas as the fuel source for the two units or significantly restricting fuel oil burning may be acceptable.

At this time, it is speculation to assume that the future amended MACT rule will lower the capacity factors of fuel use for sources. When evaluating a state's BART determination, the EPA looks at existing requirements and cannot rely on potential future actions in its decision to approve or disapprove a state SIP. ADEQ cannot rely on a future MACT Rule to limit the capacity factor of fuel oil use.

Comment: All post-control CALPUFF modeling completed in Domtar's analysis was cumulative-type modeling, taking into account all pollutants—NO_x, SO₂, and PM₁₀ in each analysis. The EPA needs to list in detail any concerns about the methods used to complete modeling analysis of Domtar's facility.

Response: We agree with the commenter that post-control modeling for the Domtar facility was performed modeling all visibility impairing pollutants together (SO₂, NO_x and PM). As discussed in the proposed action, we are finding the chosen model and the general modeling methodology used by ADEQ to be acceptable. Because Domtar's visibility modeling was performed following the ADEQ modeling protocol, we also find that the modeling methodology followed by Domtar is acceptable. However, the BART determinations made for the subject-to-BART units at the Domtar facility were performed without evaluating the visibility improvement anticipated due to the use of all technically feasible control options. Visibility modeling was performed only after a control technology was selected as BART. This approach is unacceptable and does not allow for a comparison of the effectiveness of available controls in reducing visibility impacts to be considered as part of the BART determination. ADEQ's and Domtar's BART determinations were flawed

²¹⁵ Memo from Joseph Paisie (Geographic Strategies Group, OAQPS) to Kay Prince (Branch Chief EPA Region 4) on Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations, July 19, 2006.

²¹⁶ BART Guidelines; Memo from Joseph Paisie (Geographic Strategies Group, OAQPS) to Kay Prince (Branch Chief EPA Region 4) on Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations, July 19, 2006; EPA Q and A—September 26, 2006

²¹⁷ *Ibid.*

because the modeling did not evaluate all technically feasible control options or evaluate the control technology at the control efficiencies they are capable of achieving to inform the BART determination. We note, that to properly evaluate the visibility benefit from each control, NO_x and SO₂ emissions must be modeled together for each control scenario examined, similar to the modeling performed in the post-and pre-control modeling scenarios.

Comment: The EPA cannot rely on post-control modeling to justify the requirement to evaluate post-combustion controls for NO_x in the agency's disapproval of the BART determinations for Entergy's White Bluff facility. While EPA states that post-control modeling shows continued post-control modeled visibility impairment due to NO_x emissions, the models, including CALPUFF, significantly overstate nitrate-caused RH, and reliance on those models is not a credible approach. Even EPA acknowledges that the CALPUFF model tends to magnify the actual visibility effects of an individual source and the CALPUFF model is less advanced than some of the recent atmospheric chemistry simulations. A more recent version of CALPUFF tends to reduce the nitrate over prediction using more advanced chemistry modules borrowed from regional models such as CAMx and CMAQ, but this version has not been yet approved by EPA. Because there is not a credible version of CALPUFF with adequate chemistry to assess the visibility impact of Arkansas NO_x emissions in an unbiased manner, it is helpful to look at actual monitoring data taken at IMPROVE sites and to keep in mind that the nitrate chemistry and the IMPROVE monitoring data indicate that NO₃ particulate formation tends to occur on the coldest days, while on warmer days, invisible HNO₃ vapor formation is preferred, which has no visibility impact. The Arkansas sources that affect the class I areas subject to this rule are south and east of the areas, which are generally not associated with the coldest conditions when the worst nitrate haze is observed to actually occur.

Response: We disagree that we relied on post-control modeling to justify the requirement to evaluate post-combustion controls. The post-control model results indicate that even after application of the State's selected combustion controls to reduce NO_x emissions, a significant visibility impact due to NO_x emissions from White Bluff Units 1 and 2 remains. This demonstrates that post-combustion controls that result in larger reductions

of NO_x may prove to be cost-effective and result in significant visibility improvement. We note that the modeling of changes in visibility impacts is only one of five factors that are evaluated in a BART analysis. In performing a BART analysis, the State must take into consideration all technologically feasible and available control technologies, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.²¹⁸ As articulated in more detail in our proposal and in our response to previous comments, when evaluating NO_x controls for White Bluff Units 1 and 2, the State considered only combustion controls that would achieve the presumptive NO_x emission limit even though there are technically feasible and available control technologies (including post-combustion controls) that are currently being used at similar facilities to meet an emission limit much more stringent than the 0.15 lb/MMBtu presumptive limit for NO_x. The BART Guidelines provide that in identifying control options for evaluation in a BART analysis, states must identify the most stringent option and a reasonable set of options for analysis that reflects a comprehensive list of available technologies.²¹⁹ In addition, the RHR requires that in establishing source specific BART emission limits, a state's BART analysis must identify and consider the maximum level of emission reduction that has been achieved in other recent retrofits at existing sources in the source category.²²⁰ Therefore, as explained in more detail in our response to previous comments, in its NO_x BART analysis for White Bluff Units 1 and 2, the State must evaluate NO_x post-combustion controls at the most stringent emission limit capable of being achieved by these controls.

We disagree with the comment's characterization that the CALPUFF model approved for regulatory actions is not a credible model to assess visibility impacts of NO_x emissions from Arkansas sources. For the specific purposes of the RHR's BART provisions, we concluded that CALPUFF (versions that EPA has approved) is sufficiently reliable to inform the decision making

²¹⁸ See 40 CFR 51.308(e)(1)(ii)(A) and 42 U.S.C. 7491(g)(2).

²¹⁹ Appendix Y to Part 41, section IV.D.

²²⁰ 64 FR 35740.

process in determining if a full BART analysis is required and in estimating the degree of visibility improvement that may reasonably be expected from controlling a single source in order to inform the BART determination.²²¹ When we developed the BART Guidelines and determined the acceptability of using CALPUFF in estimating visibility impacts from BART sources (BART eligible or subject to BART sources), EPA was aware that EPA had not approved the regulatory version of CALPUFF for doing full chemistry as a Guideline on Air Quality Models (GAQM) preferred model. The final BART Guidelines recommend that CALPUFF's 98th percentile modeling results be used to estimate the visibility impairment. This is in contrast to the approach in our BART Guidelines proposal to use the highest daily impact value. We acknowledged that the chemistry modules in the CALPUFF model are simplified and likely to provide conservative (higher) results for peak impacts. To address the concerns which are now being raised by the comment, we made the decision to consider the less conservative 98th percentile to account for this potential bias.²²²

The BART modeling protocol, developed by the CENRAP for use by all CENRAP states and reviewed by EPA and the FLM including the use of CALPUFF, was adopted by ADEQ. In general, this protocol was followed by ADEQ in determining which sources were subject-to-BART and in modeling visibility impacts from controls in evaluating BART.²²³ In development of the CENRAP BART modeling protocol, we were concerned that CENRAP had not included meteorological observation data in development of the

²²¹ Regulatory version that had been approved by EPA for assessing Long Range Transport of primary pollutants. Final BART guidelines published July 6, 2005. (70 FR 39104–39172).

²²² "Most important, the simplified chemistry in the model tends to magnify the actual visibility effects of that source. Because of these features and the uncertainties associated with the model, we believe it is appropriate to use the 98th percentile—a more robust approach that does not give undue weight to the extreme tail of the distribution." 70 FR 39104, 39121.

²²³ As discussed in detail in a separate response to comment, because the CENRAP meteorological databases used in the CALPUFF modeling analyses do not include observations, the use of the maximum impact rather than the 98th percentile was agreed upon. The use of meteorological databases that do not include observations may lead, in some applications, to potentially less conservatism in the CALPUFF modeled visibility results compared with modeling that uses meteorological databases with observations. The use of the 1st High modeling values was agreed to by EPA, representatives of the Federal Land Managers, and CENRAP stakeholders to account for this.

meteorological data sets for the BART CALPUFF modeling. We were concerned that this approach, that did not follow our guidelines, would lead to some underestimation of impacts. As a result, EPA, FLM representatives, states, and stakeholders agreed that they would either use the maximum model predicted values (instead of the 98th percentile) or develop a modeling protocol to generate the meteorological datasets with meteorological observations, which we would then allow the use of the 98th percentile. We note that the CALPUFF modeling in ADEQ's SIP that was provided by Entergy White Bluff's contractors did not use the maximum value but did use the CENRAP meteorological dataset and used the 98th percentile, which creates a concern that visibility impairment will be underestimated. We noted this concern in our proposal and also a concern that Entergy had utilized a higher emission rate than is likely achievable by the selected control technology and both of these issues would lead to underestimations in the visibility benefit anticipated from the use of additional controls.²²⁴ These issues will need to be addressed when a revised BART analysis is completed.

The comment suggests that CALPUFF version 6.4 has been updated with an allegedly more robust chemistry and purportedly performs better according to the comment than the current version of the model approved for regulatory actions (currently CALPUFF version 5.8). The comment claims that CALPUFF version 6.4 was shared with EPA in December 2010. We wish to clarify that EPA had a meeting with API representatives and others in February 2011. At this meeting, a PowerPoint was shared about CALPUFF version 6.4, but the full model code, explanations and documentation of the code, model evaluations, etc., have not been provided to EPA as of February 2012. We have a detailed procedure for evaluation of new models that includes documentation, peer review, evaluation, performance analysis, etc. Furthermore, significant changes in models (such as a significant upgrade in the chemistry module) are often required to go through a formal rulemaking process for adoption. As noted by the comment, we previously received comments about the CALPUFF version 6.4 model in another action and provided a response that a proper review analysis and evaluation have not been conducted.²²⁵ As noted

by the comment, the more recently developed model version (version 6.4) has not gone through the appropriate review to assess if it is founded in appropriate science and performs adequately and reliably and is an improvement to the current version that is acceptable for regulatory actions. If the revised versions of CALPUFF can be shown to be reliable and acceptable to EPA through the appropriate process, it would likely be appropriate to the use Highest Daily impact (1st High instead of the 8th High) based on the presumption that the updated chemistry of the CALPUFF model would result in less conservative results than EPA approved CALPUFF versions 5.8 or 5.711. In past agreements in using the CAMx photochemical model, which has a robust chemistry module, Region 6 has required the use of the 1st High value when sources are screened out of a full BART analysis based on the CAMx results.

With regard to the comment's observation that the monitoring data indicates visibility impacts due to nitrate formation occur on colder days and that these days are not when winds are generally from the south or east, EPA notes that monitoring data is only collected every three days at each IMPROVE monitor and there is only one monitor in a Class I area. Modeling provides for an analysis of visibility conditions during every day of the baseline period at a number of receptor locations at each Class I area, and is not limited by the number of days data is collected. Modeling also allows for receptors to be placed throughout the Class I area and not limited to one monitor location for estimating visibility impairment throughout the Class I areas. Thus, the comment's observation is overly generalized that the winds do not generally come from the south and east during the colder periods when nitrates are a concern at the Class I areas of concern. This overly broad-brushed statement about wind patterns is not supported by a more detailed analysis of wind patterns nor transport phenomena as wind directions change. We included a more sophisticated approach for source-receptor analysis in our BART Guidelines that takes into account meteorological transport patterns on every day of the year. Since transport of pollutants to the Class I area is not always a direct route as wind patterns change, the more sophisticated approach discussed in the BART guidelines is to use a full meteorological

modeling analysis using prognostic meteorological data that has wind speed and direction throughout many atmospheric layers from the surface to the upper atmosphere. CALPUFF visibility modeling was performed using three years (2001–2003) of prognostic meteorological data and 24-hr actual maximum emissions, following the methods in the BART Guidelines. Pre-control and post-control modeling show significant visibility impacts due to the Entergy White Bluff's NO_x emissions, with some of the highest impacted days occurring during the fall and winter months. This analysis did not include an evaluation based on the most effective emission limit that can be achieved. So it is likely that there are underestimates in the visibility improvement that could potentially be achieved from installation of BART. The use of CALPUFF and prognostic meteorological data that is generated with the same meteorological models as weather forecasting, with the many layers of wind speed and direction, is a much more appropriate and sophisticated approach to analyzing visibility impairment than the comment's assessment of potential impacts from Arkansas sources indicated. Therefore, we disagree with the statement that the source would not be affecting the Class I areas because the winds are not generally from the south or east when the coldest conditions occur that are associated with the worst nitrate haze.

