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# Rules and Regulations

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 25

**[Docket No. FAA–2013–0763; Special Conditions No. 25–514–SC]**

## Special Conditions: Learjet Model 35, 35A, 36, and 36A Airplanes; Rechargeable Lithium-Ion Batteries and Battery Systems

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions.

**SUMMARY:** These special conditions are issued for the Learjet Model 35, 35A, 36, and 36A airplanes. These airplanes, as modified by Peregrine, 13000 E. Control Tower Road, Unit K–4, Englewood, CO, 80112, will have a novel or unusual design feature associated with rechargeable lithium-ion batteries and battery systems. These batteries have certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on large transport-category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** *Effective Date:* February 10, 2014.

**FOR FURTHER INFORMATION CONTACT:** Nazih Khaouly, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

### Background

On June 29, 2012, Peregrine applied for a supplemental type certificate for installing equipment that uses rechargeable lithium-ion battery systems in Learjet Model 35, 35A, 36, and 36A airplanes. The Learjet Model 35, 35A, 36, and 36A airplanes are small transport-category airplanes powered by two turbojet engines, with maximum takeoff weights of up to 18,000 pounds. These airplanes operate with a two-pilot crew and can seat up to eight passengers. The Learjet Model 35, 35A, 36, and 36A airplanes are powered by two Garrett TF731–2–2B engines, and are equipped with an emergency power supply and software-configurable avionics.

Existing airworthiness regulations did not anticipate the use of lithium-ion batteries and battery systems on aircraft. Lithium-ion batteries and battery systems have new hazards that were not contemplated when the existing regulations were issued. In Title 14, Code of Federal Regulations (14 CFR) 25.1353, the FAA provided an airworthiness standard for lead-acid batteries and nickel-cadmium batteries. These special conditions provide an equivalent level of safety as that of the existing regulation. The current regulations are not adequate for rechargeable lithium-battery and battery system installations. Additional lithium-battery and battery system special conditions are required to ensure the same level of safety as set forth by the existing regulation intended for other battery technology.

### Type Certification Basis

Under the provisions of 14 CFR 21.17, Peregrine must show that the Learjet Model 35, 35A, 36, and 36A airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A10CE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A10CE are as follows:

Title 14, Code of Federal Regulations part 25, effective February 1, 1965, as amended by Amendments 25–1, 25–2, 25–4, 25–7, 25–18, and § 25.571(d) of Amendment 25–10; Special Conditions set forth in FAA letter to Learjet dated March 1, 1967; Special Conditions No. 25–50–CE–6 dated April 18, 1973, and Amendment 1 dated September 18, 1973. The certification basis for Models 35A and 36A also includes Special Conditions No. 25–72–CE–8 dated November 3, 1976, and Amendment 1 dated March 14, 1978. The certification basis for Model 35A, in addition to the basis listed above, includes Special Conditions 25–ANM–28 dated May 3, 1989. In addition, the certification basis includes certain later amended sections of the applicable part 25 regulations that are not relevant to these special conditions.

If the regulations incorporated by reference do not provide adequate standards regarding the change, the applicant must comply with certain regulations in effect on the date of application for the change.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Learjet Model 35, 35A, 36, and 36A airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the Learjet Model 35, 35A, 36, and 36A airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

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

**Novel or Unusual Design Features**

The Learjet Model 35, 35A, 36, and 36A airplanes will incorporate the following novel or unusual design features: A Mid-Continent MD835–5 Emergency Power Supply that uses a rechargeable lithium-ion battery and battery system. Lithium-ion batteries and battery systems have certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries. Rechargeable lithium-ion batteries and battery systems are considered to be a novel or unusual design feature in transport-category airplanes, with respect to the requirements in 14 CFR 25.1353.

**Discussion**

The current regulations governing installation of batteries in large transport-category airplanes were derived from Civil Air Regulations (CAR) part 4b.625(d) as part of the re-codification of CAR 4b that established 14 CFR part 25 in February 1965. The new battery requirements, § 25.1353(c)(1) through (c)(4), basically reworded the CAR requirements.

Increased use of nickel-cadmium batteries in small airplanes resulted in increased incidents of battery fires and failures which led to additional rulemaking affecting large transport-category airplanes as well as small airplanes. On September 1, 1977 and March 1, 1978, the FAA issued § 25.1353(c)(5) and (c)(6), respectively, governing nickel-cadmium battery installations on large transport-category airplanes.

The proposed use of lithium-ion batteries and battery systems for equipment and systems on the Learjet Model 35, 35A, 36, and 36A airplanes has prompted the FAA to review the adequacy of these existing regulations. Our review indicates that the existing regulations do not adequately address several failure, operational, and maintenance characteristics of lithium-ion batteries and battery systems that could affect the safety and reliability of the MD835–5 Emergency Power Supply installations.

At present, commercial aviation has limited experience with use of rechargeable lithium-ion batteries and battery systems in applications involving commercial aviation. However, other users of this technology, ranging from wireless telephone manufacturers to the electric-vehicle industry, have noted potential hazards with lithium-ion batteries and battery systems. These problems include overcharging, over-discharging, and flammability of cell components.

*1. Overcharging*

In general, lithium-ion batteries and battery systems are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (i.e., thermal runaway) than their nickel-cadmium or lead-acid counterparts. This condition is especially true for overcharging, which causes heating and destabilization of the components of the cell, leading to the formation (by plating) of highly unstable metallic lithium. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion. Finally, the severity of thermal runaway, due to overcharging, increases with increasing battery capacity due to the higher amount of electrolyte in large batteries.

*2. Over-Discharging*

Discharge of some types of lithium-ion batteries and battery systems, beyond a certain voltage (typically 2.4 volts), can cause corrosion of the electrodes of the cell, resulting in loss of battery capacity that cannot be reversed by recharging. This loss of capacity may not be detected by the simple voltage measurements commonly available to flightcrews as a means of checking battery status—a problem shared with nickel-cadmium batteries.

*3. Flammability of Cell Components*

Unlike nickel-cadmium and lead-acid batteries, some types of lithium-ion batteries and battery systems use liquid electrolytes that are flammable. The electrolyte can serve as a source of fuel for an external fire, if there is a breach of the battery container.

The problems lithium-ion battery and battery-system users experience raise concern about the use of these batteries in commercial aviation. The intent of the special conditions is to establish appropriate airworthiness standards for lithium-ion battery installations in the Learjet Model 35, 35A, 36, and 36A airplanes and to ensure, as required by §§ 25.1309 and 25.601, that these lithium-ion batteries and battery systems are not hazardous or unreliable. To address these concerns, these special conditions adopt the following requirements:

- Those sections of 14 CFR 25.1353 that are applicable to lithium-ion batteries.
- The flammable fluid fire protection requirements of 14 CFR 25.863. In the past, this rule was not applied to batteries of transport category airplanes, since the electrolytes used in lead-acid and nickel-cadmium batteries are not flammable.
- New requirements to address the hazards of overcharging and over-discharging that are unique to lithium ion batteries.
- New maintenance requirements to ensure that batteries used as spares are maintained in an appropriate state of charge.

These special conditions are similar to lithium-ion batteries and battery systems special conditions adopted for numerous other aircraft, including Boeing Model 787 (72FR57842; October 11, 2007).

**Discussion of Comments**

Notice of proposed special conditions no. 25–13–07–SC for the Peregrine modifications to the Learjet Model 35, 35A, 36, and 36A airplanes was published in the **Federal Register** on October 22, 2013 (78 FR 62495). No comments were received, and the special conditions are adopted as proposed.

**Applicability**

As discussed above, these special conditions are applicable to the Learjet Model 35, 35A, 36, and 36A airplanes. Should Peregrine apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A10CE, to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well.

**Conclusion**

This action affects only certain novel or unusual design features on the Learjet Model 35, 35A, 36, and 36A airplanes. It is not a rule of general applicability and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

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

**The Special Conditions**

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type-certification basis for the Learjet Model 35, 35A, 36, and 36A airplanes modified by Peregrine.

These special conditions require that (1) all characteristics of the rechargeable lithium-ion batteries and battery systems, and their installation, that

could affect safe operation of the Learjet Model 35, 35A, 36, and 36A airplanes, are addressed, and (2) appropriate Instructions for Continued Airworthiness, which include maintenance requirements, are established to ensure the availability of electrical power, when needed, from the batteries.

In lieu of the requirements of 14 CFR 25.1353(b)(1) through (b)(4) at Amendment 25–113, the following special conditions apply. Rechargeable lithium-ion batteries and battery systems on Learjet Model 35, 35A, 36, and 36A airplanes must be designed and installed as follows:

1. Safe cell temperatures and pressures must be maintained during any foreseeable charging or discharging condition, and during any failure of the charging or battery monitoring system not shown to be extremely remote. The rechargeable lithium-ion batteries and battery systems must preclude explosion in the event of those failures.

2. Design of the rechargeable lithium-ion batteries and battery systems must preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

3. No explosive or toxic gases emitted by any rechargeable lithium-ion batteries and battery systems in normal operation, or as the result of any failure of the battery charging system, monitoring system, or battery installation that is not shown to be extremely remote, may accumulate in hazardous quantities within the airplane.

4. Installations of rechargeable lithium-ion batteries and battery systems must meet the requirements of § 25.863(a) through (d).

5. No corrosive fluids or gases that may escape from any lithium-ion batteries and battery systems may damage surrounding structure or any adjacent systems, equipment, or electrical wiring of the airplane in such a way as to cause a major or more severe failure condition, in accordance with § 25.1309 (b) and applicable regulatory guidance.

6. Each lithium-ion battery and battery system must have provisions to prevent any hazardous effect on structure or essential systems caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

7. Rechargeable lithium-ion batteries and battery systems must have a system to automatically control the charging rate of the battery, so as to prevent battery overheating or overcharging, and:

i. A battery-temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition, or,

ii. A battery-failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

8. Any rechargeable lithium-ion batteries and battery systems, the function of which are required for safe operation of the airplane, must incorporate a monitoring and warning feature that will provide an indication to the appropriate flight crewmembers whenever the state-of-charge of the batteries has fallen below levels considered acceptable for dispatch of the airplane.

9. The Instructions for Continued Airworthiness required by § 25.1529 must contain maintenance requirements to assure that the lithium-ion batteries are sufficiently charged at appropriate intervals specified by the battery manufacturer and the equipment manufacturer of the rechargeable lithium-ion battery or rechargeable lithium-ion battery system. This is required to ensure that rechargeable lithium-ion batteries and battery systems will not degrade below specified ampere-hour levels sufficient to power the aircraft system, for intended applications. The Instructions for Continued Airworthiness must also contain procedures for the maintenance of batteries in spares storage to prevent the replacement of batteries with batteries that have experienced degraded charge-retention ability or other damage due to prolonged storage at a low state of charge. Replacement batteries must be of the same manufacturer and part number as approved by the FAA. Precautions should be included in the Instructions for Continued Airworthiness maintenance instructions to prevent mishandling of the rechargeable lithium-ion batteries and battery systems, which could result in short-circuit or other unintentional impact damage caused by dropping or other destructive means.

**Note 1:** The term ''sufficiently charged''' means that the battery will retain enough of a charge, expressed in ampere-hours, to ensure that the battery cells will not be damaged. A battery cell may be damaged by lowering the charge below a point where the battery experiences a reduction in the ability to charge and retain a full charge. This reduction would be greater than the reduction that may result from normal operational degradation.

**Note 2:** These special conditions are not intended to replace § 25.1353(b) at Amendment 25–113 in the certification basis for Learjet Model 35, 35A, 36, and 36A airplanes. These special conditions apply only to rechargeable lithium-ion batteries and battery systems and their installations. The requirements of § 25.1353(b) at Amendment 25–113 remain in effect for batteries and battery installations on Learjet Model 35, 35A, 36, and 36A airplanes that do not use rechargeable lithium-ion batteries.

Issued in Renton, Washington, on December 31, 2013.

**Angelos Xidias,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–00172 Filed 1–8–14; 8:45 am]

**BILLING CODE 4910–13–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R04–OAR–2013–0440; FRL–9905–13–Region 4]**

### Approval and Promulgation of Implementation Plans; Tennessee; Bristol; 2010 Lead Base Year Emissions Inventory and Conversion of Conditional Approvals for Prevention of Significant Deterioration

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Lead 2010 base year emissions inventory State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on April 11, 2013. The emissions inventory was submitted to meet the requirements of the Clean Air Act (CAA or Act) for the Bristol 2008 Lead National Ambient Air Quality Standards (NAAQS) nonattainment area (hereafter also referred to as the ''Bristol Area'' or ''Area''). Additionally, EPA is converting conditional approvals to full approvals for Tennessee's 1997 annual fine particulate matter ($PM_{2.5}$) NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 2008 8-hour ozone NAAQS infrastructure SIPs as they relate to adequate provisions prohibiting emissions that interfere with any other State's required measures to prevent significant deterioration of its air quality. EPA conditionally approved these portions of Tennessee's infrastructure SIPs for these NAAQS on March 6, 2013, and March 26, 2013. Tennessee has since met the obligations

associated with these conditional approvals, and therefore, EPA is converting the conditional approvals to full approvals.