G. Comments on Legal Issues

1. Comments on Regional Haze

Comment: The EPA does not have the authority under the CAA to partially disapprove portions of Arkansas's RH SIP including BART determinations that did not address all the BART factors, BART determinations that adopted presumptive limits, Arkansas's LTS, and Arkansas's RPGs. The EPA's proposal improperly encroaches on the state's authority and discretion in developing a RH SIP. Arkansas has properly exercised its statutory authority under the CAA. The EPA must defer to Arkansas determinations in their RH SIP since EPA lacks the authority to substitute its own judgment or policy preferences for the state's determination. The EPA's role in implementing the visibility program under the RH SIP is one of support and cooperation in implementation.

Response: The EPA's proposed partial disapproval of Arkansas's RH SIP is a proper exercise of EPA's authority under the Clean Air Act. Congress crafted the CAA to provide for states to

²²⁴ See 76 FR 64205–64207.

²²⁵ See 76 FR 52431–52434 and the Response to comments document (pg. 124–133) for a full agency discussion on why CALPUFF version 6.4 (and other

non-EPA approved versions) are not acceptable at this time for regulatory analyses (EPA Docket ID No. EPA–R06–OAR–2010–0846).

take the lead in developing implementation plans, but balanced that decision by requiring EPA to review the plans to determine whether a SIP meets the requirements of the CAA. The EPA's review of SIPs is not limited to support and cooperation in implementation of a state SIP, nor is it to simply rubber-stamp state decisions. When reviewing state SIPs, EPA must consider not only whether the state considered the appropriate factors in making decisions, but acted reasonably in doing so. In undertaking such a review, EPA does not usurp the state's authority but ensures that such authority is reasonably exercised.

In taking action on the Arkansas RH SIP submittals, EPA is disapproving a portion but approving as much of the Arkansas RH SIP as possible. Our action today is consistent with the statute. In finalizing our proposed determinations, we are approving the following: Arkansas's identification of affected Class I areas; the establishment of baseline and natural visibility conditions; the determination of URP; Arkansas's RPG consultation; the RH monitoring strategy and other SIP requirements under § 51.308(d)(4); Arkansas's commitment to submit periodic RH SIP revisions and periodic progress reports describing progress towards the RPGs; Arkansas's commitment to make a determination of the adequacy of the existing SIP at the time a progress report is submitted; and Arkansas's consultation with FLMs. We are also largely approving those portions of the SIP addressing Arkansas's identification of those sources that are BART-eligible sources and those subject to BART sources; some of the State's BART determinations for five units; Arkansas's RH Rule; and the LTS.

We are, however, disapproving some of the State's BART determinations for nine units. As explained in the proposal and the previous response to comments, some of the State's BART determinations for the nine units are not approvable because Arkansas did not follow the requirements of section 40 CFR 51.308(e). 76 FR at 64186, at 64187. As a result of EPA's disapproval of the BART determinations, we are also partially disapproving that portion of the LTS affected by this disapproval. Similarly, EPA's disapproval of Arkansas's RPGs is based on the state's failure to follow the requirements of 40 CFR 51.308(d)(i)(A). See also CAA § 169A(g). In concluding that Arkansas did not adhere to the requirements of the RHR, EPA is not substituting its policy judgment for that of Arkansas but rather exercising its authority to ensure that the state's decisions are reasonable

ones that meet statutory and regulatory requirements.

Comment: The CAA gives primacy to the states in devising the LTS for making reasonable progress toward the national visibility goal and in making BART determinations and limited authority to EPA. In accordance with section 169A(a)(4), EPA promulgates regulations to assure progress towards the national goal of preventing future and remedying existing visibility impairment in Federal class I areas while the states are required to submit SIP which meets these measures. In 1999 and 2005, EPA promulgated and subsequently amended the RHR which gives guidance to the states on how to develop a visibility program that meets the national visibility goal for their state. Section 169(A)(b)(2) requires States to direct sources subject to BART to comply with a BART determination. In accordance with section 169B, states, acting together through visibility transport commissions, are primarily responsible for formulating a coordinated response to interstate transport of visibility. With respect to the RHR and the BART Guidelines, the CAA only requires that states take measures necessary to make reasonable progress toward the national goal by engaging in the process of weighing statutory factors. Regarding EPA's role, section 169A(g)(2) (as defined in *Train v. Natural Res. Def. Council*, 421 U.S. 60, 79 (1975)) provides that EPA may disapprove a SIP only where a state's SIP fails to meet the minimum CAA requirements.

Response: We agree that the states are assigned statutory and regulatory authority to draft and implement the visibility program as well as to make BART determinations for sources within their state. Although the states generally have the freedom to determine the weight and significance of the statutory factors in making BART determinations²²⁶, they have an overriding obligation to come to a conclusion that is based on reasoned analysis. Similarly, states are given flexibility in determining reasonable progress, but in making that determination, they are required by the CAA to consider certain factors. Whether one characterizes EPA's role as limited or not limited in reviewing RH SIPs, EPA must determine if the state's SIP meets the applicable statutory and

regulatory requirements. The state's BART determinations for some sources, its LTS, and RPGs were flawed for reasons discussed elsewhere in this notice and the proposed rulemaking. While states have the authority to exercise different choices in determining BART or setting RPGs, such decisions must be reasonable and consistent with statutory and regulatory requirements. Arkansas's errors were significant enough that we cannot conclude that the state's decision met this standard. Our disapproval of portions of the RH SIP has an appropriate basis in our CAA authority.

Comment: U.S. courts agree that EPA's role in reviewing visibility programs and determining BART is limited. According to *American Corn Growers Ass'n v. EPA*, 291 F.3d 1 (DC Circuit 2002), states play the lead role in designing and implementing RH programs. American Corn Growers outlined the legislative history, including the Conference Report on the 1977 amendments, when the Court invalidated past regulatory provisions regarding BART for constraining state authority. The Court stated that the Conference report confirmed that Congress intended states to decide which sources impair visibility and what BART controls apply to those sources.

Response: We agree that the CAA places the requirements for developing RH plans and determining BART for BART-eligible sources on states. As discussed above, EPA's role is to review the RH SIP submittal including the BART determinations and determine if the state met the applicable statutory and regulatory requirements. While the court in *American Corn Growers* found that EPA had impermissibly constrained state authority, it did so because it found that EPA forced states to require BART controls without first assessing a source's particular contribution to visibility impairment. This is not the case with our action. We are not forcing Arkansas to adopt a particular measure or to weigh the statutory factors in a particular way. Rather, we are disapproving portions of Arkansas's RH SIP that address BART, LTS, and RPGs because the state omitted critical analyses and made flawed assumptions that compromise any decisions.

Comment: The Supreme Court has ruled that states have primary authority in issues relating to the CAA. In *Train v. Natural Res. Def. Council*, 421 U.S. 60 (1975), the court ruled that EPA had no authority to question the wisdom of a state's choices of emissions limitations if they are part of a plan which satisfies the standards of the CAA. The EPA may

²²⁶ States must follow the BART Guidelines in making BART determinations for EGUs at power plants with a total generating capacity greater than 750 MW. 40 CFR 51.308(e)(1)(ii)(B). In establishing presumptive limits for these sources, EPA undertook a partial weighing of the statutory factors that apply to BART determinations.

devise and promulgate a specific plan of its own only if a state fails to submit an implementation plan which satisfies those standards.

Response: Our action does not contradict the Supreme Court's decision in *Train*. States have significant responsibilities in implementation of the CAA and meeting the requirements of the RHR. We recognize that states have the primary responsibility of drafting an implementation plan to address the requirements of the CAA Visibility Program. We also recognize that we have the responsibility of ensuring that the state plans, including RH SIPs, conform to the CAA requirements. We cannot approve a RH SIP that fails to address BART, LTS, and RPGs with a reasoned consideration of the statutory and regulatory requirements of the CAA and the RHR.

Comment: Because visibility impairment is primarily aesthetic and does not rise to the same level of public policy concern as dangers to the public health, Congress made the national visibility goal discretionary. Accordingly, unlike other provisions of the CAA, the national visibility goal is not considered to be a non-discretionary duty of the Administrator under section 169A(f). Likewise, the court in *American Corn Growers* has recognized that the natural visibility goal is not a mandate but a goal. In addition, the CAA does not mandate a particular timeframe to meet the national goal of natural visibility, only that states make reasonable progress. The amount of progress that is reasonable is not defined according to objective criteria but instead involves balancing of public interest.

Response: We do not agree that the CAA or RHR prescribes a different degree of authority to states based on the program having the goal of improving visibility as opposed to preventing adverse human health effects. Among other things, the CAA requires states to submit plans that satisfy NAAQS standards set to protect both public health and welfare. Nothing in the terms of the CAA or its implementation history directs that SIP submittals addressing visibility are subject to a different standard of evaluation than SIP submittals that directly address public health issues associated with air pollutants. The distinction is not relevant to state authority to develop RH SIPs and does not diminish our responsibility and authority to require that they conform to the RHR and the Act.

More generally, we agree that the CAA does not mandate a particular timeframe to meet the national visibility

goal. The comment is not relevant, however, as our action to partially disapprove Arkansas's RH SIP is not based on a finding by EPA that Arkansas's RH SIP fails to achieve the national goal. Similarly, EPA is not disapproving Arkansas's RH SIP because we disagree *per se* with the State's conclusions as to what constitutes reasonable progress for this time period. Our disapproval of the Arkansas RH SIP is based on the fact that critical analyses were omitted and that these omissions compromise Arkansas's determinations as to the measures necessary to make reasonable progress.

Comment: Although EPA can set national goals and guidelines for the RH program, individual states have the authority to select BART for specific sources of emissions and design the specific plans that are appropriate for respective populations. The RHR does not require a definitive dv or percent improvement in visibility. The only thing the RHR requires of each state is to demonstrate an improvement in visibility. The Arkansas RH SIP meets EPA's national goals and guidelines. The Arkansas RH SIP establishes a firm foundation to meet the required RPGs and meets and in some cases even exceeds the requirements of the RHR.

Response: We do not agree that the only thing that the RHR requires is for each state to demonstrate an improvement in visibility. The RHR outlines a process by which states are to evaluate and develop RH SIPs, including the process for making BART determinations. The EPA is disapproving portions of Arkansas's RH SIP that address BART, LTS, and RPGs because the state omitted critical analyses in accordance with the requirements of the CAA and the RHR.

Comment: The preamble to the RHR recognized that States are the primary decision makers in determining how to make BART determinations and determining which sources are subject to BART. In analyzing the applicability of certain executive orders to the proposed RHR, EPA states that states will ultimately determine the sources subject to BART and the appropriate level of control for such sources, and that states accordingly exercise substantial intervening discretion in implementing the final rule (70 FR 39155).

Response: We agree that states are assigned statutory authority to determine BART and that EPA has made statements confirming the state's authority in this regard. States have the flexibility to determine the weight and significance of the statutory factors.

However, states must make a reasoned determination consistent with the requirements of the RHR. As detailed in our proposal and the supporting TSD, Arkansas's BART determination for nine units, Arkansas's LTS, and RPGs did not provide reasoned determinations conforming to the requirements of the RHR.

Comment: The EPA partially disapproved Arkansas's RH SIP because the EPA disagreed with the State's conclusions. The EPA failed to defer to the State's lawful exercise of its discretion pursuant to the CAA's provisions for visibility protection.

Response: Our partial disapproval of Arkansas's RH SIP is not based on the resulting Arkansas conclusions. Rather our decision to disapprove Arkansas's BART determinations for nine units, LTS, and RPGs is because the state omitted critical analyses and made flawed assumptions that compromise the resulting determinations. The State could submit and EPA would approve RH SIP revisions that reached identical determinations as the current SIP submittal if Arkansas's analysis in reaching those determinations meets the RHR and the Act.

Comment: The EPA has overstepped its authority in proposing to reject the state's BART determinations on the basis of EPA's view that the state's consideration of certain statutory factors was not "adequate." The state, as the determining authority, has the power to decide how each of the BART factors should be taken into account and weighed. As long as a state considers a given factor, it has met its obligations in regards to that factor. Once the state has made its decision, EPA has no authority to "second-guess" the conclusions that the state has reached.

Response: As explained earlier, the states have the responsibility to draft the RH SIP and the EPA has the responsibility of ensuring State plans, including RH SIPs, conform to the CAA. As the drafter of the RH SIP, the state generally has the authority to decide how each of the BART factors are taken into account and weighed. EPA is not disapproving Arkansas's BART determinations because it disagrees with how Arkansas weighed the relevant factors, such as the cost of controls or the degree of visibility improvement resulting from the use of controls. The EPA is disapproving certain Arkansas's BART determinations because they did not consider these factors in their BART determinations in accordance with the RHR and the Act.

Comment: All of the BART determinations made by Arkansas RH SIP should be disapproved because

Arkansas did not do its own BART analysis in making its BART determinations. Instead, Arkansas RH SIP adopted the companies' BART analysis as part of the RH SIP and promulgated them into State regulation. Given that Arkansas has not made any of its own BART determinations, there are no BART determinations for EPA to act on.

Response: Arkansas submitted a RH SIP which provided BART determinations for sources that are subject to BART. Arkansas requested that sources subject to BART submit material including a BART analysis. Arkansas then reviewed the analysis and data provided by the sources and adopted its BART determinations. The EPA reviews RH SIP submittals from states that rely upon source-generated data and information to evaluate whether the State's decisions meet the Act and EPA rules. In Arkansas's case, after their review of the sources' provided information, they reached the same BART determinations as was provided by the source.

Comment: Arkansas improperly planned to make its BART determinations during the permitting process, not in the SIP submittal. In 2009, ADEQ proposed a Title V permit amendment for Entergy's White Bluff power plant to, among other things, incorporate BART emission limits and requirements, in which ADEQ proposed different pollution controls as BART than what was in the company's BART analysis in Appendix 9.3 of the Arkansas RH SIP submitted to EPA.

Response: We disagree that Arkansas planned to make its BART determinations during the permitting process, be it through the New Source Review preconstruction permitting SIP process or the Title V operating permit program. The State adopted its BART determinations through rulemaking and they are found in Chapter 15 of APCEC Regulation No. 19, as contained in the RH SIP submissions. Each of the BART determinations approved by EPA today becomes effective under Federal law. It also becomes an applicable requirement that must be included in a Title V permit. Any source subject to the BART determinations approved today must at a minimum meet these requirements, as expressed in 40 CFR 51.308(e). If Arkansas issues a Title V permit that has less stringent requirements than the EPA-approved BART determination, then the source is subject to Federal enforcement action. It is incumbent upon the source to ensure that its Title V permit application meets all the applicable Federal requirements. It also is incumbent upon the source to ensure

that it meets the most stringent applicable Federal requirement. If the State wishes to impose BART emission limitations in a Title V permit that are different from what EPA is approving today as BART, then Arkansas must adopt and submit a revised RH SIP and submit it to EPA for approval as a SIP revision.

Comment: The EPA should not act on any of the company's BART analyses, unless it conducts its own analysis of a company's submittal in the context of a FIP.

Response: Under the CAA, we must, within 24 months following a final disapproval, either approve a SIP or promulgate a FIP.²²⁷ As stated elsewhere in this final rulemaking, we will consider, and would prefer, approving a SIP if the State submits a revised plan that we can approve before the expiration of the mandatory FIP clock for the portions of the SIP we are disapproving in this rulemaking action. In light of this, we are choosing at this time not to perform any BART analyses and not to develop and propose a FIP for the BART determinations we are disapproving.

Comment: The EPA has no reason to disapprove a State BART determination that meets the presumptive BART level. The DC Circuit Court of Appeals held in *American Corn Growers Association v. EPA*, that there is nothing in the CAA that would require a State to adopt provisions more stringent than the Federal requirement.

Response: In disapproving BART determinations for certain subject-to-BART sources that adopted the presumptive limits, EPA is not requiring Arkansas to establish BART limits that are more stringent than Federal requirements. Under the RHR, presumptive limits were established to provide a path for States to follow when analyzing BART for particular EGUs. The RHR has presumptive limits that act as a starting point for the establishment of BART emission limits unless the state's analysis indicates that an emission limit more or less stringent than the presumptive limit is required. The EPA's BART Rule and the BART Guidelines make clear that in developing the presumptive emission limits, EPA made many design and technological assumptions, and that the presumptive limits may not be BART in every case. As such, the presumption in the BART Rule is that the controls reflected by the presumptive limits are cost-effective, not that the presumptive limits will be BART in every case.

Thus, EPA's proposed rulemaking on the Arkansas RH SIP did not propose to require Arkansas's subject to BART sources to achieve an emission rate more stringent than the presumptive emission limits. Rather, EPA's proposed rulemaking proposed to disapprove the BART emission limits for subject to BART sources where the State adopted presumptive emission limits without conducting a proper BART five-factor analysis. Only after the State conducts a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, or EPA conducts one in the context of a FIP, will it be demonstrated whether any of Arkansas's subject to BART sources must achieve an emission rate more (or less) stringent than the presumptive limits.

Comment: Because the State of Arkansas adopted EPA's presumptive emission limits by default, the State of Arkansas did not fulfill its statutory duty under 169A of the CAA and under Arkansas law to determine BART. In addition, the State of Arkansas failed to determine, using the five factors required under section 169A of the CAA whether the actual costs of the proposed control technology justified the State's determination of BART for those facilities.

Response: As explained above, presumptive limits are the starting point in a BART determination unless the state determines that the general assumptions underlying EPA's analysis in the RHR are not applicable to a particular case. Section 169A outlines the analysis that is required in order to make a BART determination. We are finding that the State's BART determinations for certain subject-to-BART sources do not comply with the CAA requirements by adopting the presumptive emissions limit without conducting a proper BART five factor analysis. Only after the State conducts a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, or EPA conducts one in the context of a FIP, will it be demonstrated whether any of Arkansas's subject to BART sources must achieve an emission rate more (or less) stringent than the presumptive limits.

Comment: The portion of the Arkansas RH SIP that EPA has proposed to approve is not separable from the overall Arkansas RH SIP. The EPA should fully disapprove the Arkansas RH SIP because it fails to meet the requirements for RH SIPs.

Response: The Arkansas BART determinations for some of the units, LTS, and RPGs are separable portions of

²²⁷ CAA section 110(c)(1).

the RH SIP submittal. The EPA can approve some of the SIP submittal and disapprove the remainder as long as the portions that are disapproved do not affect those that are approved. This is the case in our action partially disapproving Arkansas's RH SIP for its BART determinations for some of the units, LTS, and RPGs and approving the remainder of the RH SIP.

2. Comments on Interstate Transport and Visibility

Comment: Arkansas's April 2008 Interstate Transport SIP was in accordance with the 2006 Guidance, and virtually identical to those submitted by Arizona, Iowa, Kansas, Minnesota, Nebraska, Nevada, South Dakota, Utah, and Wyoming. The EPA approved those states' Interstate Transport SIPs in a timely fashion because they were consistent with EPA's 2006 Guidance, yet ignored Arkansas's Interstate Transport SIP until after EPA's statutory deadline to act; when it evaluated the SIP, it was not by the criteria established in the 2006 Guidance. In an August 2011 rulemaking to promulgate a Federal implementation plan (FIP) for visibility improvement in New Mexico, EPA for the first time claimed its 2006 Guidance interpreting the Good Neighbor Provision of the CAA- on which Arkansas had based its 2008 Interstate Transport SIP- had been published "in error" (76 FR 52418). In the same rulemaking, EPA put forth a new framework for interpreting the requirements pursuant to the visibility component of the Good Neighbor Provision. Inconsistent with the 2006 Guidance, EPA now holds that it is possible to determine whether a state is violating the Good Neighbor Provision, based on what the state "should" have in its Regional Haze SIP. EPA's new criteria for evaluating Interstate Transport SIP submissions is based on the air quality modeling performed by regional planning organizations, and on whether there are differences between emissions reductions in a state's RH SIP and emissions reductions assumptions derived from the air modeling performed by regional planning organizations. Although EPA has not issued a new guidance document to reflect what states "should" have in their SIPs "at this point in time," EPA has approved the visibility component of several Interstate Transport SIPs using criteria other than the 2006 Guidance. The EPA has not explained this regulatory inconsistency between its treatment of Arkansas's Interstate Transport SIP versus Arizona, Iowa, Kansas, Minnesota, Nebraska, Nevada,

South Dakota, Utah, and Wyoming's Interstate Transport SIPs. The EPA cannot hold different states to different requirements pursuant to the visibility component of the CAA's Good Neighbor Provision.

Response: Section 110(a)(2)(D)(i)(II) does not explicitly define what is required in SIPs to prevent the prohibited impact on visibility in other states nor does it explicitly define how to determine if an action by a state is interfering with another state's specific visibility measure. A RH SIP that provides for emissions reductions consistent with the assumptions used in the modeling of other CENRAP states is an appropriate way to meet a state's obligations to the other regional planning states with regards to non-interference with another state's visibility measures is consistent with the CAA.

On March 28, 2008, Arkansas submitted revisions to its section 110(a)(2)(D)(i) Interstate Transport SIP. In its March 28, 2008 SIP submission, Arkansas stated it is meeting the requirements for protection of visibility in section 110(a)(2)(D)(i)(II) by the adoption in 2007 of Chapter 15 of APCEC Regulation No. 19, which established Arkansas's RH program requirements. Arkansas also stated in the March 28, 2008, SIP submission, that it was not possible at that time to assess whether there is interference with measures in the applicable SIP for another state until the Arkansas RH SIP is submitted and approved by EPA. Arkansas also submitted Chapter 15, Regulation 19 in its September 9, 2008 RH SIP submittal. The Arkansas RH regulation established a compliance timeframe of October 15, 2013, six years after the adoption of the state regulation or within five years of the date of the approval of the RH SIP by EPA, whichever date comes first. Chapter 15, Regulation 19 outlined the BART determinations for sources within Arkansas including some sources that do not require a mandatory BART determination under the RHR. The emission reductions resulting from the State BART determinations codified in Chapter 15, Regulation 19 are identical to the emissions reductions promised by Arkansas to the other CENRAP member states and included in the CENRAP 2018 emissions inventory modeling to represent Arkansas's share of emission reductions for the region. The CENRAP member states are basing their RPGs and RH programs from this anticipated CENRAP 2018 emissions inventory modeling. On September 23, 2008, Arkansas submitted its RH SIP

including Chapter 15, Regulation 19 to EPA for approval.

The EPA could have approved Arkansas's 110(a)(2)(D)(i) Interstate Transport SIP in 2008 when Arkansas originally submitted the SIP. Chapter 15, Regulation 19 originally established a compliance timeframe of October 15, 2013, six years after the adoption of the state regulation or within five years of the date of the approval of the RH SIP by EPA, whichever date comes first. This provided the necessary emission limits and enforceable mechanisms to ensure Arkansas's apportionment of emissions reductions used in the CENRAP modeling. However, on March 17, 2010, Arkansas granted a variance from the October 15, 2013 deadline imposed by Regulation 19.1504(B) for sources subject to BART listed at Regulation 19.1504(A). Instead, sources subject-to-BART are required to comply with BART only within five years after EPA approves Arkansas's RH SIP. This variance was never submitted to EPA as a SIP revision. As explained in an earlier response to comments, we are disapproving the portion of the BART compliance provision found in the 2008 submitted Chapter 15 of Regulation No. 19 that requires compliance with BART requirements no later than six years after the effective date of the State's regulation since Arkansas no longer has the legal authority to enforce this provision. We are partially approving and partially disapproving the portion of the BART compliance provision that requires each Arkansas subject-to-BART source to install and operate BART as expeditiously as practicable, but in no event later than five years after EPA approval of the Arkansas RH SIP consistent with the requirements under 40 CFR § 51.308(e)(iv). Because of our disapproval of the six year compliance timeframe in Arkansas's 2008 submitted Chapter 15 of Regulation 19, as well as disapproval of certain BART determinations, all of Arkansas's promised enforceable emission reductions factored into CENRAP's 2018 emissions inventory modeling and relied upon by fellow CENRAP member states in developing their RPGs and RH SIPs will not be met. Thus, the requirements for section 110(a)(2)(D)(i)(II) will not be met.