**DATES:** This rule will be effective February 10, 2014.

**ADDRESSES:** *EPA has established a docket for this action under Docket Identification No.* EPA–R04–OAR–2013–0440. *All documents in the docket are listed on the www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

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

**SUPPLEMENTARY INFORMATION:**

I. Background
II. This Action
III. Final Action
IV. Statutory and Executive Order Reviews

## I. Background

### *a. Emissions Inventory*

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate and current emissions inventories of all sources of the relevant pollutant or pollutants in the area. These inventories provide a detailed accounting of all emissions and emission sources by precursor or pollutant. In the November 12, 2008 Lead Standard rulemaking, EPA finalized the guidance related to the emissions inventories requirements. The current regulations are located at 40 CFR 51.117(e), and include, but are not limited to, the following requirements:

- States must develop and periodically update a comprehensive, accurate, current inventory of actual emissions from all source affecting ambient lead concentrations;
- The SIP inventory must be approved by EPA as a SIP element and is subject to public hearing requirements; and
- The point source inventory upon which the summary of the baseline for lead emissions inventory is based must contain all sources that emit 0.5 or more tons of lead per year.

For the base-year inventory of actual emissions, EPA recommends using either 2010 or 2011 as the base year for the contingency measure calculations, but does provide flexibility for using other inventory years if states can show another year is more appropriate.[1] For lead SIPs, the CAA requires that all sources of lead emissions in the nonattainment area must be submitted with the base-year inventory. In today's action, EPA is approving the base year emissions inventory portion of the SIP revision submitted by Tennessee on April 11, 2013, as required by section 172(c)(3). On October 23, 2013, EPA proposed approval of Tennessee's April 11, 2013, SIP revision. *See* 78 FR 63148. EPA did not receive any comments, adverse or otherwise, on the October 23, 2013, proposed action.

### *b. Conditional Approvals*

On October 4, 2012, Tennessee submitted a letter requesting conditional approval of certain prevention of significant deterioration (PSD)-related infrastructure elements.[2] Specifically, Tennessee requested conditional approval of elements of the infrastructure SIP related to the requirements in its SIP applicable to its permitting program for adopting the $PM_{2.5}$ PSD increments as promulgated in the rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC), Final Rule,'' 75 FR 64864 (October 20, 2010) (hereafter referred to as the ''$PM_{2.5}$ PSD Increments-SILs-SMC Rule''). Following promulgation of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, the PSD increments portion of the Rule became one of the prerequisites for approval of the PSD-related infrastructure requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS and the 2008 8-hour ozone NAAQS. The Rule provides additional regulatory provisions under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for New Source Review, including $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS. PSD increments prevent air quality in attainment/unclassifiable areas from deteriorating to the level set by the NAAQS. As such, an increment is the mechanism used to estimate ''significant deterioration'' of air quality for a pollutant in an area. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.''

With respect to the PSD-related requirements of section 110(a)(2)(D)(i)(II) for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, and sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour ozone NAAQS, EPA conditionally approved Tennessee's infrastructure SIP submissions, because at the time of these approvals, the State had not yet adopted the PSD increments provided in the $PM_{2.5}$ PSD Increments-SILs-SMC Rule; however, the State had committed through the October 4, 2012, commitment letter to do so within one year. Based upon this commitment, and consistent with section 110(k)(4) of the CAA, EPA took final action to conditionally approval the portions of Tennessee's infrastructure SIP submissions related to the above-described PSD program requirements for the $PM_{2.5}$ 1997 annual and the 2006 24-hour NAAQS, and the 2008 8-hour ozone NAAQS. *See* 78 FR 14450 (March 6, 2013) and 78 FR 18241 (March 26, 2013), respectively.

Following these actions, and consistent with the terms of the conditional approvals, Tennessee submitted a SIP revision on May 10, 2013, to adopt the PSD $PM_{2.5}$ increments (set forth in Chapter 1200–03–09 of the Tennessee Air Pollution Control Regulations—*Construction and Operating Permits,* Rule Number .01—Construction Permits) and the then

[1] See EPA document titled ''Addendum to the 2008 Lead NAAQS Implementation Questions and Answers'' dated August 10, 2012, included in EPA's SIP Toolkit located at *http://www.epa.gov/air/lead/kitmodel.html.*

[2] The CAA requires that the SIP provide for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. *See* 42 U.S.C. 7410(a).

applicable regulatory requirements for implementing the $PM_{2.5}$ NAAQS, as promulgated in the $PM_{2.5}$ PSD Increments-SILs-SMC Rule. This SIP revision was provided to satisfy the October 4, 2012, commitment made by the State. On July 25, 2013, EPA took final action approving the May 10, 2013, submittal. *See* 78 FR 44886. As such, Tennessee has satisfied the conditions listed in EPA's previous conditional approvals for these infrastructure submissions. See 78 FR 44886 for additional information.

**II. This Action**

On October 23, 2013 (78 FR 63148), EPA proposed approval of Tennessee's April 11, 2013, submission regarding the Bristol, Tennessee Lead 2010 base year emissions inventory and proposed to convert to full approvals the existing conditional approvals of Tennessee's 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 2008 8-hour ozone NAAQS infrastructure SIPs as they relate to adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality. EPA received no adverse comments on its proposed action and is hereby finalizing approval of this action.

**III. Final Action**

EPA is approving the 2010 base year emissions inventory SIP revision for lead for the Bristol Area as submitted by the State of Tennessee on April 11, 2013. Additionally, EPA is converting to full approvals the March 6, 2013, and March 26, 2013, conditional approvals of the PSD-related requirements of section 110(a)(2)(D)(i)(II) for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, and the PSD-related requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour ozone. EPA is also removing the conditional approval language from 40 CFR 52.2219 to reflect that these elements of the infrastructure SIPs have been converted to full approval, and that Tennessee has met the State's obligations related to the previous conditional approvals. These actions are being taken pursuant to section 110 of the CAA.

**IV. Statutory and Executive Order Reviews**

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 10, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides.

Dated: December 23, 2013.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart RR—Tennessee

■ 2. Section 52.2219 is amended by removing and reserving paragraphs (c) and (e) to read as follows:

**§ 52.2219 Conditional approval.**

* * * * *

(c) [Reserved]

* * * * *

(e) [Reserved]

■ 3. Section 52.2220(e) is amended by adding a new entry for ''Bristol, Tennessee Lead 2010 Base Year Emissions Inventory'' at the end of the table to read as follows:

**§ 52.2220 Identification of plan.**

* * * * *

(e) * * *

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

| Name of non-regulatory SIP provision | Applicable geographic or nonattainment area | State effective date | EPA-approval date | Explanation |
|---|---|---|---|---|
| * | * * | * | * | * * * |
| Bristol, Tennessee Lead 2010 Base Year Emissions Inventory. | Bristol ..... | 4/11/2013 | 1/9/2014 [Insert citation of publication]. | |

[FR Doc. 2014–00030 Filed 1–8–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2010–0819; FRL–9905–16–Region 6]**

## Approval and Promulgation of Air Quality Implementation Plans; Texas; Environmental Speed Limit Revision for the Dallas/Fort Worth 8-Hour Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Texas State Implementation Plan (SIP) for the Dallas/Fort Worth (DFW) ozone nonattainment area to recategorize a local environmental speed limit (ESL) control measure as a transportation control measure (TCM). The EPA is approving this SIP revision because it satisfies the requirements of sections 110 and part D of the Clean Air Act (CAA), and EPA's policy and guidance.

**DATES:** This rule is effective on March 10, 2014 without further notice, unless EPA receives relevant adverse comment by February 10, 2014. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R06–OAR–2010–0819, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions.
- *Email:* Ms. Carrie Paige at *paige.carrie@epa.gov.*
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

*Instructions:* Direct your comments to Docket ID No. EPA–R06–OAR–2010–0819. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Paige, Air Planning Section (6PD–L); telephone (214) 665–6521; email address *paige.carrie@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us,'' and ''our'' means EPA.

### Table of Contents

I. Background
II. EPA's Evaluation
III. Final Action
IV. Statutory and Executive Order Reviews

### I. Background

*a. General Background*

Section 110 of the CAA requires states to develop and submit to EPA a SIP to ensure that state air quality meets the National Ambient Air Quality Standards (NAAQS). These ambient standards currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. The SIP protects air quality primarily by addressing air pollution at its point of origin; it is a set of air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the state, to ensure that the state meets the NAAQS. When a state makes changes to the regulations and control strategies in its SIP, such revision(s) must be submitted to EPA for approval and incorporation into the federally-enforceable SIP. Such regulations and control strategies within the SIP must be specific, permanent, enforceable, and quantifiable.

The SIP under revision in this rulemaking addresses ozone. Ground level ozone is created by a chemical reaction between nitrogen oxides ($NO_X$) and volatile organic compounds (VOCs) in the presence of sunlight and high ambient temperatures.[1] Motor vehicle exhaust and industrial emissions,

[1] $NO_X$ and VOC are known as ''precursors'' to ozone formation.

gasoline vapors, chemical solvents and natural sources emit $NO_X$ and VOCs.

Areas that are designated nonattainment for ozone must develop SIPs under Title 1, Part D of the CAA, which includes section 172, ''Nonattainment plan provisions,'' and subpart 2, ''Additional Provisions for Ozone Nonattainment Areas'' (sections 181–185). Requirements adopted into the SIP pursuant to Part D of the CAA must also be specific, permanent, enforceable and quantifiable. The DFW SIP includes a variety of $NO_X$ and VOC control strategies, including the ESL, which was adopted and submitted to EPA as a local emission reduction strategy in the DFW SIP. The ESL is a local control measure that reduced speed limits in the nine counties [2] from 70 miles per hour to 65 miles per hour and from 65 miles per hour to 60 miles per hour. The technical analysis accompanying the submission of the ESL for approval into the SIP showed a reduction of over 5 tons per day (tpd) of $NO_X$ and 0.5 tpd of VOC. The ESL and associated emission reductions were approved into the DFW SIP as specific, permanent, enforceable and quantifiable on October 11, 2005 (70 FR 58978). To date, TCEQ has not removed nor changed speed limits within the SIP-approved ESL measure.

The DFW SIP also includes TCMs, which were incorporated into the DFW SIP on September 27, 2005 as control strategies that are specific, permanent, enforceable, and quantifiable (70 FR 56374). EPA's regulations define a TCM as any measure that is specifically identified and committed to in the applicable implementation plan, including any substitute or additional TCMs that are incorporated into the applicable SIP through the process established in section 176(c)(8) of the CAA, that is either one of the types listed in section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. See 40 CFR 93.101.

*b. What did the State submit?*

On September 16, 2010, the TCEQ submitted to EPA a revision to the DFW SIP narrative [3] to recategorize the ESL measure from an individual control strategy to a TCM. Chapter 1 of the revised SIP narrative contains a background section detailing the process of collaboration between the NCTCOG, North Texas Tollway Authority, Texas Department of Transportation, EPA Region 6, and TCEQ to recategorize the ESL to a TCM in the SIP. Furthermore, on June 1, 2010, the EPA sent the TCEQ a letter supporting the recategorization of the ESL to a TCM in the DFW ozone nonattainment SIP.[4] Finally, TCEQ provided notice of a public hearing on the SIP revision, giving the public reasonable opportunity to provide oral or written comment on the proposed recategorization during the public hearing.

The September 16, 2010 submittal addresses Chapter 4 of the DFW SIP narrative, which is titled, ''Required Control Strategy Elements'' and pertains to three specific areas within the chapter: TCMs, the motor vehicle emissions budget (MVEB), and the ESL control measure. The September 16, 2010 submittal specifically makes the following revisions:

- Chapter 4, section 4.2 addresses $NO_X$ and VOC control measures and subsection 4.2.3 is titled, ''Transportation Control Measures.'' Within subsection 4.2.3, a new paragraph is added titled, ''Transportation Control Measures Project.'' This new section adds the ESL control measure to the TCM ledger and contains narrative that describes the role of the North Central Texas Council of Governments (NCTCOG).
- Chapter 4, section 4.5 of the DFW SIP is titled, ''Motor Vehicle Emissions Budget'' and is clarified to reflect the recategorization of the ESL within the approved SIP.[5]
- Chapter 4, section 4.7 of the DFW SIP is titled, ''Environmental Speed Limit (ESL) Control Measure Conversion to a Transportation Control Measure (TCM)'' and is revised to transfer the responsibility of maintaining emissions reductions associated with the ESL control measure from the TCEQ to the NCTCOG. Emissions reductions currently associated with the ESL would be maintained as TCMs implemented by the NCTCOG and therefore the associated reductions will remain accounted for within the DFW SIP. While the TCEQ has the ultimate responsibility for ensuring adequate implementation of the SIP, the NCTCOG will be the entity responsible at the local level for implementing all TCMs, including the ESL TCM and ensuring alternative equivalent emission reduction measures are in place should changes to the ESL or other TCM be necessary.