If we had acted upon the Arkansas RH SIP earlier than 2010, it would not change EPA's determination that Arkansas's emissions are interfering with other states' visibility programs because Arkansas's subsequent adoption of the BART variance removing the guaranteed six year compliance requirement would have rendered the hypothetically-approved section

110(a)(2)(D)(i)(II) SIP provisions unenforceable. To address this, we would be required to issue a SIP Call now and Arkansas would be required to revise its SIP to correct the inadequacies by a given due date or face sanctions for failure to timely submit a complete SIP revision. The BART determinations we would have disapproved in our earlier hypothetical action would no longer be required to occur by October 2013 under the State's law regardless of EPA's disapproval action, and therefore Arkansas emissions would continue to interfere with other states' visibility programs. The emissions reductions resulting from those BART determinations would not be required to happen at all since the variance conditions BART compliance upon EPA approval of the Arkansas RH SIP.

The EPA's partial disapproval of Arkansas's SIP addressing section 110(a)(2)(D)(i)(II) is consistent with EPA's actions on the SIPs of Arizona, Iowa, Kansas, Minnesota, Nebraska, Nevada, South Dakota, Utah, and Wyoming. Section 110(a)(2)(D)(i)(II) does not explicitly define what is required in SIPs to prevent the prohibited impact on visibility in other states. However, because the RH program requires measures that must be included in SIPs specifically to protect visibility, EPA's 2006 Guidance recommended that RH SIP submissions meeting the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility would be sufficient. We approved the SIPs of Arizona, Iowa, Kansas, Minnesota, Nebraska, Nevada, South Dakota, Utah and Wyoming in accordance with the 2006 Guidance in 2007 and 2008. However, our 2006 Guidance reflected our recommendations for how states could potentially meet the section 110(a)(2)(D)(i)(II) requirement at that point in time. As of August 2006, we stated our belief that it was "currently" premature for states to make a more substantive SIP submission for this element, because of the anticipated imminent RH SIP submissions. We explicitly stated that "at this point in time" in August of 2006, it was not possible to assess whether emissions from sources in the state would interfere with measures in the SIPs of other states. As subsequent events have demonstrated, we were mistaken as to the assumption that all states would submit RH SIPs in December of 2007 and mistaken as to the assumption that all such submissions would meet applicable RH program requirements and therefore be approved shortly thereafter. Thus, the premise of the 2006

Guidance that it would be appropriate to await submission and approval of such RH SIPs before evaluating SIPs for compliance with section 110(a)(2)(D)(i)(II) was in error. Our 2006 Guidance was clearly intended to make recommendations that were relevant at that point in time, and subsequent events have rendered it inappropriate in this specific action.

Because of the need to act immediately on section 110(a)(2)(D)(i), when some states did not make the RH SIP submission in whole or in part, or did not make an approvable RH SIP submission, we have evaluated whether states could comply with section 110(a)(2)(D)(i)(II) by other means. Thus, we have elsewhere determined that states may also be able to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II) with something less than an approved RH SIP, see e.g. Colorado (76 FR 22036 (April 20, 2011)), Idaho (76 FR 36329 (June 22, 2011)), and New Mexico (76 FR 52388 (August, 22, 2011)). In other words, an approved RH SIP is not the only possible means to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility; however such a SIP could be sufficient.

As stated earlier, Arkansas submitted revisions to its section 110(a)(2)(D)(i) Interstate Transport SIP that addressed the requirements for protection of Visibility in section 110(a)(2)(D)(i)(II) by enacting the Arkansas Pollution Control and Ecology Commission regulation Chapter 15, Regulation 19 that established Arkansas's RH program requirements and stating that it was not possible at this time to assess whether there is interference with measures in the applicable SIP for another state until Arkansas's RH SIP is submitted and approved by EPA. Since EPA was no longer waiting for the approval of a RH SIP to determine interference with another state's visibility program, we looked at BART determinations cited in Chapter 15, Regulation 19 and submitted in their Interstate Transport SIP. The emission reductions resulting from the BART determinations in Chapter 15, Regulation 19 are identical to the emissions reductions promised by Arkansas to the other CENRAP member states and included in the 2018 CENRAP modeling to represent Arkansas's share of emission reductions for the region. The CENRAP member states are basing their RPGs and RH programs on this CENRAP modeling.

As in New Mexico, we have determined that the analysis conducted by a RPO such as CENRAP provides an appropriate means to ensure that emissions from sources within the state

are not interfering with the visibility programs of other states, as contemplated in section 110(a)(2)(D)(i)(II). In developing their visibility projections using photochemical grid modeling, CENRAP states assumed a certain level of emissions from sources within Arkansas. Although we have not yet received all RH SIPs, we understand that the CENRAP states used the visibility projection modeling to establish their own respective RPGs. Thus, we believe that an implementation plan that provides for emissions reductions consistent with the assumptions used in the CENRAP modeling will ensure that emissions from Arkansas sources do not interfere with the measures designed to protect visibility in other states.

For Arkansas, the EPA is disapproving certain BART determinations. This means that some sources within Arkansas do not have an enforceable emission reduction requirement to meet the emissions reductions promised by Arkansas to CENRAP member states and modeled by CENRAP in their anticipated 2018 emissions inventory because, as explained earlier, Arkansas's enactment of a variance that conditions the BART determinations in Chapter 15, Regulation 19 upon EPA's approval of Arkansas RH SIP. Since Arkansas no longer has an enforceable requirement for certain Arkansas BART determinations that EPA is disapproving, their promised emissions reductions included in CENRAP's modeling and the resulting 2018 emissions inventory will not be realized even though other CENRAP member states are relying upon them in the promulgation of their RPGs and RH SIPs. Thus, our disapproval of some of Arkansas's BART determination means that we have to disapprove a portion of the section 110(a)(2)(D)(i)(II) SIP submittal.

Comment: The EPA cannot at this time make a determination of whether Arkansas RH SIP interferes with measures in another state's RH SIP for purposes of protecting visibility since EPA has not yet approved any other RH SIP for a state with a class area that may be affected by Arkansas sources.

Response: We disagree that we cannot make a determination of whether the Arkansas RH SIP interferes with measures in another state's RH SIP for purposes of protecting visibility without approving other states' RH SIPs that have a class I area that may be affected by Arkansas sources. The comment is inconsistent with the objectives of the statute to protect visibility programs in

other states if a state never submits an approvable RH SIP. Second, this approach is inconsistent with the time requirements of section 110(a)(1) which specifies that SIP submissions to address section 110(a)(2)(D)(i), including the visibility prong of that section, must be made within three years after the promulgation of a new or revised NAAQS. While there have been delays with both RH SIP submissions by states and our actions on those RH SIP submissions, those delays do not support a reading of the statute that overrides the timing requirements of the statute. At this point in time, states are required to have submitted RH plans to EPA that establish RPGs for class I areas. This requirement applies whether or not states have, in fact, submitted such plans. We believe that there are means available now to evaluate whether a state's section 110(a)(2)(D)(i)(II) SIP submission meets the substantive requirement that it contain provisions to prohibit interference with the visibility programs of other states, and therefore that further delay, until all RH SIPs are submitted and fully approved, is unwarranted and inconsistent with the key objective to protect visibility.

Comment: There is nothing in the record to demonstrate that Arkansas RH SIP interferes with any measure included in any other state's SIP for the purpose of protecting visibility. Missouri is the only state with Federal Class I areas where visibility is impacted by the interstate transport of haze-causing emissions originating in Arkansas, and per a consent decree, EPA is not required to act on Missouri's Regional Haze SIP submission until June 15, 2012 (76 FR 75544).

Response: As explained in an earlier response, the EPA does not have to wait to make a determination of interference with another state's visibility program until EPA approves Arkansas's RH SIP or the surrounding states' RH SIPs that have a class I area affected by Arkansas emissions because EPA has a duty to act and an ability to make a section 110(a)(2)(D)(i)(II) determination through means other than an approvable RH SIP. Arkansas is a member state of CENRAP, the regional planning committee on regional haze. Each state based its RH Plans and RPGs based on CENRAP modeling. The CENRAP modeling was based in part on the emissions reductions each state intended to achieve by 2018. In the case of Arkansas, some of the emissions reductions included in the modeling, and thus relied upon by other states, were from BART controls on Arkansas subject to BART sources. Since, as discussed in a previous response,

compliance of Arkansas's subject to BART sources with BART requirements is dependent upon our approval of the RH SIP, and since we are proposing to disapprove the portion of the RH SIP which includes some of Arkansas's BART determinations, a portion of the emission reductions committed to by Arkansas and relied upon by other states including Missouri will not be realized. As a consequence, Arkansas's emissions will interfere with other states' SIPs to protect visibility. Therefore, we are partially approving and partially disapproving the portion of the Arkansas Interstate Transport SIP submittal that addresses the visibility requirement of section 110(a)(2)(D)(i)(ii) that emissions from Arkansas sources not interfere with measures required in the SIP of any other state under part C of the CAA to protect visibility.

Comment: To the extent that EPA's disapproval of the Arkansas RH SIP is premised on the language in section 110(a)(2)(D)(i)(II), but is not based on direct interference with a specific measure in another state's RH SIP, as opposed to interference with a RH related goal in or underlying another state's SIP as required by statute, EPA's interpretation is contrary to the clear and express language of section 110 of the CAA.

Response: Section 110(a)(2)(D)(i)(II) does not explicitly define what is required in SIPs to prevent the prohibited impact on visibility in other states nor does it explicitly define how to determine if an action by a state is interfering with another state's specific visibility measure. A RH SIP that provides for emissions reductions consistent with the assumptions used in the modeling of other CENRAP states is appropriate to meet a state's obligations to the other regional planning states with regards to non-interference with another state's visibility measures and is consistent with the CAA. The "2006 Guidance for SIP Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM_{2.5} NAAQS" defined that a RH SIP submittal can determine whether or not a state SIP for 8 hour ozone or PM_{2.5} contain adequate provisions to prohibit emissions that interfere with measure in other states. As explained earlier, Arkansas chose to meet their section 110(a)(2)(D)(i)(II) requirements through their BART determinations. These emissions reductions were promised to other CENRAP states and included in the CENRAP modeling used by other states to develop their RPGs. As discussed previously, by Arkansas having some of its BART determinations disapproved

today by EPA, Arkansas will no longer meet its committed-to emission reductions that the other states are relying on in order to meet their RH SIPs and RPGs.

Comment: The EPA's interpretation of section 110(a)(2)(D)(i)(II) is contrary to the CAA's clear direction that each state is to determine its own emission limits, schedules of compliance, and other measures for sources in that state for purposes of visibility protection under 169A. The EPA's interpretation would effectively give one state the power to control another state's RH SIP decisions including its BART determinations.

Response: As explained earlier, Arkansas elected to have its promised emission reductions used in the CENRAP modeling and relied upon by other CENRAP member states. These emission reductions Arkansas committed to are reflected in the Arkansas RH SIP submittal from BART controls on Arkansas subject to BART sources. An approved RH SIP that includes emissions limits, schedules of compliance, and other measures for sources in that state for purposes of visibility protection under 169A is not the only possible means to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II). States can meet section 110(a)(2)(D)(i)(II) by adopting emissions limits that were promised as part of the regional planning process. A RH SIP submittal including BART controls on subject to BART sources can also meet the requirements of section 110(a)(2)(D)(i)(II). Arkansas chose to take both of these approaches by adoption of their promised CENRAP emissions reductions in their BART determinations as submitted in their RH SIP under Arkansas Chapter 15, Regulation 19.

This approach does not give one state the power to control another state's RH SIP decisions including its BART determinations. Each individual state member of the regional planning committee has the autonomy to make their own decisions on how they are going to reduce their state's emissions and contribute to the overall group's effort to reduce RH in the region. We are abiding by Arkansas's decision to have its BART determinations be representative of promised emission reductions relied upon by other states. As discussed previously, by us disapproving some of Arkansas's BART determinations, the relied-upon emissions reductions used in the development of other CENRAP member state RPGs and RH SIPs will not occur. Therefore, we are partially approving and partially disapproving the portion of the Arkansas Interstate Transport SIP

submittal that addresses the visibility requirement of section 110(a)(2)(D)(i)(ii) that emissions from Arkansas sources not interfere with measures required in the SIP of any other state under part C of the CAA to protect visibility.

Comment: Based upon EPA's 2006 Interstate Transport Guidance, conclusions regarding whether emissions from any one state could interfere with measures of neighboring states to protect visibility can only be reached when a neighboring state's RH SIP has been approved. This has not occurred. In addition, the 2006 Interstate Transport Guidance provides that a state satisfies the requirements of the visibility component of the interstate transport SIPs by submitting an Interstate Transport SIP confirming that it is not possible at the time of that submission to assess whether a state's emissions would interfere with measures required to protect visibility in the applicable SIP for another state and submit a RH SIP at a later date and approved by EPA. This is what Arkansas did. In keeping with the 2006 Guidance, EPA should instead approve Arkansas's 2007 Interstate Transport SIP and confine its action on visibility impairment to proceeding on the state's RH SIP and not act on section 110(a)(2)(D)(i)(II) until the state's RH SIP is approved.

Response: Our guidance on submissions in August of 2006 states that "at this time point and time," it is not possible to assess whether emissions from sources in the state would interfere with measures in the SIPs of other states until RH SIPs are submitted and approved. At the time of the writing of the 2006 Guidance, we mistakenly assumed that all states would submit RH SIPs in December of 2007, as required by the RHR, and mistakenly assumed that all such submissions would meet applicable RH program requirements and therefore be approved shortly thereafter. This did not happen. Thus, our premise, as stated in the 2006 Guidance, that it would be appropriate to await submission and approval of such RH SIPs before evaluating SIPs for compliance with section 110(a)(2)(D)(i)(II), was in error. This is especially true in light of the timing requirements of section 110(a)(1) which specifies that SIP submissions to address section 110(a)(2)(D)(i), including the visibility prong of that section, must be made within three years after the promulgation of a new or revised NAAQS. Our 2006 Guidance was clearly intended to make recommendations that were relevant at that point in time, and subsequent events have made it unsuitable to delay

this action regarding Arkansas's emissions interfering with other state's visibility measures before all RH SIPs affected by Arkansas emissions are approved. We must therefore act upon Arkansas's submission in light of the actual facts, and in light of the statutory requirements of section 110(a)(2)(D)(i). In order to evaluate whether the state's SIP currently in fact contains provisions sufficient to prevent the prohibited impacts on the required programs of other states, we are obligated to consider the current circumstances and investigate the levels of controls at Arkansas sources and whether those controls are or are not sufficient to prevent such impacts. Here, as explained earlier, Arkansas promised emission reductions from BART eligible sources and had those emissions reductions included in the CENRAP modeling that other states are relying on in developing their RPGs and RH SIPs. Because we are disapproving some of Arkansas's BART determinations, as previously discussed, Arkansas will not meet its CENRAP emission reduction commitments relied upon by other states. Thus, Arkansas's sources will interfere with other state's visibility measures.

Comment: The EPA's proposed rule is incorrect in its conclusion that the 1997 promulgation of new or revised NAAQS for PM_{2.5} and ozone created an obligation in the part of Arkansas (or any other state) to submit a section 110(a)(2)(D)(i)(II) SIP revision with respect to visibility protection. Promulgation or revision of any NAAQS is entirely unrelated to the Part C visibility SIP requirements. The only additional SIP obligations with respect to section 110(a)(2)(D)(i)(II) and new or revised NAAQS are NAAQS attainment and maintenance. No obligation to address Part C visibility components of a SIP arises merely as a result of NAAQS promulgation or revision. The EPA should conclude that the promulgation of revised ozone and PM_{2.5} NAAQS creates no obligation on the part of any state to submit any section 110(a)(2)(D)(i)(II) SIP revision with respect to visibility protection.

Response: We disagree. Reduced visibility is an effect of air pollution, and the emissions of PM_{2.5} and ozone and its precursors can contribute to visibility impairment. SIP planning for the control of these pollutants on the promulgation of a new NAAQS will therefore implicate control measures and issues relating to visibility. CAA section 110(a)(1) therefore requires implementation plans submitted in the wake of a newly promulgated NAAQS to address whether the state has

adequate provisions to prevent interference with the efforts of other states to protect visibility. The obligation to address Part C visibility components expressly follows from the language of section 110(a) concerning when plans must be submitted and what each implementation plan must contain.

Comment: The EPA mistakenly refers to the "Interstate Transport SIP" in its proposed disapproval of a portion of the Arkansas Interstate Transport SIP that addresses the visibility requirement of section 110(a)(2)(D)(i)(II) that emissions from Arkansas sources not interfere with other state's visibility protection programs, but it is more accurately referred to as an "Infrastructure SIP." In addition, the EPA failed to include in its proposed disapproval that it did not immediately require the state to make these SIP submittals. When EPA was sued for not having these submittals, the EPA issued its finding of failure notices to all states. If these SIPs had been required and submitted upon promulgation of the 1997 revision to the NAAQS for 8-hour ozone, it is unlikely that the RH program would have been considered an element of a typical "Infrastructure SIP."

Response: Interstate Transport SIPs and Infrastructure SIPs address SIP requirements under section 110 under the CAA which requires states to adopt and submit to EPA a SIP that includes elements 110(a)(2)(A) through (M) within three years after the promulgation or revision of a NAAQS. The EPA has requested states to submit their SIP separately addressing Section 110 Infrastructure requirements and Section 110 Interstate Transport requirements. However, this does not have a legal effect on the contents of the SIP submittal. Section 110(a)(2)(D)(i) elements are reviewed at the same legal standard whether the section 110(a)(2)(D)(i) elements are submitted as part of an Interstate Transport SIP or an Infrastructure SIP submittal.

At issue is Arkansas's requirement to submit a SIP that addresses the 1997 revision to the NAAQS for 8-hour ozone and PM_{2.5}. On July 18, 1997, the EPA promulgated new NAAQS for eight-hour ozone and for PM_{2.5}. Section 110(a)(1) of the CAA requires states to submit new SIPs to provide for the implementation, maintenance, and enforcement of new or revised NAAQS. SIPs for a new or revised NAAQS must contain adequate provisions to address interstate transport of air pollution, pursuant to section 110(a)(2)(D)(i). The Clean Air Act requires states to submit SIPs within three years of promulgation of a new or revised NAAQS. This duty to submit a SIP that addresses NAAQS revisions

pursuant to section 110(a)(2)(D)(i) is an affirmative obligation under the CAA and is not dependent upon whether a state is notified of its obligation or issued a finding of failure to act as EPA did in 2005.

If Arkansas had acted promptly in 1997 to address section 110(a)(2)(D)(i) for ozone and PM_{2.5}, Arkansas would still have had to consider RH in its SIP submittal. The visibility provisions of the CAA gave notice to the States that they needed to address interstate transport of visibility impairing pollutants through RH. Back in 1977 when Congress enacted the visibility provisions of the CAA, Congress expressed concern with “haze” from “regionally distributed sources²²⁸” and concluded that additional provisions were needed to “remedy the visibility problem.” Congress amended the visibility provisions in 1990 to more specifically address interstate transport of air pollutants and RH. Section 169B created visibility transport regions to address the interstate transport of air pollutants from one or more states that contribute significantly to visibility impairment in class I areas. Under CAA 169B, each visibility transport region would have a visibility transport commission that was required to study adverse impacts on visibility and recommend regulations to address long range strategies for addressing regional haze. In keeping with the visibility provisions of the CAA, EPA has determined that states may be able to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II) with a state relying on the analysis conducted by a visibility transport commission to ensure that emissions from sources within the state are not interfering with the visibility programs of other states, as contemplated in section 110(a)(2)(D)(i)(II) or an approved RH SIP.

Comment: It is an abuse of administrative procedures for EPA to use its proposed disapproval of the BART elements of the Arkansas RH SIP as the basis for not approving a previous SIP submittal upon which it should have already acted. There is no reason to disapprove any portion of the previous submittal as the language stating that Arkansas would rely on the RH regulations to satisfy the section 110(a)(2)(D)(i)(II) is still valid. Therefore, EPA should approve the Arkansas Interstate Transport SIP.

Response: As previously discussed, we are acting on section 110(a)(2)(D)(i)(II) based on our disapproval of some of the BART

determinations of the RH SIP submittal since it was Arkansas that represented to other CENRAP member states, and included in the CENRAP modeling, emissions reductions from BART controls on Arkansas sources subject to BART. CENRAP states have relied on those representations in developing their RH SIPs and RPGs. If Arkansas cannot deliver those emission reductions relied on by other states, those emission reductions will interfere with the CENRAP member state visibility programs. While the Arkansas Interstate Transport SIP statement that it relies on the RH regulations to satisfy the section 110(a)(2)(D)(i)(II) is still true, we are obligated to disapprove a portion of the Interstate Transport SIP because we are finding that Arkansas is not satisfying its obligations under the RH regulations and causing emissions from Arkansas to interfere with other states’ visibility programs.

Comment: The EPA should approve the Arkansas Interstate Transport SIP. In developing their RH SIPs and RPGs, Arkansas and potentially impacted states collaborated through the CENRAP. Emission reductions for the CENRAP states are scheduled to be fully realized by 2018. Presumably, EPA will have approved some version of an Arkansas SIP by 2013, and any such submittal would have at least the amount of BART reductions provided for in current SIP submittals. With a compliance schedule of no more than 5 years after EPA approval, these reductions would still be realized by 2018.

Response: Arkansas is assuming that EPA will have approved Arkansas’s SIP provisions by 2013 that address the promised BART emissions reductions to the CENRAP. The EPA cannot base decisions on potential future actions. Our rulemaking is limited to the events that have occurred at the time of rulemaking. It is not a foregone conclusion that Arkansas will submit and EPA will have approved SIP provisions with the promised emissions reductions by 2013, much less that those emissions reductions would be realized by 2018.

Comment: In April 2008, Arkansas submitted an Interstate Transport SIP revision to address its Good Neighbor CAA obligations triggered by the 1997 8-hour ozone and PM_{2.5} NAAQS. Section 110(k)(1)(B) of the CAA requires EPA to act on a SIP revision within 18 months. EPA’s proposal does not address why EPA violated the statutory deadline by waiting nearly two years after the deadline in the CAA to take action on Arkansas’s April 2008 Interstate Transport SIP submission.

Response: We acknowledge that we are late in acting on Arkansas’s Interstate Transport SIP revisions regarding its “Good Neighbor” CAA obligations triggered by the 1997 8-hour ozone and PM_{2.5} NAAQS. We are working diligently to address all of these SIP submittals as quickly and expeditiously as possible. With this action today finalizing our partial approval and partial disapproval of Arkansas’s Interstate Transport SIP addressing impairment of other states’ visibility measures, we are fulfilling our statutory obligation under section 110(a)(2)(D)(i)(II) of the CAA.