**II. EPA's Evaluation**

As discussed previously in this rulemaking, a TCM is defined at 40 CFR 93.101, in part, as any measure specifically identified and committed to in the applicable implementation plan and that is a measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. The ESL measure was adopted into the SIP as a control measure in the DFW SIP on October 11, 2005 (70 FR 58978) and remains in the SIP through the time of this rulemaking, and therefore is specifically identified and committed to in the DFW SIP. Furthermore, as previously discussed, the ESL measure was approved into the DFW SIP with associated projected reductions of over 5 tpd of $NO_X$ and 0.5 tpd of VOC. Therefore, the ESL is a measure for the purpose of reducing emissions of air pollutants from transportation sources by changing traffic flow or congestion conditions. The EPA thus finds the ESL meets the definition of a TCM as prescribed by 40 CFR 93.101.

Additionally, TCMs used as a control strategy in a SIP must be specific, permanent, enforceable and quantifiable. As previously discussed, EPA approved the ESL measure and associated emissions reductions into the SIP as meeting these requirements (70 FR 58978). Therefore, because the ESL was previously approved into the SIP as meeting these requirements, we expect that upon the effective date of this rulemaking the recategorized ESLs will continue to meet these same requirements regardless of their new formal categorization. Furthermore, as previously discussed, while the TCEQ has the ultimate responsibility for ensuring adequate implementation of the SIP, the NCTCOG will be the entity responsible at the local level for implementing all TCMs, including the

[2] The nine counties are Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant.

[3] The narrative provides an accounting and description of the TCM program components; the submittal did not include rule revisions.

[4] The June 1, 2010 letter from Guy Donaldson of the EPA to Ms. Kathy Singleton of the TCEQ is part of the TCEQ's submittal package and is included in the docket for this rulemaking.

[5] The MVEB is used to determine conformity of transportation plans and programs to the SIP, and is derived from the on-road emissions inventory. Emissions reductions associated with the ESLs to date have been accounted for in the SIP as part of on-road emissions inventories used to develop the MVEB. This recategorization from a local measure to a TCM does not increase or modify the MVEB because there is no net change in emissions reductions from this measure in the on-road emissions inventory the MVEBs are derived from, and TCEQ has thus clarified in Chapter 4, section 4.5 that the MVEB is consistent with the recategorization of the ESL to a TCM. See the DFW 1997 8-hour ozone attainment demonstration SIP (74 FR 1903, January 14, 2009).

newly recategorized ESL. Therefore, we expect that upon the effective date of this rulemaking, the recategorized ESL will be implemented by the NCTCOG as the TCEQ had been implementing the measure.

Section 110(l) of the CAA prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. The EPA finds the recategorization of the existing SIP-approved ESL within the approved SIP does not interfere with any applicable requirement of the CAA because the control strategy itself, including associated emission reductions, remain within the SIP and is only being moved from the category of local initiative measures to the category of TCMs. Therefore, because the State is not removing this control strategy from the SIP, nor substantively revising the strategy, we find that EPA's approval of the recategorization of the ESL to a TCM does not violate section 110(l) of the CAA.

Based on these analyses, the EPA finds the ESL recategorization is approvable as a revision to the DFW SIP.

## III. Final Action

The EPA is taking direct final action to approve a revision to the DFW SIP that recategorizes the ESL control measure by moving it from its current location in the SIP to Chapter 4 subsection 4.2.3, which is a new paragraph titled, ''Transportation Control Measures Project.'' This recategorization adds the ESL to the SIP's ledger of TCMs. The EPA is approving these SIP revisions because they are consistent with the requirements of sections 110 and part D of the CAA and EPA's policy and guidance.

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on *March 10, 2014* without further notice unless we receive adverse comment by *February 10, 2014.* If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## VI. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. section 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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 10, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

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

Dated: December 20, 2013.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

**Subpart SS—Texas**

■ 2. In § 52.2270, the second table in paragraph (e) entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by revising the entry for ''Approval of the Speed Limits Local Initiative Measure in the DFW nine county area.''

The revision reads as follows:

**§ 52.2270 Identification of plan.**

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

| Name of SIP provision | Applicable geographic or nonattainment area | State submittal/ effective date | EPA approval date | Comments |
|---|---|---|---|---|
| * * | * * | * | * * | * |
| Approval of the Speed Limits Local Initiative Measure in the DFW nine county area. Affected counties are Dallas, Tarrant, Collin, Denton, Parker, Johnson, Ellis, Kaufman, Rockwall. | Dallas-Fort Worth ..... | 9/16/2010 | 1/9/2014 [Insert *FR* page number where document begins]. | Recategorized as a Transportation Control Measure. |
| * * | * * | * | * * | * |

[FR Doc. 2014–00047 Filed 1–8–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2012–0909; FRL–9904–70]**

### Tolfenpyrad; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of tolfenpyrad in or on multiple commodities which are identified and discussed later in this document. Nichino America, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective January 9, 2014. Objections and requests for hearings must be received on or before March 10, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0909, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this action apply to me?*

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

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0909 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 10, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0909, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any

information you consider to be CBI or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

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

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of May 02, 2012 (77 FR 25954) (FRL–9346–1), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0F7791) by Nichino America, Inc., 4550 New Linden Hill Rd., Suite 501, Wilmington, DE 19808. The petition requested that 40 CFR 180 be amended by establishing tolerances for residues of the insecticide tolfenpyrad (4-chloro-3-ethyl-1-methyl-*N*-[4-(*p*-tolyloxy) benzyl] pyrazole-5-carboxamide, in or on head lettuce at 5 ppm; leaf lettuce at 30 ppm; leaf petioles, subgroup 4B at 12.5 ppm; spinach at 24 ppm; *Brassica,* head and stem, subgroup 5A at 3.6 ppm; *Brassica,* leafy, subgroup 5B at 44 ppm; vegetable, fruiting group 8 at 0.6 ppm; potatoes at 0.04 ppm; nut, tree group 14 (including pistachio) at 0.04 ppm; almond, hulls at 5.0 ppm; fruit, pome, group 11 at 0.6 ppm; apple, wet pomace at 5.0 ppm; vegetable, cucurbit, group 9 at 0.8 ppm; fruit, stone, group 12 at 3.0 ppm; pomegranates at 3.0 ppm; persimmons at 3.0 ppm; citrus, group 10 at 1.0 ppm; citrus, pulp, dried at 2.0 ppm; citrus, oil at 16.0 ppm; grapes at 2.0 ppm; raisins at 5 ppm; cotton, undelinted seed at 0.6 ppm; cotton, gin byproducts at 9.0 ppm; tea at 20 ppm; milk at 0.03 ppm; cattle, fat, at 0.01 ppm; goat, fat at 0.01 ppm; horse, fat at 0.01 ppm; sheep, fat at 0.01 ppm; cattle, kidney at 0.3 ppm; goat, kidney at 0.3 ppm; horse, kidney at 0.3 ppm; sheep, kidney at 0.3 ppm; cattle, liver at 0.7 ppm; goat, liver at 0.7 ppm; horse, liver at 0.7 ppm; sheep, liver at 0.7 ppm; cattle, meat at 0.02 ppm; goat, meat at 0.02 ppm; horse, meat at 0.02 ppm, and sheep, meat at 0.02 ppm. That document referenced a summary of the petition prepared by Nichino America, Inc., the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised nearly all of the proposed tolerances. The reasons for these changes are explained in Unit IV.D.

## III. Aggregate Risk Assessment and Determination of Safety

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

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

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Tolfenpyrad is a broad-spectrum pyrazole insecticide that is proposed for use to control thrips, aphids and scales through the egg, larval, nymph, and adult stages. The toxicity database for tolfenpyrad is complete. Tolfenpyrad is acutely toxic by oral route, but has low acute inhalation and dermal toxicity. It is also not irritating to the eye and skin and is not a skin sensitizer.

Toxicological testing indicates that tolfenpyrad is not neurotoxic or immunotoxic and it is classified as ''not likely to be carcinogenic to humans.'' However, the most consistent finding across species and studies was effects on body weight and body weight gain. Decreases in body weight and/or body weight gain were observed in adults of all species (rat, mice, rabbit, and dog) in the majority of the subchronic oral and dermal toxicity studies, and all chronic toxicity studies.

The rat is the species most sensitive to body weight changes, with effects observed at much lower doses than in other species. In rats, significant decreases in body weight and body weight gain were observed in subchronic oral and acute and subchronic neurotoxicity studies. Decreases in body weight and body weight gain were also seen in chronic rat studies but at lower doses than observed in the other rat studies. Although seen at lower doses, the body weight decrements noted in the chronic study were not as pronounced as seen after subchronic exposure or in the neurotoxicity studies. Decreases in body weight and body weight gain were also observed in reproduction, developmental toxicity, and developmental immunotoxicity studies at doses comparable to the chronic study. Body weight changes observed in other species were similar in magnitude to those in rats, but were observed at higher doses. Significant decreases in body weight and body weight gain were seen in both mice and dogs after subchronic exposure; these effects were also noted in rabbits in a developmental toxicity study. Chronic exposure resulted in body weight and body weight gain decreases in mice and dogs at lower doses. The severity of body weight changes increased with dose in mice while body weight effects in dogs were seen only at the highest dose tested.

The body weight changes observed in the database were most often seen in the presence of decreased food consumption and in some studies, additional toxicity including liver/kidney effects and clinical signs. Increased liver and kidney weights, liver and kidney hypertrophy, hyaline droplets in the kidney, and color change in the kidney were seen after subchronic exposure in rats. Chronic exposure resulted in similar effects along with color changes in the liver and liver histopathology at slightly lower doses than in the subchronic studies. Other effects noted in rats were effects on the

harderian gland and lymph nodes. In dogs, both liver and kidney histopathology, along with testicular atrophy and clinical signs (emaciation, decreased movement, and staggering gait) were seen in short-term studies. Long-term exposure resulted in histopathology in the liver only, along with increased liver enzymes. No treatment-related effects were noted in the liver or kidney in mice. However, rough coats, hunched posture, ataxia, and hypoactivity were seen in subchronic studies. Missing ears and ear lesions (scabs, sores, ulceration, and inflammation) were seen in a chronic toxicity study. The ear lesions observed were likely self inflicted since the mice in the study were individually caged. No explanation was given to why the lesions occurred and the toxicological significance of this finding is unclear.

Moribundity and/or mortality were noted in at least one study in all species at ≥ 3 milligrams/kilogram/day (mg/kg/day). Moribundity and mortality were noted in two dams in a rat reproduction study, and mortality was noted in one dam in a rabbit developmental toxicity study. Mortality was also observed in two animals in an inhalation toxicity study (range-finding only). In mice and dogs, mortality was observed in both subchronic and chronic toxicity studies. In all cases, effects were observed in the presence of body weight changes and the points of departure (POD) are protective of the observed mortality.

There is no evidence of increased quantitative or qualitative susceptibility in the guideline rat and rabbit developmental studies, or the rat reproduction study. Although several adverse effects were noted in young animals in these studies, the effects were observed in the presence of significant maternal toxicity (significant body weight changes and/or moribundity/mortality). In a non-guideline rat developmental immunotoxicity (DIT) study, a potential increase in qualitative susceptibility was seen. In the study, decreased survival, body weight, body weight gain, increased blackish abdominal cavity, and dark green abnormal intestinal contents were observed in offspring animals at 3 mg/kg/day. At the same dose, decreased body weight (up to 10%), body weight gain (up to 36%) and food consumption were seen in maternal animals. There was no evidence of immunotoxicity observed in the study.

No evidence of neurotoxicity was observed in acute and subchronic neurotoxicity studies for tolfenpyrad. Although hunched posture, ataxia, and hypoactivity were seen in mice in a 28-day toxicity study, these effects were not seen in a 90-day study or after chronic exposure. In dogs, decreased spontaneous movement, and staggering gait were observed after 13 weeks. In rats, decreased motor activity and prone position (lying face down) prior to death were noted in a reproduction study. Overall, the effects noted in the database were agonal effects mainly seen at high doses, not associated with neuropathology, and not noted in long-term studies. The effects observed are consistent with the mode of action for tolfenpyrad (mitochondrial inhibitor) and are not considered evidence of neurotoxicity.

No evidence of carcinogenicity was observed in cancer studies with mice and rats. Therefore, in accordance with EPA's Final Guidelines for Carcinogen Risk Assessment (March 2005), tolfenpyrad is classified as ''not likely to be carcinogenic to humans.'' Specific information on the studies received and the nature of the adverse effects caused by tolfenpyrad as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Tolfenpyrad. Human Health Risk Assessment'' in docket ID number EPA–HQ–OPP–2012–0909.

*B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.* A summary of the toxicological endpoints for tolfenpyrad used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR TOLFENPYRAD FOR USE IN DIETARY HUMAN HEALTH RISK ASSESSMENTS

| Exposure/scenario | Point of departure | Uncertainty/FQPA safety factors | RfD, PAD, level of concern for risk assessment | Study and toxicological effects |
|---|---|---|---|---|
| Acute Dietary (General Population, including Infants and Children). | NOAEL = 10 mg/kg/day. | $UF_A$ = 10 × ..... $UF_H$ = 10 × FQPA SF = 1× | Acute RfD = 0.1 mg/kg/day. aPAD = 0.1 mg/kg/day | LOAEL = 20 mg/kg/day from an acute neurotoxicity study in rats, based on decreased body weight, body weight gain and food consumption |
| Chronic Dietary (All Populations). | NOAEL = 0.6 mg/kg/day. | $UF_A$ = 10 × ..... $UF_H$ = 10 × FQPA SF = 1× | Chronic RfD = 0.006 mg/kg/day. cPAD = 0.006 mg/kg/day | LOAEL = 1.5 mg/kg/day from a combined chronic/carcinogenicity in rats, based on decreased body weight, body weight gain, and food consumption of females, gross changes in the Harderian glands of males, and histopathological changes in the liver, kidney, and mesenteric lymph nodes of females and the kidney of males |

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR TOLFENPYRAD FOR USE IN DIETARY HUMAN HEALTH RISK ASSESSMENTS—Continued

| Exposure/scenario | Point of departure | Uncertainty/FQPA safety factors | RfD, PAD, level of concern for risk assessment | Study and toxicological effects |
|---|---|---|---|---|
| Cancer ..... | Classification: ''Not likely to be Carcinogenic to Humans'' based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies. | | | |

Point of Departure (POD) = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. NOAEL = no observed adverse effect level. LOAEL = lowest observed adverse effect level. UF = uncertainty factor. $UF_A$ = extrapolation from animal to human (interspecies). $UF_H$ = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = FQPA Safety Factor. PAD = population-adjusted dose (a = acute, c = chronic). RfD = reference dose.

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to tolfenpyrad, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from tolfenpyrad in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for tolfenpyrad. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues.

ii. *Chronic exposure.* The chronic assessment is significantly refined. Inputs to the chronic assessment include average residue levels from crop field trials; use of projected PCT estimates for foods that were shown to have a high contribution to the overall dietary exposure (as discussed in Unit III.C.1.iv.) and assumptions of 100 PCT for the rest of the commodities; liberal translation of juice processing factors; and reduction of residues from removal of head lettuce and cabbage wrapper leaves.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that there was no evidence of carcinogenicity in cancer studies with mice and rats. Therefore, a cancer exposure assessment was not conducted.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such Data Call-Ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

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

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

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

The Agency estimated the PCT for new uses as follows: 40% for oranges; 65% for table grapes; and 50% for spinach.

EPA estimates PCT for new uses for tolfenpyrad based on the PCT of the dominant pesticide (i.e., the one with the greatest PCT) on that site over the three most recent years of available data. Comparisons are only made among pesticides of the same pesticide types (i.e., the dominant insecticide on the use site is selected for comparison with a new insecticide). The PCTs included in the analysis may be for the same pesticide or for different pesticides since the same or different pesticides may dominate for each year. Typically, EPA uses USDA/NASS as the source for raw PCT data because it is publicly available and does not have to be calculated from available data sources. When a specific use site is not surveyed by USDA/NASS, EPA uses proprietary data and calculates the estimated PCT.

The estimated PCT for new uses, based on the average PCT of the market leader, is appropriate for use in the chronic dietary risk assessment. This method of estimating a PCT for a new use of a registered pesticide or a new pesticide produces a high-end estimate that is unlikely, in most cases, to be exceeded during the initial 5 years of actual use. The predominant factors that bear on whether the estimated PCT for new uses could be exceeded are (1) the extent of pest pressure on the crops in question; (2) the pest spectrum of the new pesticide in comparison with the market leaders as well as whether the market leaders are well-established for this use; and (3) resistance concerns with the market leaders.

All information currently available has been considered for tolfenpyrad, and it is the opinion of the Agency that it is unlikely that actual PCT for tolfenpyrad will exceed the estimated PCT for new uses during the next 5 years.

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

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

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of tolfenpyrad for acute exposures are 26.9 parts per billion (ppb) in surface water and 11 ppb for ground water; for chronic exposures, 12.2 ppb in surface water and 11 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, the water concentration of value 26.9 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 12.2 ppb was used to assess the contribution to drinking water.

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

Tolfenpyrad is not registered for any specific use patterns that would result in residential exposure.

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

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

### *D. Safety Factor for Infants and Children*

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

2. *Prenatal and postnatal sensitivity.* Although there seems to be increased qualitative susceptibility in the young in the developmental immunotoxicity study (DIT) in rats, there is low concern and there are no residual uncertainties regarding increased quantitative or qualitative prenatal and/or postnatal susceptibility for tolfenpyrad. When the DIT study is considered along with the reproduction study, the offspring toxicity in the DIT study was observed at the same dose as comparable maternal toxicity (moribundity/mortality) in the reproduction study. Therefore, EPA does not consider the isolated incident in the DIT a true indicator of qualitative susceptibility. Additionally, the effects observed in the DIT study are well-characterized, a clear NOAEL was identified, and the endpoints chosen for risk assessment are protective of potential offspring effects.

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

i. The toxicity database for tolfenpyrad is complete.

ii. There is no indication that tolfenpyrad is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. Although there is some evidence that tolfenpyrad may result in increased susceptibility, the concern for developmental or reproductive effects is low for the reasons contained in Unit III.D.2., and thus, a 10X FQPA safety factor is not necessary to protect infants and children.

iv. There are no residual uncertainties with regard to the exposure assessment. The acute dietary exposure assessment is based on high-end health protective residue levels (that account for parent and metabolites of concern), processing factors, and PCT assumptions (100%). The chronic dietary assessment incorporates significant refinement in that average residue values were used and projected PCT estimates were used for a few crops, the estimates are below the level of concern for all population subgroups because conservative assumptions, including the highly unlikely scenario that 100% of the planted acreage would be treated. Furthermore, conservative, upper-bound assumptions were used to determine exposure through drinking water, such that these exposures have not been underestimated. There are no residential exposure scenarios at this time.

### *E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure

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

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. For the acute assessment, the dietary risk for the U.S. population is estimated to be 62% of the aPAD. Children 3–5 years old are the highest-exposed population subgroup, with an estimated exposure at the 95th percentile of 0.076 mg/kg/day, which corresponds to 76% of the aPAD. Typically EPA has concerns when estimated exposures exceed 100% of the acute or chronic population-adjusted dose (aPAD or cPAD). Acute dietary risk estimates are below EPA's level of concern for all population subgroups.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to tolfenpyrad from food and water will utilize 69% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of topramezone is not expected.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Short- and intermediate-term adverse effects were identified; however, tolfenpyrad is not registered for any use patterns that would result in short- or intermediate-term residential exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- and intermediate-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for tolfenpyrad.

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

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

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodologies are available in Pesticide Analytical Manual II (PAM II) for citrus and processed fractions (Method I), ginned cottonseed (Method IA), and bovine tissues and milk (Method II). Additionally, Method M–073 and M–936–95–2 have been validated by the Agency and submitted for inclusion in PAM II as enforcement methods. These five methods are adequate for enforcement of the tolerances on plants and livestock. Method M–073 and M–936–95–2 may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

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

The Codex has not established MRLs for tolfenpyrad.

### *C. Revisions to Petitioned-For Tolerances*

Nearly all of the commodity definitions for the petitioned-for tolerances are inconsistent with the current Agency definitions and must be revised. For head lettuce, spinach, and celery subgroup 4B leaf petioles, EPA has concluded that a group tolerance of 30 ppm for vegetable, leafy, except Brassica, group 4 is appropriate. For all remaining crops (except prune, grape, milk, and cattle, goat, horse, and sheep fat), EPA revised the tolerance values based on residue data and the use of the Organization for Economic Cooperation and Development (OECD) tolerance calculation procedures.

The submitted data for processed commodities are adequate and sufficient for the assessing and establishing tolerances associated with the proposed registration. EPA cannot determine the cause of the differences in the proposed tolerances for citrus dried pulp and oil, and raisin.

EPA is establishing tolerances for meat and meat byproducts that differ from the requested livestock tolerances due to differences between the dietary burden calculation generated by the petitioner and that generated by the Agency.

Finally, as EPA explained in its latest crop group rulemaking (77 FR 50617, August 22, 2012) (FRL–9354–3), EPA will attempt to conform petitions seeking tolerances for crop groups to the newer established crop groups, rather than establish new tolerances under the pre-existing crop groups, as part of its effort to eventually convert tolerances for any pre-existing crop group to tolerances with coverage under the revised crop group. Therefore, although the petitioner requested tolerances for crop groups 8 (fruiting vegetables), 10 (citrus fruit), 11 (pome fruit), 12 (stone fruit), and 14 (tree nuts), EPA evaluated and is establishing tolerances for crop groups 8–10 (fruiting vegetables), 10–10 (citrus fruit), 11–10 (pome fruit), 12–12 (stone fruit), and 14–12 (tree nuts).

## V. Conclusion

Therefore, tolerances are established for residues of tolfenpyrad, (4-chloro-3-ethyl-1–methyl-*N*-[4-(*p*-tolyloxy) benzyl] pyrazole-5-carboxamide in or on almond, hulls at 6.0 ppm; citrus, dried pulp at 8.0 ppm; citrus, oil at 70 ppm; cotton, undelinted seed at 0.70 ppm; cotton, gin byproducts at 15 ppm; fruit, citrus, group 10–10 at 1.5 ppm; fruit, stone, group 12–12 at 2.0 ppm; grape at 2.0 ppm; grape, raisin at 6.0 ppm; nut, tree, group 14–12 at 0.05 ppm; persimmon at 2.0 ppm; plum, prune at 3.0 ppm; pomegranate at 2.0 ppm; potato at 0.01 ppm; tea at 30 ppm; vegetable, leafy, except Brassica, group 4 at 30 ppm; milk at 0.03. ppm; cattle, fat at 0.01 ppm; cattle, meat at 0.01 ppm; cattle, meat byproducts at 0.35 ppm; goat, fat at 0.01 ppm; goat, meat at 0.01 ppm; goat, meat byproducts at 0.35 ppm; horse, fat at 0.01 ppm; horse,

meat at 0.01 ppm; horse, meat by products at 0.35 ppm; sheep, fat at 0.01 ppm; sheep, meat at 0.01 ppm; and sheep, meat byproducts at 0.35 ppm.

### VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

### VII. Congressional Review Act

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

### List of Subjects in 40 CFR Part 180

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

Dated: December 23, 2013.

**Steven Bradbury,**

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

■ 2. Add § 180.675 to subpart C to read as follows:

### § 180.675 Tolfenpyrad; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide tolfenpyrad, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only tolfenpyrad, 4-chloro-3-ethyl-1-methyl-*N*-[4-(*p*-tolyloxy)benzyl]pyrazole-5-carboxamide.

| Commodity | Parts per million |
|---|---|
| Almond hulls | 6.0 |
| Citrus, dried pulp | 8.0 |
| Citrus, oil | 70.0 |
| Cotton, gin byproducts | 15.0 |
| Cotton, undelinted seed | 0.70 |
| Fruit, stone, group 12–12 | 2.0 |
| Fruits, citrus, group 10–10 | 1.5 |
| Grape | 2.0 |
| Grape, raisin | 6.0 |
| Nuts, tree, group 14–12 | 0.05 |
| Persimmon | 2.0 |
| Plum, prune | 3.0 |
| Pomegranate | 2.0 |
| Potato | 0.01 |
| Tea | 30.0 |
| Vegetable, leafy, except Brassica, group 4 | 30.0 |

(2) Tolerances are established for residues of the insecticide tolfenpyrad, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified below is to be determined by measuring only the sum of tolfenpyrad, 4-chloro-3-ethyl-1-methyl-*N*-[4-(*p*-tolyloxy)benzyl]pyrazole-5-carboxamide, and its metabolite 4-[4-[(4-chloro-3-ethyl-1-methylpyrazol-5-yl)carbonylamino-methyl]phenoxy]-benzoic acid, calculated as the

stoichiometric equivalent of tolfenpyrad.

| Commodity | Parts per million |
|---|---|
| Cattle, fat | 0.01 |
| Cattle, meat | 0.01 |
| Cattle, meat byproducts | 0.35 |
| Goat, fat | 0.01 |
| Goat, meat | 0.01 |
| Goat, meat byproducts | 0.35 |
| Horse, fat | 0.01 |
| Horse, meat | 0.01 |
| Horse, meat byproducts | 0.35 |
| Milk | 0.03 |
| Sheep, fat | 0.01 |
| Sheep, meat | 0.01 |
| Sheep, meat byproducts | 0.35 |

(b) *Section 18 emergency exemptions.* [Reserved].