Comment: Like Oregon and Colorado, Arkansas submitted an Interstate Transport SIP predicated on a RH SIP to address section 110(a)(2)(D)(i)(II). However, EPA has treated Arkansas differently than Oregon and Colorado in meeting the requirements of section 110(a)(2)(D)(i)(II). For Oregon, despite the discrepancies between what was assumed by the RPO and the emission reductions included in Oregon’s RH SIP, EPA approved the visibility component of Oregon’s Interstate Transport SIP after reviewing the RPO’s photochemical modeling emissions projections finding that the emissions reductions included in Oregon’s RH SIP are “approximately equal” to those assumed by neighboring states. For Colorado, in evaluating the visibility component of Colorado’s Interstate Transport SIP, EPA did not consider Colorado’s RH SIP because it had not been approved. Instead, EPA conducted a “weight-of-evidence” evaluation to assess the increase in Colorado sulfates and nitrates emissions above what neighboring states assumed, and concluded that “Colorado has a minimal impact on visibility” at Class I areas in neighboring states. There is no indication that EPA performed such analyses in its evaluation of the visibility component of the Arkansas Interstate Transport SIP, and instead held that any discrepancy between the emissions reductions included in a state’s RH SIP and the emissions reductions assumed by neighboring states is equivalent to “interfering” with the measures of other states to protect visibility. This is similar to EPA’s interpretation of the visibility component of the Good Neighbor Provision in its evaluations of the Interstate Transport SIPs for New Mexico, Oklahoma, and North Dakota. The EPA has failed to identify a threshold of deviation from the CENRAP assumptions in a state’s RH SIP in order to trigger disapproval of visibility provisions of a state’s

²²⁸ H.R. Rep. No. 95–294 at 204 (1977).

Interstate Transport SIP. In addition, the EPA has also failed to address why the criteria EPA used to evaluate the visibility component of Arkansas's Interstate Transport SIP is different from that used to evaluate the Interstate Transport SIPs of other states, in particular those of Oregon and Colorado.

Response: The EPA disagrees that our proposed action on the visibility component of Arkansas's Interstate Transport SIP is inconsistent with our actions on the Interstate Transport SIPs of Oregon and Colorado. As described in the comment, EPA approved the visibility component of Oregon's Interstate Transport SIP after reviewing the RPO's photochemical modeling emissions projections and finding that the emissions reductions included in Oregon's RH SIP are "approximately equal" to those assumed by neighboring states. In the case of Arkansas, we are disapproving nearly all of the State's BART determinations for SO₂ and NO_x (and some PM) emissions limits that Arkansas promised as part of its membership to the CENRAP. Those emissions limits have been included in the 2018 CENRAP modeling, and other states are relying on this modeling in developing their RPGs and RH SIPs. However, as discussed previously, with our disapproval, these anticipated reductions will not be taking place and thus the emissions of SO₂, NO_x and PM from Arkansas will interfere with other states' visibility programs. With the disapproval of certain BART determinations and Arkansas's promised BART emissions reductions included in the CENRAP process, there is a large discrepancy between the RPO's photochemical modeling emissions projections (which is reflective of the emissions reductions other states relied on in their RH SIPs) and the emissions reductions that will actually be taking place (*i.e.* the State's BART determinations that we find satisfy the RH requirements).

The comment points out that EPA did not consider Colorado's RH SIP in evaluating the visibility component of Colorado's Interstate Transport SIP because it had not been approved yet. EPA points out that at the time we approved Colorado's Interstate Transport SIP, we had not taken any kind of action on the Colorado RH SIP. In fact, we haven't taken any kind of action on the Colorado RH SIP to date. Therefore, in order to take an informed and appropriate action on the Colorado Interstate Transport SIP, EPA conducted a "weight-of-evidence" evaluation to assess the increase in Colorado sulfates and nitrates emissions above what

neighboring states assumed. Based on the results of that evaluation, we concluded that Colorado has a minimal impact on visibility at Class I areas in neighboring states. This is not the case with Arkansas. As explained in Appendix A to the TSD for our proposed rulemaking on the Arkansas RH SIP, the CENRAP's photochemical modeling clearly shows that Arkansas emissions are causing visibility impairment at the Hercules Glades and Mingo Class I areas in Missouri. As explained above, we proposed to disapprove nearly all of Arkansas's SO₂ and NO_x (and some PM) BART determinations. In light of the large number (and percentage) of SO₂ and NO_x emissions reductions that other states relied on, we do not believe that it is necessary at this time to do any other analysis to further support our partial disapproval of the visibility component of Arkansas's Interstate Transport SIP since Arkansas has promised emissions reductions for subject to BART sources, and included them in the CENRAP modeling that other states are relying on in developing their RPGs and RH SIPs, but the emissions reductions for the disapproved BART determinations will not occur.

Comment: None of the BART determinations in the Arkansas RH SIP should be approved by EPA, and accordingly EPA should fully disapprove the Arkansas Interstate Transport SIP for visibility protection. In 2018, the contribution from Arkansas sources to visibility impairment in other states (including Missouri and Oklahoma) are projected to increase from 2002 levels. In recognition of this, the State of Oklahoma asked for additional emission reductions from Arkansas sources, but Arkansas did not agree that any further emissions reductions were necessary (2007 Letter from ADEQ to ODEQ, Appendix 11.2 of Arkansas RH SIP). Therefore, it is unlikely that the BART emission limits adopted by Arkansas are sufficient to ensure that sources in Arkansas will not interfere with Oklahoma's ability to ensure reasonable progress toward attaining the national visibility goal at the Wichita Mountains Class I area.

Response: Arkansas proposed to comply with the requirements of the Interstate Transport SIP for visibility protection through reductions in emissions from BART eligible sources. This is in keeping with the CAA and is acceptable to EPA. As explained above, we are partially disapproving Arkansas's Interstate Transport SIP for visibility protection because Arkansas proposed to meet these requirements

through the BART determinations that we are disapproving and therefore the relied-upon emissions reductions will not occur. The comment is right that in 2018, the contribution from Arkansas sources to visibility impairment in other states (including Oklahoma and Missouri) is projected to increase from 2002 levels though minimally. However, those projected emissions increases are due to Arkansas's planned building of new facilities which will emit visibility impairing pollutants. The EPA does note that one of the proposed plants included in this projection has recently been cancelled and thus Arkansas projected emissions increases for 2018 will be less than projected in their RH SIP.

For purposes of noninterference with other states' visibility programs, Arkansas met with other regional states and promised that it would contribute a certain portion of the emissions reductions to address RH for the region. Although Oklahoma initially believed that emissions from Arkansas sources are impacting visibility at Wichita Mountains and that it might be necessary for Arkansas to commit to additional emissions reductions, Arkansas responded to ODEQ's concerns with a letter dated August 17, 2007, explaining that based on photochemical modeling, ADEQ had calculated that the total visibility impact from all sources in Arkansas at Wichita Mountains is 0.2 dv.²²⁹ Furthermore, in section X.A. of the Oklahoma RH SIP submitted to EPA, ODEQ references the August 17, 2007 letter sent by ADEQ and states that it is in agreement with the projected emissions reductions from Arkansas and all other states with which it consulted with regard to visibility impairment at Wichita Mountains. For Missouri's consultation with Arkansas regarding emissions reductions, Arkansas and Missouri met in a joint consultation (see our TSD and Arkansas RH SIP), where both states agreed upon the amount of emission reductions each state would provide in order for both states to meet the visibility requirements of the CAA. All the states Arkansas consulted with accepted Arkansas's committed emissions reductions and have based their RPGs and RH SIPs accordingly with the idea that regional states can attain natural visibility conditions for class I areas within their boundaries by 2064 based off of this information. This

²²⁹ See letter from Mike Bates, Air Division Director, Arkansas Department of Environmental Quality, to Eddie Terrill, Air Division Director, Oklahoma Department of Environmental Quality, dated August 17, 2007. This letter is found in Appendix 10.3 of the Arkansas RH SIP.

is consistent with the intent of the visibility program under the CAA to allow the states under a regional planning committee to determine the best way to address visibility impairment for the region. Therefore, we find that partially approving and partially disapproving Arkansas's Interstate Transport SIP with regards to interference with other states' visibility measures is appropriate since Arkansas, working in conjunction with other states in the regional planning organization, committed to certain emissions reductions of subject to BART sources which Arkansas can no longer meet because we are disapproving a portion of Arkansas's BART determinations, and therefore the relied-upon emissions reductions will not occur.

H. Other Comments

Comment: EPA did not propose a FIP concurrently with its proposal to partially disapprove the Arkansas RH SIP, thus being inconsistent with what EPA has recently proposed for other states. When EPA proposed to partially approve and partially disapprove the RH SIPs of North Dakota and Oklahoma, at the same time EPA proposed FIP requirements for the components of the RH SIP that EPA proposed to disapprove (see 76 FR 58570 and 76 FR 16168). Arkansas submitted its RH SIP earlier than most other states, including at least 18 months before North Dakota and Oklahoma, yet EPA did not propose a FIP concurrently with its proposed partial disapproval of the Arkansas RH SIP and it appears it will be several years before the facilities in the State that are contributing to regional haze install pollution controls and reduce emissions. The residents and visitors to the State of Arkansas are getting the short shrift from EPA compared to the residents and visitors of these other states. This is very important considering that the majority of Arkansas's coal-fired power plants have absolutely no SO₂ controls, and at this point it is not clear that the units will be subject to any regulations other than BART that would require the installation of scrubbers. EPA should not delay any longer in proposing a FIP to address RH in Arkansas.

Response: While we appreciate the concerns described in the comment regarding visibility impairment in Arkansas's Class I areas, we note that the CAA section 110(c) requires that EPA promulgate a FIP at any time within 2 years after EPA disapproves a SIP in whole or in part. As explained in our proposed rulemaking, at this time we are not promulgating a FIP for the portions of the Arkansas RH SIP we are

disapproving because ADEQ has expressed its intent to revise the Arkansas RH SIP by correcting the deficiencies in the SIP. We are electing to not promulgate a FIP at this time in order to provide Arkansas time to correct these deficiencies. While EPA has promulgated FIPs concurrently to address the deficiencies of states' RH SIPs, there is no statutory requirement for EPA to do so. Unless we receive a SIP revision from the State that addresses the flaws we identified in our proposed rulemaking and in this final action and satisfies all the regulatory and statutory requirements and we approve it within 2 years of our final partial disapproval of the Arkansas RH SIP, EPA is required to promulgate a FIP within 2 years of our final partial disapproval of the SIP to address the components of the SIP we disapproved.

Comment: The State is required to document the technical basis, including modeling, monitoring, and emissions information, on which the State is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal area it affects (see 40 CFR 51.308(d)(3)(iii)). Arkansas relied on the CENRAP modeling and emission inventories to meet this requirement, and therefore Arkansas itself did not provide much of the technical basis for the modeling and emission inventories. EPA has posted some of the relevant CENRAP documents to its docket for the Arkansas RH rulemaking, but not all relevant documents have been provided. There is one document of facility-specific emission projections for 2018 we wanted to evaluate but were unable to locate. Only graphical representations of each state's emissions by source category are provided in the Technical Support Document for the CENRAP modeling. The CENRAP Web site is no longer being maintained and no emission inventory documents are available on that site. We contacted EPA Region 6 to obtain this document, but EPA was unable to locate it. A review of the 2018 facility-specific emission inventory is imperative in reviewing the 2018 modeling projections and the LTS for Arkansas as well as the LTS of other CENRAP states to determine if the LTS for those states include enforceable emission limitations that correspond to the 2018 emissions projections for each facility. A review of the 2018 facility-specific emissions inventory is also necessary to determine whether all visibility-impairing sources were modeled and whether the emissions modeled for all sources were reasonable

given the emission reduction requirements on the books and forthcoming by 2018. EPA should not approve the Arkansas RH SIP because it does not include the technical basis that Arkansas is relying on to show that it will achieve reasonable progress towards reaching natural background visibility conditions at its Class I areas. Also, EPA should not be proposing to find the 2018 emissions inventory "acceptable," when it does not have the facility-specific emission projections for 2018.