(c) *Tolerances with regional registration.* [Reserved].

(d) *Indirect or inadvertent residues.* [Reserved].

[FR Doc. 2014–00163 Filed 1–8–14; 8:45 am]

**BILLING CODE 6560–50–P**

# Proposed Rules

Federal Register
Vol. 79, No. 6
Thursday, January 9, 2014

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

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2013–1016; Airspace Docket No. 13–ANM–25]**

## Proposed Modification of Class E Airspace; Hulett, WY

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify Class E airspace at Hulett Municipal Airport, Hulett, WY. Controlled airspace is necessary to accommodate aircraft using the Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Hulett Municipal Airport, Hulett, WY. The FAA is proposing this action to enhance the safety and management of aircraft operations at Hulett Municipal Airport, Hulett, WY.

**DATES:** Comments must be received on or before February 24, 2014.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2013–1016; Airspace Docket No. 13–ANM–25, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2013–1016 and Airspace Docket No. 13–ANM–25) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–1016 and Airspace Docket No. 13–ANM–25''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the ''**ADDRESSES**'' section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

### The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace at Hulett Municipal Airport, Hulett, WY, to accommodate RNAV (GPS) standard instrument approach procedures at Hulett Municipal Airport, Hulett, WY. Controlled airspace would extend upward from 700 feet above the surface within an 8.3-mile radius of the airport; and from 1,200 feet above the surface within prescribed parameters. This action would enhance the safety and management of aircraft operations at the airport.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9X, dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this proposed rule, when promulgated, would not have a significant economic impact on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify controlled airspace at Hulett Municipal Airport, Hulett, WY.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ANM WY E5 Hulett, WY [Modify]**

Hulett Municipal Airport, WY
(Lat. 44°39′46″ N., long. 104°34′04″ W.)

That airspace extending upward from 700 feet above the surface within 8.3-mile radius of Hulett Municipal Airport; that airspace extending upward from 1,200 feet above the surface beginning at lat. 44°54′00″ N., long. 105°18′00″ W.; to lat. 44°52′00″ N., long. 104°00′00″ W.; to lat. 43°56′00″ N., long. 103°37′00″ W.; to lat. 43°48′00″ N., long. 105°16′00″ W.; to lat. 44°20′00″ N., long. 105°26′00″ W., thence to the point of beginning.

Issued in Seattle, Washington, on December 19, 2013.

**Clark Desing,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2014–00154 Filed 1–8–14; 8:45 am]

**BILLING CODE 4910–13–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2010–0819; FRL–9905–15–Region 6]**

## Approval and Promulgation of Air Quality Implementation Plans; Texas; Environmental Speed Limit Revision for the Dallas/Fort Worth 8-Hour Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Texas State Implementation Plan (SIP) for the Dallas/Fort Worth ozone nonattainment area to recategorize a local environmental speed limit control measure to a transportation control measure. The EPA is proposing to approve this SIP revision because it satisfies the requirements of sections 110 and part D of the Clean Air Act (CAA), and EPA's policy and guidance.

**DATES:** Written comments should be received on or before February 10, 2014.

**ADDRESSES:** Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Paige, Air Planning Section (6PD–L); telephone (214) 665–6521; email address *paige.carrie@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: December 20, 2013.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2014–00046 Filed 1–8–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R04–OAR–2012–0285; FRL–9905–08–Region 4]**

## Approval and Promulgation of Implementation Plans; Tennessee; Conflict of Interest and Notice of Finding of Disapprovals

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule and notice of disapproval.

**SUMMARY:** EPA is taking three actions pertaining to the infrastructure requirements of the Clean Air Act (CAA or Act) for the State of Tennessee. First, EPA is providing notice of its findings of disapproval for a sub-element of the Tennessee infrastructure state implementation plans (SIPs) for the 2008 Lead National Ambient Air Quality Standards (NAAQS), 1997 Annual Fine Particulate Matter ($PM_{2.5}$) NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS. Specifically, EPA is providing notice of the disapproval of the previously conditionally-approved portion of the State board and conflict of interest requirements of the infrastructure SIPs for these NAAQS. These disapprovals were triggered automatically on July 23, 2013, when Tennessee failed to submit revisions to address the CAA State board and conflict of interest requirements within the timeframes specified in EPA's conditional approval

actions. Second, EPA is proposing to approve the SIP revision submitted by Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on October 9, 2013, as meeting the applicable requirements of the Act. This SIP revision addresses Tennessee's outstanding obligations related to the CAA State board and conflict of interest requirements. Finally, EPA is proposing to approve the infrastructure SIP sub-element related to the State board and conflict of interest requirements for the 2008 Lead, 1997 annual $PM_{2.5}$, 2006 24-hour $PM_{2.5}$, and 1997 8-hour ozone NAAQS. Approval of these infrastructure SIP requirements for the listed NAAQS would result in the disapprovals noticed above for this sub-element being converted to approvals. Final approval of these infrastructure SIP sub-elements, however, is contingent upon final approval of the underlying October 9, 2013, SIP revision to address the CAA requirements also proposed through this action. EPA notes that all other applicable Tennessee infrastructure elements for the 2008 Lead, 1997 annual $PM_{2.5}$, 2006 24-hour $PM_{2.5}$, and 1997 8-hour ozone NAAQS have been addressed in separate rulemakings.

**DATES:** Written comments must be received on or before February 10, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0285, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4–RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2012–0285,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R04–OAR–2012–0285. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

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

**SUPPLEMENTARY INFORMATION:**

I. Background
II. Section 110(a)(2)(E) Adequate Resources Requirements
III. Notice of Disapproval
IV. EPA's Analysis of Tennessee's Conflict of Interest Submission
V. EPA's Analysis Supporting the Proposed Approval of Sub-element 110(a)(2)(E)(ii)
VI. Proposed Action
VII. Statutory and Executive Order Reviews

## I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. On July 23, 2012 (77 FR 42997), August 2, 2012 (77 FR 45958), and June 18, 2013 (78 FR 36440), EPA approved in part, and conditionally approved in part, Tennessee's infrastructure SIPs for the 1997 8-hour ozone NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 2008 Lead NAAQS respectively.

## II. Section 110(a)(2)(E) Adequate Resources Requirements

EPA conditionally approved a portion of the Tennessee infrastructure SIP submissions addressing the 1997 8-hour ozone NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 2008 Lead NAAQS. Specifically, EPA conditionally approved the portion of section 110(a)(2)(E)(ii) respecting Act's section 128(a)(1) requirements (hereafter ''sub-element 110(a)(2)(E)(ii)'')

for each of the above NAAQS. Sub-element 110(a)(2)(E)(ii) provides that each infrastructure SIP shall provide requirements ''that the State comply with the requirements respecting State board under section [128 of the CAA]. . . .'' Section 128 in turn provides that each SIP shall contain requirements that: (1) Any board or body which approves permits or enforcement orders under the CAA shall have at least a majority of members who represent the public interest and do not derive a significant portion of their income from persons subject to permits or enforcement orders under the Act (hereafter ''section 128(a)(1) requirements''); and, (2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed (hereafter ''section 128(a)(2) requirements.'') EPA was unable to fully-approve Tennessee's infrastructure submissions for the above NAAQS with respect to sub-element 110(a)(2)(E)(ii) because, at the time, the SIP did not include provisions to address the section 128(a)(1) requirements.[1]

On, March 28, 2012, TDEC transmitted a letter to EPA, committing to adopt specific enforceable measures into its SIP by July 23, 2013, to address the applicable portions of section 128(a)(1). In Tennessee's March 28, 2012, letter, TDEC committed to bring its SIP into conformity with section 128(a)(1) of the CAA by submitting a SIP revision that designated at least a majority of the positions on the State's Air Pollution Control Board [2] as being subject to the ''public interest'' requirement. In addition, TDEC committed to submitting a SIP revision establishing requirements to ensure that at least a majority of the members on the State's Air Pollution Control Board do not derive any significant portion of their income from persons subject to CAA permits or enforcement orders. TDEC also described in the letter that its planned restrictions related to the ''significant portion of income'' requirement of section 128 would include an exclusion for the official salaries of mayors of counties and municipalities, and for faculty members employed by institutions of higher learning.

[1] The section 128(a)(2) conflict of interest disclosure requirements, however, were met by existing provisions in the Tennessee SIP. *See* 77 FR 42997, page 42998; 77 FR 45958, 45960; and 78 FR 36440, 36442.

[2] The composition of Tennessee's Air Pollution Control Board is statutorily prescribed at Tennessee Code Annotated 68–201–104.

## III. Notice of Disapproval

EPA's conditional approval authority is provided at section 110(k)(4) of the CAA. Consistent with the requirements for EPA's exercise of the conditional approval authority, the commitment from Tennessee provided that the State would adopt the specified enforceable provisions and submit a revision to EPA for approval within one year of final action of the conditional approval.[3] As described at section 110(k)(4), and as noted by EPA in its conditional approval actions, failure by the State to adopt the specified provisions and submit them to EPA for incorporation into the SIP by July 23, 2013, would result in the conditional approvals being treated as disapprovals. Tennessee failed to meet the July 23, 2013, commitment; therefore, the conditional approvals automatically became disapprovals on that date.

EPA was not required to propose a finding of disapproval in order for the conditional approvals to convert to disapprovals. However, the Agency is hereby notifying the public of the finding of disapprovals for Tennessee's 2008 Lead NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS infrastructure SIPs as they relate to the sub-element 110(a)(2)(E)(ii) requirements respecting section 128(a)(1) requirements.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of a Part D Plan (42 U.S.C. 7501–7515) or is required in response to a finding of substantial inadequacy as described in section 7410(k)(5) (SIP call) starts a sanctions clock. Sub-element 110(a)(2)(E)(ii) requirements are not submitted pursuant to Part D requirements, and therefore, no sanctions will be triggered by Tennessee's failure to submit SIP revisions for these requirements. The disapprovals do however trigger the requirement under section 110(c) that EPA promulgate a Federal Implementation Plan (FIP) no later than 2 years from the date of the disapproval unless the State corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP.

In this rulemaking, EPA is also proposing to approve Tennessee's October 9, 2013, SIP revision to address the section 128(a)(1) CAA requirements. Provided that EPA finalizes approval of TDEC's October 9, 2013, SIP revision, on or before July 23, 2015 (two years from the date Tennessee's sub-element 110(a)(2)(E)(ii) conditional approvals converted to disapprovals), Tennessee will have corrected the infrastructure SIP deficiencies and a FIP for sub-element 110(a)(2)(E)(ii) will not be necessary.

As stated above, this notice of disapproval is limited to the section 128(a)(1) requirements and the associated sub-element 110(a)(2)(E)(ii) requirements of Tennessee's infrastructure SIPs for the 2008 Lead NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS. All other applicable aspects of these infrastructure SIPs have been addressed in separate rulemakings. *See* July 23, 2012 (77 FR 42997), August 2, 2012 (77 FR 45958), and June 18, 2013 (78 FR 36440).

[3] EPA's initial final action to conditionally approve sub-element 110(a)(2)(E)(ii) occurred on July 23, 2012. Therefore, Tennessee's commitment to submit the specific enforceable measures necessary to comply with section 128(a)(1) requirements was due no later than July 23, 2013. *See* 77 FR 42997.

## IV. EPA's Analysis of Tennessee's Conflict of Interest Submission

TDEC's October 9, 2013, SIP revision repeals Chapter 1200–3–17 moving the contents to a new Chapter 0400–30–17—*Conflict of Interest,* and adds a new section 0400–30–17–.02 *Protecting the Public Interests* and 0400–30–17–.05 *Policy of Ethics and the Avoidance of Conflicts of Interest.* EPA is proposing to approve this change because the Agency has preliminarily determined that, once approved into the Tennessee SIP, this change will address the section 128(a)(1) requirements that any board or body which approves permits or enforcement orders have at least a majority of members who represent the public interest and not derive a significant portion of their income from persons subject to permits or enforcement orders under the Act. As noted above, TDEC submitted the October 9, 2013, SIP revision to meet the requirements outlined in EPA's conditional approvals published on July 23, 2012 (77 FR 42997), August 2, 2012 (77 FR 45958), and June 18, 2013 (78 FR 36440), for the 1997 8-hour ozone NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and the 2008 Lead NAAQS respectively.

Specifically, TDEC's revision would incorporate a new rule into its SIP to address section 128(a)(1) requirements. Rule 0400–30–17–.02 *Protecting the Public Interests* contains definitions and requirements that will enable the Board to clearly determine if it has a majority of members who represent the public interest and do not derive a significant portion of their income from persons subject to permits or enforcement orders

under the Act. The intent of rule 0400–30–17–.02 is to ensure that at least half of the Board serves in the public interest and does not derive significant income from person subject to permits or enforcement orders under the Act. Pursuant to these provisions, in the event the Tennessee Air Pollution Control Board is unable to determine that it is comprised consistent with the requirements of section 128(a)(1), the revisions prevent the Board from hearing contested cases until such time as it complies with the requirements of section 128.

TDEC is also revising sections 0400–30–17–.01 *Purpose and Intent* (formally 1200–3–17–.01), 0400–30–17–.03 *Conflict of Interest on the Part of the Board and Technical Secretary* (formally 1200–3–17–.02) and 0400–30–17–.04 *Conflict of Interest in the Permitting of Municipal Solid Waste* (formally 1200–3–17–.03) of the SIP and adding two new sections to address protecting the public interest and conflict of interest (0400–30–17–.02 *Protecting the Public Interests* and 0400–30–17–.05 *Policy of Ethics and the Avoidance of Conflicts of Interest*). EPA has preliminarily determined that these revisions, once approved into the SIP, will be sufficient to meet the State's obligations pursuant to the requirements of CAA section 128(a)(1).

## V. EPA's Analysis Supporting the Proposed Approval of Sub-Element 110(a)(2)(E)(ii)

Sub-element 110(a)(2)(E)(ii) requires that the state comply with the requirements respecting State Boards pursuant to section 128 of the Act. With respect to sub-element 110(a)(2)(E)(ii), EPA reviews infrastructure SIP submissions to ensure that the SIP includes SIP-approved provisions satisfying section 128 requirements. As previously discussed, Tennessee's SIP includes provisions respecting the section 110(a)(2) requirements, and following approval of the October 9, 2013, SIP revision to address section 128(a)(1) requirements, would fully meet the applicable section 128 requirements for the State.

Accordingly, EPA is hereby proposing to approve sub-element 110(a)(2)(E)(ii) with respect to the applicable section 128(a)(1) requirements for the 2008 Lead NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS. Final action to approve this infrastructure SIP sub-element for the above NAAQS is contingent upon approval of the October 9, 2013, SIP revision into the Tennessee SIP. Should that approval be finalized, EPA anticipates finalizing the sub-element 110(a)(2)(E)(ii) approvals concurrently through the same approval notice.

## VI. Proposed Action

EPA is notifying the public of findings of disapprovals for Tennessee's 2008 Lead NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS infrastructure SIP sub-element 110(a)(2)(E)(ii) requirements as they relate to section 128(a)(1) requirements. EPA conditionally approved this portion of Tennessee's infrastructure submissions for these NAAQS on July 23, 2012, August 2, 2013, and June 18, 2013. Tennessee failed to meet the July 23, 2013, submission deadline associated with these commitments, therefore, the conditional approvals automatically converted to disapprovals on that date. EPA is not required to propose a finding for these disapprovals; however, the Agency is providing the public with notice of these findings through this action. Provided EPA finalizes approval of the October 9, 2013, SIP revision to address the section 128(a)(1) requirements, the Agency intends to fully approve the section 110(a)(2)(E)(ii) sub-element of Tennessee's infrastructure SIP for the 2008 Lead NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS, and thereby, convert the disapprovals noticed through this action into approvals.

As described above, EPA is also proposing to approve Tennessee's October 9, 2013, SIP revision, as addressing applicable CAA section 128(a)(1) requirements. Specifically, EPA is proposing to approve Tennessee's new Chapter 0400–30–17 *Conflict of Interest* which replaces Chapter 1200–03–17 in its entirety.

Finally, EPA is proposing to approve infrastructure SIP sub-element 110(a)(2)(E)(ii) as it relates to section 128(a)(1) requirements for purposes of the 2008 Lead NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS in Tennessee. Final approval of the section 110(a)(2)(E)(ii) sub-element for these NAAQS is contingent upon approval of the section 128(a)(1) requirements SIP revision also proposed for approval through this action.

EPA notes that the subject of this notice is limited to the section 128(a)(1) requirements and the associated infrastructure SIP sub-element 110(a)(2)(E)(ii). All other applicable Tennessee infrastructure SIP elements for the 2008 Lead NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS have been addressed in separate rulemakings.

## VII. Statutory and Executive Order Reviews

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

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

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that

it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

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

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

Dated: December 20, 2013.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2013–31561 Filed 1–8–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R06–OAR–2012–0100; FRL–9904–97–Region 6]**

## Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for the 1997 8-Hour Ozone National Ambient Air Quality Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) for the Houston/Galveston/Brazoria (HGB) 1997 8-Hour ozone nonattainment Area (Area). The HGB Area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. Specifically, we are proposing to approve portions of two revisions to the Texas SIP submitted by the Texas Commission on Environmental Quality (TCEQ) as meeting certain Reasonably Available Control Technology (RACT) requirements for Volatile Organic Compounds (VOC) in the HGB Area. This action is in accordance with section 110 of the federal Clean Air Act (the Act, CAA).

**DATES:** Comments must be received on or before February 10, 2014.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2012–0100, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Email:* Alan Shar at *shar.alan@epa.gov*.
- *Mail or delivery:* Air Planning Section Chief (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

*Instructions:* Direct your comments to Docket ID No. EPA–R06–OAR–2012–0100. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *www.regulations.gov* or email that you consider to be CBI or otherwise protected from disclosure. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar (6PD–L), telephone (214) 665–2164, email *shar.alan@epa.gov*.

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

**Outline**

I. Background
A. What actions are we proposing?
1. The June 13, 2007 submittal
2. The April 6, 2010 submittal
B. What is RACT?
II. Evaluation
A. What is TCEQ's approach and analysis to RACT?
B. What CTG source categories are we addressing in this action?
C. Are there any negative declarations associated with the VOC source categories in the HGB Area?
D. Is Texas' approach to RACT determination based on the June 13, 2007 and April 6, 2010 submittals acceptable?
E. Is Texas' approach to RACT determination for VOC sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?
III. Proposed Action
IV. Statutory and Executive Order Reviews

## I. Background

*A. What actions are we proposing?*

We are proposing to approve portions of revisions to the Texas SIP submitted to EPA with two separate letters dated June 13, 2007 and April 6, 2010 from TCEQ. These two separate submittals are described below.

1. The June 13, 2007 Submittal

The June 13, 2007 submittal concerns revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds. In addition, the June 13, 2007 submittal included an analysis intended to demonstrate RACT was being implemented in the HGB Area as required by the CAA (Appendix D of the submittal). We approved selected revisions as meeting RACT under the 8-hour ozone NAAQS for some, but not all the submitted industry source categories in the HGB Area on April 2, 2013 at 78 FR 19599. In today's action, we are addressing additional source categories covered in this SIP submittal.

2. The April 6, 2010 Submittal

In conjunction with the June 13, 2007 submittal, we are also proposing to approve a part of the April 6, 2010 revision to the Texas SIP for VOC RACT purposes. Specifically, we are proposing to find, based on the analysis in Appendix D of the April 6, 2010 submittal that Texas has met certain RACT requirements under section 182(b). Appendix D of the April 6, 2010 submittal is titled ''Reasonably Available Control Technology Analysis.'' and includes source

categories affected by the newly EPA-issued CTGs. See section B for more information on RACT evaluation for the HGB Area.

*B. What is RACT?*

The EPA has defined RACT as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. See 44 FR 53761, September 17, 1979. Section 172(c)(1) of the Act requires that SIPs for nonattainment areas ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the primary National Ambient Air Quality (NAAQS) standards.''

Section 182(b)(2) of the Act requires states to submit a SIP revision and implement RACT for moderate and above ozone nonattainment areas. For a Moderate, Serious, or Severe Area a major stationary source is one which emits, or has the potential to emit, 100, 50, or 25 tons per year (tpy) or more of VOCs or $NO_X$, respectively. See CAA sections 182(b), 182(c), and 182(d). The EPA provides states with guidance concerning what types of controls could constitute RACT for a given source category through the issuance of Control Techniques Guidelines (CTG) and Alternative Control Techniques (ACT) documents. See *http://www.epa.gov/ttn/naaqs/ozone/ctg_act/index.htm* (URL dating May 23, 2012) for a listing of EPA-issued CTGs and ACTs for VOC.

The HGB Area was designated as Severe for the 1997 8-Hour ozone NAAQS. See 73 FR 56983, October 1, 2008. Thus, per section 182(d) of the CAA, a major stationary source in the HGB Area is one which emits, or has the potential to emit, 25 tpy or more of VOCs or $NO_X$. Under sections 182(b), the SIP for the HGB Area must implement RACT for source categories covered by CTGs, and for major sources with a potential to emit of 25 tpy or more not covered by a CTG. The inventory of VOC and $NO_X$ sources listed in Appendix D of the April 6, 2010 submittal demonstrates these requirements are fulfilled.

Under section 183(b), EPA is required to periodically review and, as necessary, update CTGs. EPA issued a number of new CTGs in 2006, 2007, and 2008. Accordingly, Texas revised its Chapter 115 regulations to address these VOC RACT control measures.

## II. Evaluation

*A. What is TCEQ's approach and analysis to RACT?*

Under sections 182(b)(2)(A) and (B) states must insure RACT is in place for each source category for which EPA issued a CTG, and for any major source not covered by a CTG. As a part of its June 13, 2007 submittal, TCEQ conducted a RACT analysis to demonstrate that the RACT requirements for CTG sources in the HGB 8-Hour ozone nonattainment Area have been fulfilled. The TCEQ revised and supplemented this analysis in its April 6, 2010 submittal. The TCEQ conducted its analysis by: (1) Identifying all categories of CTG and major non-CTG sources of VOC emissions within the HGB Area; (2) Listing the state regulation that implements or exceeds RACT requirements for that CTG or non-CTG category; (3) Detailing the basis for concluding that these regulations fulfill RACT through comparison with established RACT requirements described in the CTG guidance documents and rules developed by other state and local agencies; and (4) Submitting negative declarations when there are no CTG or major Non-CTG sources of VOC emissions within the HGB Area. We are proposing that TCEQ's submittal, for affected VOC sources in the HGB Area addressed in this notice, provide for the implementation of all reasonably available control measures as expeditiously as practicable and shall provide for attainment of the primary National Ambient Air Quality (NAAQS) standards.

*B. What CTG source categories are we addressing in this action?*

Table 1 below contains a list of VOC CTG source categories and their corresponding sections of 30 TAC Chapter 115 to fulfill the applicable RACT requirements under section 182(b) of the Act.

TABLE 1—CTG SOURCE CATEGORIES AND THEIR CORRESPONDING TEXAS VOC RACT RULES

| Entry No. | Source category in HGB area | CTG Reference document | Chapter 115, fulfilling RACT |
|---|---|---|---|
| 1 | Aerospace | Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations. | §§ 115.420–429. |
| 2 | Surface coating for insulation of magnets. | Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire. | §§ 115.420–429. |
| 3 | Surface coating of coils | *Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.* | §§ 115.420–429. |
| 4 | Surface coating of fabrics | *Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.* | §§ 115.420–429. |
| 5 | Surface coating of cans | *Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.* | §§ 115.420–429. |
| 6 | Use of cutback asphalt | Control of Volatile Organic Emissions from Use of Cutback Asphalt | §§ 115.510–519. |
| 7 | Wood furniture | Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations. | §§ 115.420–429. |
| 8 | Large petroleum dry cleaners | Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners. | §§ 115.552–559. |

*C. Are there any negative declarations associated with the VOC source categories in the HGB Area?*

Yes, Texas has declared that there are no Fiberglass Boat Manufacturing Materials Operations, Leather Tanning and Finishing Operations, Surface Coating for Flat Wood Paneling Operations, Automobile and Light-Duty Truck Assembly Coating Operations, and Vegetable Oil Manufacturing Operations that are major sources in the HGB Area. Previously, we have approved a negative declaration for the Rubber Tire Manufacturing Operations in the HGB Area. As such, TCEQ does not have to adopt VOC regulations relevant to these source categories at this time for the HGB Area. However, if a major source of these categories locates in the HGB Area in future, then TCEQ will need to take appropriate regulatory measures.