Response: The full reference to 40 CFR 51.308(d)(3)(iii) is the following:

"The State must document the technical basis, including modeling, monitoring and emissions information, on which the State is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal area it affects. The State may meet this requirement by relying on technical analyses developed by the regional planning organization and approved by all State participants. The State must identify the baseline emissions inventory on which its strategies are based. The baseline emissions inventory year is presumed to be the most recent year of the consolidated periodic emissions inventory."

A full reading of 40 CFR 51.308(d)(3)(iii) demonstrates that the requirement for the State to document the technical basis on which it is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal area it affects is to ensure that potentially affected states have all the technical information they need to be able to determine whether they agree with the State's apportionment of emission reduction obligations. As pointed out in the comment, Arkansas elected to meet the requirement under 40 CFR 51.308(d)(3)(iii) to document the technical basis for its RH SIP by relying on technical analyses developed by the CENRAP and approved by all State participants. Through the CENRAP process, all affected states agreed with Arkansas's apportionment of emission reduction obligations and these were included in the CENRAP 2018 emissions inventory modeling on which all the CENRAP member states are relying on to develop their RPGs and LTS. Since the technical analyses developed by the RPOs are often very extensive, it would be unreasonable to expect states to include all these documents as part of their RH SIPs. Since Arkansas relied on technical analyses developed by the CENRAP and approved by all State participants and properly identified the baseline

emissions inventory on which its strategies are based, the State satisfied the requirements under 40 CFR 51.308(d)(3)(iii). This is supported by 2018 CENRAP modeling data results indicating that two Class I areas outside of Arkansas (Missouri Class I areas—Mingo Wilderness Area and Hercules Glades Wilderness Area), where Arkansas sources have a significant impact, are projected to achieve the RPGs in 2018.

During the comment period, we provided the commenter with most of the information requested (including all the emission summary spreadsheet files we had), with the exception of two emission inventory summary files. Unfortunately, the document of facility-specific emission projections for 2018 referenced in the comment consists of two SMOKE electronic emissions processing reports that can be viewed in a very large electronic database using database software. However, these reports are too large to export to a spreadsheet, as had been done to generate other reports within the database, because it includes the daily point emissions by facility projected in 2018 for all the facilities in the CENRAP states. We had most of the SMOKE emission reports, which we did provide to the commenter's contractor. We did not consider these few missing emission reports to be critical or necessary to our review because we realized for reasons outside of the data contained in the missing reports that we would have to propose partial disapproval of the Arkansas RH SIP (including LTS and BART determinations). It is not practical to require that the State submit or include every possible electronic file that supports the RPO modeling as this is several Terabytes of data and most of the data has been submitted or is posted on Web sites or ftp sites or available on request. We believe this is the only practical way to address the large volumes of data necessary for the development of multistate regional haze modeling analysis. Unfortunately, as noted in the comment, the CENRAP Web site is no longer being maintained and no emission inventory documents are available on that site. In general, the former CENRAP members have been very supportive in providing information when requested. It was only due to specific issues that we were not able to provide the information for these two SMOKE emission reports when requested. We will continue to work to address this issue as we work with Arkansas on development of an approvable Regional Haze SIP. Again we do not believe that these particular files

were critical or necessary to our conclusion that the Arkansas SIP should be partially approved and partially disapproved.

I. Comments Requesting an Extension to the Public Comment Period

We received several comments requesting that the comment period be extended by an additional 60 days.

Response: Originally the comment period for our proposal was scheduled to close on November 16, 2011. In response to requests we extended the public comment period to December 22, 2011. In doing so, we took into consideration how an extension might affect our ability to consider comments received on the proposed action and still comply with the terms of a consent decree we have with Sierra Club.²³⁰

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to act on state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law.

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

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

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.*, because this SIP action under section 110 of the CAA will not in-and-of itself create any new information collection burdens but simply approves or disapproves certain State requirements for inclusion into the SIP. 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. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This SIP action under section 110 of the CAA will not in-and-of itself create any new requirements but simply approves or disapproves certain State requirements for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences (*e.i.* emission limitations) may or will flow from this action does not mean that EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. EPA has determined that the disapproval action 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. This action merely approves or disapproves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

²³⁰ *Sierra Club v. Lisa Jackson*, Case No. 1:10-CV-02112-JEB.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.”

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves or disapproves certain State requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP submittals EPA is approving or disapproving would not 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. Thus, Executive Order 13175 does not apply to this action.

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 action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This SIP action under section 110 of the CAA will not in-and-of itself create any new regulations but simply approves or disapproves certain

State requirements for inclusion into the SIP.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA believes that this action is not subject to requirements of section 12(d) of NTTAA because application of those requirements would be inconsistent with the CAA.

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

Executive Order 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 lacks the discretionary authority to address environmental justice in this action. In reviewing SIP submissions, EPA’s role is to approve or disapprove state choices, based on the criteria of the CAA. Accordingly, this action merely approves or disapproves certain State requirements for inclusion into the SIP under section 110 of the CAA and will not in-and-of itself create any new requirements. Accordingly, it 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.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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). This rule will be effective on April 11, 2012.

L. Judicial Review

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 11, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxides, Visibility, Interstate transport of pollution, Regional haze, Best available retrofit technology.

Dated: February 13, 2012.

Al Armendariz,
Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart E—[Amended]

■ 2. Section 52.170 is amended:
 ■ a. In paragraph (c), under the first table entitled “EPA-Approved Regulations in the Arkansas SIP,” by revising the heading for Chapter 15 under Regulation No. 19 to read “Regional Haze”; by revising the entry for Reg. 19.1501; and by adding new

entries in numerical order for Reg. 19.1502, Reg. 19.1503, Reg. 19.1504, Reg. 19.1505, Reg. 19.1506, and Reg. 19.1507.

■ b. In paragraph (e), under the third table entitled “EPA-Approved Non-Regulatory Provisions and Quasi-Regulatory Measures in the Arkansas SIP”, by adding at the end of the table

a new entry for “Interstate Transport for the 1997 ozone and PM_{2.5} NAAQS” immediately followed by a new entry for “Regional Haze SIP”.

The amendments read as follows:

§ 52.170 Identification of plan.

* * * * *
 (c) * * *

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP

| State citation | Title/subject | State approval/ effective date | EPA approval date | Explanation |
|--|-----------------------------|--------------------------------|---|--|
| Regulation No. 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control | | | | |
| * * * * * | | | | |
| Chapter 15: Regional Haze | | | | |
| Reg. 19.1501 | Purpose | 1/25/2009 | 3/12/2012 [Insert <i>FR</i> page number where document begins]. | |
| Reg. 19.1502 | Definitions | 1/25/2009 | 3/12/2012 [Insert <i>FR</i> page number where document begins]. | |
| Reg. 19.1503 | BART Eligible Sources. | 1/25/2009 | 3/12/2012 [Insert <i>FR</i> page number where document begins]. | |
| Reg. 19.1504 | Facilities Subject-to-BART. | 1/25/2009 | 3/12/2012 [Insert <i>FR</i> page number where document begins]. | Under (A): The identification of sources subject to BART is approved, except for not identifying the 6A and 9A Boilers at the Georgia Pacific Crossett Mill, which we find are subject to BART.
Under (B): The requirement for BART installation and operation as expeditiously as practicable, but no later than 5 years after EPA approval is partially approved and partially disapproved, such that the partial approval is for the BART determinations we are approving and the partial disapproval is for the BART determinations we are disapproving; and the requirement for BART installation and operation no later than 6 years after the effective date of the State regulation is disapproved. |
| Reg. 19.1505 | BART Requirements .. | 1/25/2009 | 3/12/2012 [Insert <i>FR</i> page number where document begins]. | The following portions of Reg. 19.1505 are disapproved: (A)(1) and (2), (B), (C), (D)(1) and (2), (E), (F)(1) and (2), (G)(1) and (2), (H), (I)(1) and (2), (J)(1) and (2), (K), (L), (M)(1), and (N). |
| Reg. 19.1506 | Compliance Provisions. | 1/25/2009 | 3/12/2012 [Insert <i>FR</i> page number where document begins]. | The requirement to demonstrate compliance with the BART limits listed in Reg. 19.1505 (A)(1) and (2), (B), (C), (D)(1) and (2), (E), (F)(1) and (2), (G)(1) and (2), (H), (I)(1) and (2), (J)(1) and (2), (K), (L), (M)(1), and (N) is disapproved. |
| Reg. 19.1507 | Permit Reopening | 1/25/2009 | 3/12/2012 [Insert <i>FR</i> page number where document begins]. | |
| * * * * * | | | | |

* * * * *
 (e) * * *
 * * * * *

EPA-APPROVED NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE ARKANSAS SIP

| Name of SIP provision | Applicable geographic or nonattainment area | State submittal/ effective date | EPA approval date | Explanation |
|--|---|---------------------------------|--|--|
| Interstate Transport for the 1997 ozone and PM _{2.5} NAAQS (Non-interference with measures required to protect visibility in any other State). | Statewide | 3/28/2008 | 3/12/2012 [Insert FR page number where document begins]. | Noninterference with measures required to protect visibility in any other State partially approved 3/12/12. |
| Regional Haze SIP | Statewide | 9/23/2008, 8/3/2010 | 3/12/2012 [Insert FR page number where document begins]. | The following portions are partially approved and partially disapproved:
(a) Identification of best available retrofit technology (BART) eligible sources and subject to BART sources;
(b) requirements for best available retrofit technology (BART);
(c) the Arkansas Regional Haze Rule; and
(d) Long Term Strategy. (See § 52.173(a)). |
| (a) Identification of affected Class I areas. | | | | |
| (b) Determination of baseline and natural visibility conditions. | | | | |
| (c) Determination of the Uniform Rate of Progress. | | | | |
| (d) Reasonable progress goal consultation and long term strategy consultation. | | | | |
| (e) Coordination regional haze and reasonably attributable visibility impairment. | | | | |
| (f) Monitoring Strategy and other implementation requirements. | | | | |
| (g) Commitment to submit periodic Regional Haze SIP revisions and periodic progress reports describing progress towards the reasonable progress goals. | | | | |
| (h) Commitment to make a determination of the adequacy of the existing SIP at the time a progress report is submitted. | | | | |
| (i) Coordination with States and Federal Land Managers. | | | | |
| (j) The following best available retrofit technology (BART) determinations: PM BART determination for the AEP Flint Creek Plant Boiler No. 1; SO ₂ and PM BART determinations for the natural gas firing scenario for the Entergy Lake Catherine Plant Unit 4; PM BART determinations for both the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2; and PM BART determination for the Domtar Ashdown Mill Power Boiler No. 1. | | | | |

■ 3. Section 52.173 is added to read as follows:

§ 52.173 Visibility protection.

(a) *Regional haze.* The regional haze State Implementation Plan (SIP) revisions submitted on September 23, 2008 and August 3, 2010, and supplemented on September 27, 2011

are partially approved and partially disapproved.

(1) The identification of sources that are eligible for Best Available Retrofit Technology (BART) is approved, with the exception of the 6A Boiler at the Georgia-Pacific Crossett Mill, which is BART eligible.

(2) The identification of sources subject to BART is approved, with the exception of the 6A and 9A Boilers at the Georgia-Pacific Crossett Mill, which are both subject to BART.

(3) The following BART determinations are disapproved:

(i) The sulfur dioxide (SO₂), nitrogen dioxide (NO_x), and particulate matter

(PM) BART determinations for the Arkansas Electric Cooperative Corporation Bailey Plant Unit 1 and the AECC McClellan Plant Unit 1;

(ii) The SO₂ and NO_x BART determinations for the American Electric Power Flint Creek Plant Boiler No. 1;

(iii) The NO_x BART determination for the natural gas firing scenario and the SO₂, NO_x, and PM BART determinations for the fuel oil firing scenario for the Entergy Lake Catherine Plant Unit 4;

(iv) The SO₂ and NO_x BART determinations for both the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2;

(v) The BART determination for the Entergy White Bluff Plant Auxiliary Boiler;

(vi) The SO₂ and NO_x BART determinations for the Domtar Ashdown Mill Power Boiler No. 1; and

(vii) The SO₂, NO_x and PM BART determinations for the Domtar Ashdown Mill Power Boiler No. 2.

(4) The Arkansas Regional Haze Rule, (APCEC Regulation 19, Chapter 15), is partially approved and partially disapproved such that:

(i) The requirement under Reg. 19.104(B) for BART installation and operation as expeditiously as practicable, but no later than 5 years after EPA approval of the Arkansas Regional Haze State Implementation Plan is partially approved and partially

disapproved, such that the partial approval is for the BART determinations we are approving and the partial disapproval is for the BART determinations we are disapproving;

(ii) The requirement under Reg. 19.1504(B) for BART installation and operation no later than 6 years after the effective date of the State regulation is disapproved;

(iii) Reg. 19.1505 (A)(1) and (2), (B), (C), (D)(1) and (2), (E), (F)(1) and (2), (G)(1) and (2), (H), (I)(1) and (2), (J)(1) and (2), (K), (L), (M)(1), and (N) are disapproved;

(iv) the Reg. 19.1506 requirement to demonstrate compliance with the BART limits listed in Reg. 19.1505 (A)(1) and (2), (B), (C), (D)(1) and (2), (E), (F)(1) and (2), (G)(1) and (2), (H), (I)(1) and (2), (J)(1) and (2), (K), (L), (M)(1), and (N) is disapproved; and

(v) The remaining portions are approved.

(5) The regional haze long term strategy under 40 CFR 51.308(d)(3) is partially approved and partially disapproved.

(6) The reasonable progress goals are disapproved.

(b) *Interstate Transport*. The portion of the SIP pertaining to adequate provisions to prohibit emissions from interfering with measures required in another state to protect visibility, submitted on March 28, 2008, and supplemented on September 27, 2011, is partially approved and partially disapproved.

(1) The Arkansas Regional Haze Rule, (APCEC Regulation 19, Chapter 15), is partially approved and partially disapproved such that:

(i) The requirement under Reg. 19.104(B) for BART installation and operation as expeditiously as practicable, but no later than 5 years after EPA approval of the Arkansas Regional Haze State Implementation Plan is partially approved and partially disapproved, such that the partial approval is for the BART determinations we are approving and the partial disapproval is for the BART determinations we are disapproving;

(ii) The requirement under Reg. 19.1504(B) for BART installation and operation no later than 6 years after the effective date of the State regulation is disapproved;

(iii) Reg. 19.1505 (A)(1) and (2), (B), (C), (D)(1) and (2), (E), (F)(1) and (2), (G)(1) and (2), (H), (I)(1) and (2), (J)(1) and (2), (K), (L), (M)(1), and (N) are disapproved;

(iv) The Reg. 19.1506 requirement to demonstrate compliance with the BART limits listed in Reg. 19.1505 (A)(1) and (2), (B), (C), (D)(1) and (2), (E), (F)(1) and (2), (G)(1) and (2), (H), (I)(1) and (2), (J)(1) and (2), (K), (L), (M)(1), and (N) is disapproved; and

(v) The remaining portions are approved.

[FR Doc. 2012-4493 Filed 3-9-12; 8:45 am]

BILLING CODE 6560-50-P

Reader Aids

Federal Register

Vol. 77, No. 48

Monday, March 12, 2012

CUSTOMER SERVICE AND INFORMATION

| | |
|---|---------------------|
| Federal Register/Code of Federal Regulations | |
| General Information, indexes and other finding aids | 202-741-6000 |
| Laws | 741-6000 |
| Presidential Documents | |
| Executive orders and proclamations | 741-6000 |
| The United States Government Manual | 741-6000 |
| Other Services | |
| Electronic and on-line services (voice) | 741-6020 |
| Privacy Act Compilation | 741-6064 |
| Public Laws Update Service (numbers, dates, etc.) | 741-6043 |
| TTY for the deaf-and-hard-of-hearing | 741-6086 |

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: www.fdsys.gov.

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: www.ofr.gov.

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <http://listserv.access.gpo.gov> and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings)*; then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: fedreg.info@nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at <http://www.regulations.gov>.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

FEDERAL REGISTER PAGES AND DATE, MARCH

| | |
|------------------|----|
| 12437-12720..... | 1 |
| 12721-12980..... | 2 |
| 12981-13180..... | 5 |
| 13181-13482..... | 6 |
| 13483-13958..... | 7 |
| 13959-14264..... | 8 |
| 14265-14470..... | 9 |
| 14471-14678..... | 12 |

CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

| | | |
|--------------------------------------|---------|---|
| 3 CFR | 39..... | 12506, 12755, 12757, 13043, 13228, 13230, 13993, 14310, 14312, 14314, 14316 |
| Proclamations: | 71..... | 12759, 12760 |
| 8778..... | 91..... | 14319 |
| 8779..... | | |
| 8780..... | | |
| 8781..... | | |
| 8782..... | | |
| 8783..... | | |
| Executive Orders: | | |
| 13601..... | | 12981 |
| Administrative Orders: | | |
| Memorandums: | | |
| Memorandum of February 27, 2012..... | | 12721 |
| Memorandum of February 28, 2012..... | | 12985 |
| Notices: | | |
| Notice of March 2, 2012..... | | 13179 |
| 7 CFR | | |
| 319..... | | 12437 |
| 457..... | | 13961 |
| Proposed Rules: | | |
| 15..... | | 13980 |
| 20..... | | 13990 |
| 211..... | | 13015 |
| 235..... | | 13015 |
| 930..... | | 12748, 13015 |
| 985..... | | 13019 |
| 1260..... | | 12752 |
| 1777..... | | 14307 |
| 9 CFR | | |
| Proposed Rules: | | |
| 381..... | | 13512 |
| 500..... | | 13512 |
| 10 CFR | | |
| 429..... | | 13888 |
| 430..... | | 13888 |
| Proposed Rules: | | |
| 431..... | | 13026 |
| 438..... | | 14482 |
| 719..... | | 12754 |
| 1046..... | | 13206 |
| 12 CFR | | |
| Proposed Rules: | | |
| 252..... | | 13513 |
| 14 CFR | | |
| 39..... | | 12444, 12448, 12450, 12989, 12991, 13187, 13191, 13193, 13483, 13485, 13488 |
| 67..... | | 13967 |
| 71..... | | 12992, 13195, 14269 |
| 95..... | | 14269 |
| 97..... | | 12452, 12454 |
| Proposed Rules: | | |
| 16..... | | 13027 |
| | 39..... | 12506, 12755, 12757, 13043, 13228, 13230, 13993, 14310, 14312, 14314, 14316 |
| | 71..... | 12759, 12760 |
| | 91..... | 14319 |
| 17 CFR | | |
| 200..... | | 13490 |
| Proposed Rules: | | |
| 162..... | | 13450 |
| 248..... | | 13450 |
| 18 CFR | | |
| 806..... | | 14272 |
| Proposed Rules: | | |
| 366..... | | 12760 |
| 20 CFR | | |
| 404..... | | 13968 |
| 416..... | | 13968 |
| 655..... | | 12723 |
| 21 CFR | | |
| 558..... | | 14272 |
| 866..... | | 14272 |
| Proposed Rules: | | |
| Ch. 1..... | | 13513 |
| 172..... | | 13232 |
| 1308..... | | 12508 |
| 26 CFR | | |
| 1..... | | 13968 |
| Proposed Rules: | | |
| 1..... | | 12514, 13996, 14321 |
| 29 CFR | | |
| 1910..... | | 13969 |
| 4044..... | | 14274, 14275 |
| Proposed Rules: | | |
| 1910..... | | 13997 |
| 31 CFR | | |
| Proposed Rules: | | |
| Ch. X..... | | 13046 |
| 32 CFR | | |
| 706..... | | 12993, 13970 |
| 33 CFR | | |
| 100..... | | 12456 |
| 117..... | | 12475, 12476 |
| 165..... | | 12456, 12994, 13971, 14276, 14471 |
| Proposed Rules: | | |
| 117..... | | 12514 |
| 165..... | | 13232, 13516, 13519, 13522, 13525, 14321 |
| 36 CFR | | |
| 242..... | | 12477 |
| Proposed Rules: | | |
| 7..... | | 12761 |

| | | | |
|------------------------------|-----------------------------|--------------------------------|------------------------------|
| 38 CFR | 1508.....14473 | 47 CFR | 14303 |
| 1.....12997 | Proposed Rules: | 51.....14297 | 45.....12937 |
| 17.....13195 | 51.....14226 | 54.....12784, 14297 | 49.....12937 |
| Proposed Rules: | 52.....12524, 12525, 12526, | Proposed Rules: | 50.....12925 |
| 17.....12517, 12522, 13236 | 12527, 12770, 13055, 13238, | 54.....12952 | 51.....12937 |
| 61.....12698 | 14226 | | 52.....12913, 12933, 12935, |
| 39 CFR | 59.....14324 | 48 CFR | 12937, 12948, 13952, 14303 |
| 20.....12724 | 60.....13997 | Ch. 1.....12912, 12947, 13952, | 53.....12913, 12937, 14303 |
| 3020.....13198 | 70.....14226 | 13956 | 212.....14480 |
| Proposed Rules: | 71.....14226 | 1.....12913, 12925, 14303 | 225.....13013 |
| 111.....12764 | 271.....13248 | 2.....12913, 12925, 12937, | 252.....13013 |
| 40 CFR | 372.....13061 | 14303 | Proposed Rules: |
| 52.....12482, 12484, 12487, | 42 CFR | 4.....12913, 13952, 14303 | 252.....14490 |
| 12491, 12493, 12495, 12652, | 84.....14161 | 5.....12927 | 931.....12754 |
| 12674, 12724, 13491, 13493, | Proposed Rules: | 6.....12913, 14303 | 952.....12754 |
| 13495, 13974, 14604 | 412.....13698 | 7.....12925 | 970.....12754 |
| 59.....14279 | 413.....13698 | 8.....12927 | Ch. 10.....13069 |
| 60.....13977 | 495.....13698 | 13.....12913, 12930, 14303 | 49 CFR |
| 80.....13009 | 44 CFR | 14.....12913, 14303 | 214.....13978 |
| 131.....13496 | 64.....13010 | 15.....12913, 14303 | 50 CFR |
| 180.....12727, 12731, 12740, | 65.....12501, 12746 | 16.....12925, 12927 | 17.....13394 |
| 13499, 13502, 14287, 14291 | 45 CFR | 18.....12913, 12927, 14303 | 100.....12477 |
| 261.....12497 | Proposed Rules: | 19.....12913, 12930, 12948, | 648.....14481 |
| 271.....13200 | 170.....13832 | 14303 | 660.....12503 |
| 721.....13506 | 46 CFR | 22.....12933, 12935, 14303 | 679.....12505, 13013, 13510, |
| 1500.....14473 | 530.....13508 | 25.....12933, 12935, 13952, | 14304, 14305 |
| 1501.....14473 | 531.....13508 | 14303 | Proposed Rules: |
| 1502.....14473 | Proposed Rules: | 26.....12913, 14303 | 13.....14200 |
| 1503.....14473 | 98.....14327 | 31.....12937 | 17.....12543, 13248, 13251, |
| 1505.....14473 | 502.....12528 | 32.....12925, 12937 | 14062, 14200 |
| 1506.....14473 | | 33.....12913, 14303 | 23.....14200 |
| 1507.....14473 | | 36.....12913, 14303 | 679.....13253 |
| | | 38.....12927 | |
| | | 42.....12913, 12925, 12948, | |

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws>.

The text of laws is not published in the **Federal**

Register but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at <http://www.gpo.gov/fdsys>. Some laws may not yet be available.

H.R. 3630/P.L. 112-96
Middle Class Tax Relief and Job Creation Act of 2012 (Feb. 22, 2012; 126 Stat. 156)

H.R. 1162/P.L. 112-97
To provide the Quileute Indian Tribe Tsunami and Flood Protection, and for other purposes. (Feb. 27, 2012; 126 Stat. 257)
Last List February 17, 2012

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To

subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html>

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.