*D. Is Texas' approach to RACT determination based on the June 13, 2007 and April 6, 2010 submittals acceptable?*

As a part of 1-Hour ozone attainment demonstration plan for the HGB Area at 70 FR 58136, October 5, 2005; and 71 FR 52676, September 6, 2006, we stated that Texas has met RACT for VOC and $NO_X$ sources. In the TSD developed for this action, we evaluated the corresponding sections of 30 TAC Chapter 115 for the source categories identified in Table 1 above in the HGB Area, and have reviewed these sections against our identified reference documents. In its April 6, 2010, submittal to EPA, TCEQ states that it has reviewed the HGB VOC rules and certifies that they satisfy RACT requirements for the 8-Hour ozone standard by the application of control technology that is reasonably available considering technological and economic feasibility. In section B (Certifications) of EPA's May 18, 2006 RACT Q and A document, the framework described in the TSD (pages 3 and 4), and the 70 FR 71612, November 29, 2005, regarding permissible approaches for determining whether a State's level of control meets RACT, EPA provided guidance that a State's certification of its VOC rules is sufficient or acceptable for a finding that the rules satisfy the RACT requirements. We are proposing a determination that Texas VOC rules meet the CAA's RACT requirements. Consequently, by implementing these control requirements (Chapter 115) Texas is satisfying the RACT requirements for CTG source categories identified in Tables 1 of this document in the HGB Area under the 1997 8-Hour ozone standard.

*E. Is Texas' approach to RACT determination for VOC sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?*

Yes. The purpose of 30 TAC Chapter 115 rules for the HGB Area is to establish reasonable controls on the emissions of ozone precursors. Texas has reviewed its VOC rules and has certified that its rules satisfy RACT requirements. Based upon our evaluation, we are proposing to find that Texas has RACT-level controls in place for all required sources for the HGB Area under the 1997 8-Hour ozone standard.

## III. Proposed Action

Today, we are proposing to find that for VOC, CTG categories identified in Table 1, Texas has RACT-level controls in place for the HGB Area under the 1997 8-Hour ozone standard. We are also proposing to approve the negative declarations as explained in section II(B) of this action. The EPA had previously approved RACT for VOC and $NO_X$ into Texas' SIP under the 1-Hour ozone standard.

## 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. If a portion of the plan revision meets all the applicable requirements of this chapter and Federal regulations, the Administrator may approve the plan revision in part. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices that meet the criteria of the Act, and to disapprove state choices that do not meet the criteria of the Act. Accordingly, this proposed action approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994); and
- this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 18, 2013.

**Ron Curry,**

*Regional Administrator, Region 6.*

[FR Doc. 2014–00160 Filed 1–8–14; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[Docket No. FWS–R2–ES–2012–0101; 4500030113]**

**RIN 1018–AY25**

## Endangered and Threatened Wildlife and Plants; 6-Month Extension of Final Determination for the Proposed Listing of the Zuni Bluehead Sucker as an Endangered Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the deadline for a final determination concerning the listing of the Zuni bluehead sucker (*Catostomus discobolus yarrowi*) as an endangered species. We also reopen the comment period on the proposed rule to list this species as an endangered species. We are taking this action because there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to our determination regarding the proposed listing rule, making it necessary to solicit additional information by reopening the comment period for 30 days.

**DATES:** The comment period end date is February 10, 2014. If you comment using the Federal eRulemaking Portal (see **ADDRESSES**), you must submit your comment by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R2–ES–2012–0101, which is the docket number for the proposed rule to list the Zuni bluehead sucker as endangered. Then, in the Search panel on the left side of the screen, under the Document Type heading, check on the Proposed Rules link to located the proposed rule. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2012–0101; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Wally ''J'' Murphy, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE., Albuquerque, NM 87113; by telephone 505–346–2525; or by facsimile 505–346–2542. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Background

The Zuni bluehead sucker is a small fish that is believed to be endemic to streams in east-central Arizona and west-central New Mexico. On January 25, 2013, we published in the **Federal Register** a proposed rule (78 FR 5369) to list the Zuni bluehead sucker (*Catostomus discobolus yarrowi*) as an endangered species under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), because we found the subspecies in danger of extinction. On the same date, we also published in the **Federal Register** a proposed rule to designate critical habitat for the Zuni bluehead sucker (78 FR 5351; January 25, 2013). Identified threats to the subspecies included water withdrawals, sedimentation, impoundments, housing development, and predation by nonnative green sunfish (*Lepomis cyanellus*). We believe the range of the subspecies has already been reduced by approximately 90 percent in New Mexico, but we do not know the extent of potential range reduction in Arizona. Low water levels from drought and water withdrawals in remaining occupied streams have reduced the available habitat for the subspecies. The proposed listing rule had a 60-day comment period, ending March 26, 2013. For a description of previous Federal actions concerning the Zuni bluehead sucker, please refer to the proposed listing rule (78 FR 5369; January 25, 2013). Since the publication of the proposed rules, we have found substantial scientific disagreement about the status of the Zuni bluehead sucker as explained below, and we are therefore reopening the comment period for the proposed listing rule and extending the schedule for the final determination for 6 months in order to solicit and analyze information that will help to clarify these issues.

Section 4(b)(6) of the Act and its implementing regulations at 50 CFR 424.17(a) require that we take one of three actions within 1 year of a proposed listing: (1) Finalize the proposed listing; (2) withdraw the proposed listing; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination. Our review of the information described below suggests there is substantial disagreement regarding the taxonomic status of some populations that we considered Zuni bluehead sucker in the proposed rule. The following discussion describes these disagreements.

In the proposed listing rule, we reported that the Zuni bluehead sucker has been documented in three discrete watersheds—the Zuni River watershed in New Mexico, the Little Colorado River watershed in Arizona, and the San Juan River watershed at the borders of New Mexico and Arizona. However, the taxonomy of the occurrences of the subspecies outside of the Zuni River watershed has been disputed and remains in question. In the Zuni River watershed of New Mexico, the subspecies is believed to be restricted to three isolated populations in the upper Rio Nutria drainage (Carman 2008, pp. 2–3). Streams in the upper Rio Nutria drainage of the Zuni River watershed include the Rio Nutria, Cebolla Creek, and Rio Pescado, in addition to Tampico Spring and Agua Remora Springs, which are headwater springs to Rio Nutria. In eastern Arizona, there is evidence that the subspecies occurs in low numbers in the Kinlichee Creek area of the Little Colorado River watershed and Canyon de Chelly area of the San Juan River watershed (Hobbes 2000, pp. 9–16; Albert 2001, pp. 10–14; David 2006, p. 35). Both the Kinlichee Creek and Canyon de Chelly areas occur on the Navajo Nation. Streams in the Kinlichee Creek area include Red Clay Wash, Black Soil Springs, Scattered Willow Wash, and Kinlichee Creek itself. Streams in the Canyon de Chelly area include Tsaile Creek, Sonsela Creek, Crystal Creek, Coyote Wash, Whiskey Creek, and Wheatfields Creek. These streams originate along the western slope of the Chuska Mountains in New Mexico, flow through Arizona, and eventually flow into the San Juan River. It is the taxonomic status of these populations in the Kinlichee Creek area of the Little Colorado River watershed and the Canyon de Chelly areas in the San Juan River watershed that is in question. A map for geographical

reference is available for review on the New Mexico Ecological Services Field Office Web site at *http://www.fws.gov/southwest/es/NewMexico/.*

During the public comment period on the proposed listing rule, we received multiple comments regarding our interpretation of scientific literature related to the genetics of the Zuni bluehead sucker. Commenters were particularly concerned with whether or not populations on the Navajo Nation, which include the Kinlichee Creek area of the Little Colorado River watershed and the Canyon de Chelly area of the San Juan River watershed, that were recognized in the proposed rule as Zuni bluehead suckers are appropriately classified as such rather than a different subspecies of the bluehead sucker (see *Taxonomy and Genetics* section, below). In addition, since the closing of the comment period, we have received additional information and genetic analyses of the bluehead sucker populations found on lands of the Navajo Nation, including both the Kinlichee Creek area and the Canyon de Chelly area (Unmack *et al.* 2012, entire; Hopken *et al.* 2013, entire; Douglas *et al.* 2013, entire). In particular, both the Hopken *et al.* (2013) and Douglas *et al.* (2013) reports find that the populations on the Navajo Nation should not be categorized as Zuni bluehead sucker, thereby contradicting the information we presented in the proposed rule. This new information and data, along with input we received during the comment period, have led to substantial scientific disagreement about the status of these populations as explained in more detail below.

In conclusion, section 4(b)(6) of the Act allows the Service to extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination. In light of the substantial disagreement regarding the taxonomic status of some populations that we considered Zuni bluehead sucker in the proposed listing rule, we are reopening the comment period for the proposed listing rule and extending the schedule for the final determination for 6 months in order to solicit and analyze information that will help to clarify these issues. We will make a final determination no later than July 25, 2014.

*Taxonomy and Genetics*

Although there is disagreement regarding where the Zuni bluehead sucker occurs, our review of the available information has concluded that the Zuni bluehead sucker is a valid subspecies. It is believed that the first specimen of the Zuni bluehead sucker was collected from the Zuni River near Zuni Pueblo in McKinley County, New Mexico, in 1873 (Cope 1874, p. 138). The next collection was made in 1926, from the Zuni River, near Zuni Pueblo (Propst *et al.* 2001, p. 159). It was not subsequently collected in New Mexico until W.J. Koster (University of New Mexico, Museum of Southwestern Biology) collected the species in the Rio Pescado in 1948, and in the Rio Nutria in 1960 (Propst 1999, p. 49; Propst *et al.* 2001, p. 159).

The Zuni bluehead sucker subspecies is believed to have originated as a hybrid of the Rio Grande sucker (*Catostomus plebeius*) and the bluehead sucker (*C. discobolus*) from the Little Colorado River. Historically, the bluehead sucker occurred in streams and rivers in Idaho, Wyoming, Colorado, Arizona, and New Mexico. Gerald R. Smith (University of Michigan) was the first person to provide evidence for the hybrid origin of the Zuni bluehead sucker (Smith 1966, pp. 87–90). Smith (1966, pp. 87–90) and Smith *et al.* (1983, pp. 37–38) hypothesized that the subspecies resulted from a prehistoric geological event in which two species of sucker that were formerly geographically separated came into contact with one another in the late Pleistocene (which occurred more than 11,700 years ago) and exchanged genes through hybridization over some time. Since collections of Zuni bluehead suckers occurred as early as 1873, Smith (1966, p. 88) discounted that the origin of the subspecies could be a product of human translocation and, instead, proposed that a stream capture occurred causing the two suckers to come into contact. A stream capture is a geomorphological phenomenon occurring when a river drainage system or watershed is diverted from its own bed and flows instead down the bed of a neighboring stream. During this particular stream capture, part of the headwaters of San Jose Creek (a Rio Puerco—Rio Grande tributary where Rio Grande sucker occurred) were brought into the headwaters of the Zuni River (a Little Colorado River tributary where bluehead sucker occurred); this caused Rio Grande suckers from San Jose Creek to intermingle with resident bluehead suckers in the Zuni River (Smith *et al.* 1983, p. 45). Unmack *et al.* (2012, p. 29) estimated that the introgression (gene flow from one species into the gene pool of another species) between the Rio Grande sucker and bluehead sucker occurred about 1.1 million years ago based on aging fossils.

In 1983, Smith *et al.* (entire) formally designated Zuni bluehead sucker as a subspecies. Based on a review of morphological (pertaining to the physical form and structure of the fish), meristic (quantitative features of fish, such as fins or scales), and biochemical genetic data, Smith *et al.* (1983, pp. 1, 45–47) determined that that the Zuni bluehead sucker subspecies is an intermediate between Rio Grande sucker and bluehead sucker, with the Rio Nutria population (Zuni River watershed) characters (characters are attributes or features that distinguish a subspecies, such as coloration) more like Rio Grande sucker and Kinlichee Creek (Little Colorado River watershed) characters more like bluehead sucker. Based on morphology, they assigned fish samples in Kinlichee Creek (Little Colorado River watershed) as Zuni bluehead suckers and Whiskey Creek fish samples (in the Canyon de Chelly area of the San Juan River watershed) as bluehead suckers. However, Smith *et al.* (1983, p. 46) could not genetically differentiate Kinlichee Creek samples from Whiskey Creek fish samples. In other words, based on genetics, fish from Kinlichee Creek (Little Colorado River watershed) and Whiskey Creek (in the Canyon de Chelly area of the San Juan River watershed) are the same.

Further study by Crabtree and Buth (1987, p. 843) replicated and expanded upon the Smith *et al.* (1983, entire) genetic analysis and reevaluated their data and interpretation. This study provided supporting evidence confirming assignment of populations in the Zuni River headwater streams as the Zuni bluehead sucker subspecies based on the presence of unique alleles at several loci (loci are specific locations of a gene or DNA sequence on a chromosome). However, they recognized that Smith *et al.* (1983, pp. 42, 46) attributed a broader geographical range to the Zuni bluehead sucker. The genetic analysis by Crabtree and Buth (1987, p. 852) did not support the geographical range identified by Smith *et al.* (1983, pp. 42, 46). Crabtree and Buth (1987, pp. 851–852) suggested that the genetic interaction between the Rio Grande sucker and bluehead sucker is limited to the upper Rio Nutria populations in the Zuni River watershed. Thus, the findings of Crabtree and Buth (1987, entire) suggest that the Zuni bluehead sucker subspecies occurs only in the Zuni River watershed of New Mexico.

Our analysis of morphological and genetic information supports the recognition of the Zuni bluehead sucker

as being distinct from both the Rio Grande sucker and the bluehead sucker (Smith 1966, pp. 87–90; Smith *et al.* 1983, pp. 37–38; Crabtree and Buth 1987, p. 843; Propst 1999, p. 49). Based on our review of the best available scientific and commercial data, we concluded in the proposed listing rule that the Zuni bluehead sucker is a valid subspecies.

Although the Zuni bluehead sucker is a valid taxon, there is substantial disagreement as to which populations of the fish should be assigned to the Zuni bluehead sucker subspecies based on various interpretations of the morphological and genetic analyses. In the discussion below, we review the results of three recent studies related to the evolutionary relationships of the populations we have considered to be Zuni bluehead sucker.

In 2012, Thomas Dowling (a geneticist at Arizona State University) presented the Schwemm and Dowling (2008, entire) data that some bluehead sucker found in the Kinlichee Creek area of the Little Colorado River watershed and the Canyon de Chelly area of the San Juan River watershed also contain Rio Grande sucker alleles, suggesting that these fish may be the result of the introgression between Rio Grande sucker and bluehead sucker described above (Service 2012, entire). Schwemm and Dowling (2008, entire) investigated the extent of introgression of Rio Grande sucker within bluehead sucker within the Little Colorado River drainage (Kinlichee Creek area and Zuni River watershed area) and San Juan River drainage (Canyon de Chelly area) through analysis of both mitochondrial and nuclear DNA sequences. The mitochondrial DNA analysis identified three distinct lineages (ancestry) and one distinct sublineage: (1) Mainstem Colorado River/San Juan River bluehead sucker lineage; (2) Canyon de Chelly bluehead sucker sublineage (in San Juan River watershed); (3) Little Colorado River bluehead sucker lineage; and (4) Rio Grande sucker lineage. The Rio Grande sucker lineage was found in only one upper Little Colorado River population: the Rio Nutria of the Zuni River watershed in New Mexico. However, the nuclear DNA not only identified Rio Grande sucker alleles in the Rio Nutria in New Mexico (consistent with mitochondrial DNA analysis), but also identified Rio Grande sucker alleles in bluehead sucker populations in Black Soil Springs and in Kinlichee Creek as it flows through Bear Canyon (both populations are in the Kinlichee Creek area of the Little Colorado River watershed), and in Wheatfields Creek (in the Canyon de Chelly area of the San Juan River watershed). Therefore, the nuclear DNA analysis presented by Dowling in 2012 suggests that, based on the presence of Rio Grande sucker alleles (via nuclear DNA), the Zuni bluehead sucker subspecies occurs in certain streams of all three watersheds: the Zuni River watershed, the Little Colorado River watershed, and the San Juan River watershed.

Unmack *et al.* (2012, p. 20) assigned Zuni bluehead sucker to a complex (group of related species) of ancient Arizona and New Mexico lineages that share molecular, meristic, and osteological (osteology is the study of bone structure and function) characteristics of bluehead sucker and Rio Grande sucker. Their study included populations found in the headwaters of the San Juan and Little Colorado Rivers (including the Zuni River headwaters) in northeastern Arizona. This assignment was based on the information provided above (Smith 1966, entire; Smith *et al.* 1983, entire; Crabtree and Buth 1987, entire; Schwemm and Dowling 2008, entire). Their assignment suggests that the Zuni bluehead sucker subspecies originated from three separate but adjacent drainages (San Juan River, Little Colorado River, and the Rio Grande) in the Pleistocene via multiple stream captures. Therefore, the Zuni bluehead sucker subspecies is not restricted to the headwaters of the Zuni River watershed, but includes others areas in the Little Colorado River (Kinlichee Creek area) and San Juan River drainages (Canyon de Chelly area).

Hopken *et al.* (2013, entire) published a paper after the publication of the proposed listing rule that evaluates bluehead suckers rangewide using both mitochondrial and nuclear DNA to infer evolutionarily significant units and management units. These researchers looked at 39 sampling locations; however, only 2 (Canyon de Chelly in the San Juan River watershed and Agua Remora in the Zuni River watershed) were relevant to the Zuni bluehead sucker. The mitochondrial DNA only detected bluehead sucker haplotypes (combination of alleles at adjacent locations on a chromosome) in Canyon de Chelly (San Juan River watershed in Arizona) and Agua Remora (Zuni River watershed in New Mexico). Results are consistent with the Schwemm and Dowling (2008, pp. 7–10) mitochondrial DNA analysis of the fish in the Kinlichee Creek area of the Little Colorado River watershed and the Canyon de Chelly area of the San Juan River watershed, both of which are located within the Navajo Nation. Similar results were concluded for both Agua Remora and Tampico Springs in the Zuni River watershed of New Mexico (Turner and Wilson 2009, p. 8). Conversely, the nuclear DNA (via microsatellites) analyses by both Schwemm and Dowling (2008, entire) and Turner and Wilson (2009, p. 8) found alleles related to both bluehead and Rio Grande suckers, albeit in low frequency for Agua Remora and Tampico Springs in the Zuni River watershed of New Mexico. Note that these results were based on one specific microsatellite, whereas the Hopken *et al.* (2013, entire) nuclear DNA test analyzed 16 different microsatellites to identify levels of introgression with other species of suckers known to hybridize with bluehead suckers (e.g., Rio Grande sucker) and tested distinctiveness of the bluehead sucker across several drainages. Hopken *et al.* (2013, p. 966) did not find fish in the Canyon de Chelly area of the San Juan River watershed or in Agua Remora of the Zuni River watershed to be introgressed and, therefore, concluded that fish from both sampling locations belonged to the bluehead sucker species of the Colorado River rather than the Zuni bluehead sucker subspecies. Canyon de Chelly in the Little Colorado River watershed and Agua Remora in the Zuni River watershed were both identified to have distinct gene pools from one another and other bluehead suckers (Hopken *et al.* 2013, p. 966). In other words, the Hopken *et al.* (2013, entire) paper indicates that the populations in the Little Colorado River watershed and Zuni River watershed are geographically isolated and reflect low gene flow. These results are in disagreement with the results of the nuclear DNA analysis provided by Dowling in his 2012 presentation of the Schwemm and Dowling (2008, entire) report.

Despite their analysis of the Canyon de Chelly populations (San Juan River watershed) of bluehead suckers, Hopken *et al.* (2013, entire) did not analyze the Kinlichee Creek populations within the Little Colorado River watershed in Arizona. In cooperation with the Navajo Nation, the Service collected additional genetic tissue samples for analysis in 2013. Douglas *et al.* (2013, entire) used these additional genetic tissue samples to expand upon the Hopken *et al.* (2013, entire) paper results, applying the same methods. The results of the mitochondrial DNA analysis by Douglas *et al.* (2013, pp. 19–20) were very similar to Hopken *et al.* (2013) for samples within the Navajo Nation (Kinlichee Creek area of the Little

Colorado River watershed and Canyon de Chelly area of the San Juan River watershed), except a third bluehead sucker haplotype was identified and the Rio Grande sucker haplotype was present in Rio Nutria in the Zuni River watershed in New Mexico. This is consistent with Schwemm and Dowling (2008, entire). As in Hopken *et al.* (2013, p. 966), Douglas *et al.* (2013, pp. 15–16) evaluated levels of introgression with other species of suckers known to hybridize with bluehead sucker (e.g., Rio Grande suckers) and tested for distinctiveness between the Zuni River watershed populations and populations in the Little Colorado River watershed and the San Juan River watershed, and they compared the results with other drainages of the Colorado River Basin (Colorado River in the Grand Canyon and Upper Colorado River areas in Utah, Colorado, and Wyoming). No introgression was detected with any other suckers, except for samples from Rio Nutria, which exhibited genotypes of a mixed origin consistent with the subspecies assignment. These results suggest that the Zuni bluehead sucker is restricted to the Zuni River watershed. In addition to Hopken *et al.* (2013, entire), Douglas *et al.* (2013, p. 16) identified one more population of bluehead suckers that constitutes a unique gene pool (Kinlichee Creek in the Little Colorado River watershed). These combined results conclude that bluehead suckers from the headwaters of the Little Colorado River watershed (Zuni River area where the Zuni bluehead sucker recognized subspecies occurs and Kinlichee Creek area) and the San Juan River watershed (Canyon de Chelly area) are distinct from each other and any other bluehead suckers within the species' range.

Since the publication of the proposed rule to list the Zuni bluehead sucker as an endangered species (78 FR 5369; January 25, 2013), there has been substantial disagreement regarding whether the bluehead suckers found within the Kinlichee Creek area of the Little Colorado River watershed and the Canyon de Chelly area of the San Juan River watershed are appropriately characterized as Zuni bluehead suckers. This has led to substantial disagreement regarding the current range of the subspecies in Arizona and New Mexico.

As illustrated by the above discussion, the best available scientific information is unclear as to which populations of fish should be attributed to the Zuni bluehead sucker subspecies. Some studies support that Zuni bluehead sucker subspecies occurs only in the Rio Nutria within the Zuni River watershed in New Mexico (Crabtree and Buth 1987,entire; Hopken *et al.* 2013, entire; Douglas *et al.* 2013, entire), whereas other studies support that Zuni bluehead sucker is also found in the Kinlichee Creek area of the Little Colorado River watershed and the Canyon de Chelly areas of the San Juan River watershed (Smith *et al.* 1983, entire; Schwemm and Dowling 2008, entire; Unmack *et. al.* 2012, p. 20). All of the literature discussed in this document and a map for geographical reference is available for review on the New Mexico Ecological Services Field Office Web site at *http://www.fws.gov/southwest/es/NewMexico/.*

As discussed earlier, section 4(b)(6) of the Act and its implementing regulations at 50 CFR 424.17(a) require that we take one of three actions within 1 year of a proposed listing: (1) Finalize the proposed listing; (2) withdraw the proposed listing; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination. Therefore, in consideration of the substantial disagreements surrounding the Zuni bluehead sucker's taxonomic status in some locations, we are extending the final determination for 6 months in order to solicit and analyze additional information that will help to clarify these issues. Consequently, our final determination on the critical habitat designation for the Zuni bluehead sucker will be also delayed until we make a final listing determination for this subspecies. Therefore, we will make a final determination on the proposed listing rule no later than July 25, 2014.

**Public Comments**

We will accept written comments and information during this reopened comment period on our proposed listing for the Zuni bluehead sucker that was published in the **Federal Register** on January 25, 2013 (78 FR 5369). We will consider information and recommendations from all interested parties. We intend that any final action resulting from the proposals be as accurate as possible and based on the best available scientific and commercial data.

In consideration of the disagreements surrounding the data used to support the proposed rulemaking, we are extending the final determination for 6 months in order to solicit information that will help to clarify these issues. In addition to the information requested in the proposed listing rule, we are particularly interested in new information and comments regarding:

(1) The historical and current status and distribution of the Zuni bluehead sucker, its biology and ecology, specific threats (or lack thereof) and regulations that may be addressing those threats, and ongoing conservation measures for the subspecies and its habitat.

(2) Whether or not the populations in the Kinlichee Creek area of the Little Colorado River watershed and the Canyon de Chelly area of the San Juan River watershed should be considered the Zuni bluehead sucker subspecies.

(3) Additional information relevant to the genetic analysis of Zuni bluehead sucker populations.

(4) Additional information relevant to the morphology of Zuni bluehead sucker populations.

(5) Information regarding genetic disagreements related to other suckers or similar species of fish that could be used as a surrogate to better understand the genetics of Zuni bluehead sucker

(6) An explanation for the apparent discrepancy between nuclear DNA analyses. We are seeking clarification to explain the presence of Rio Grande sucker alleles by using a singular microsatellite marker (Schweem and Dowling 2008) whereas 16 different microsatellites did not detect any Rio Grande sucker alleles (Douglas *et al.* 2013).

(7) An explanation for the overlap in morphological characteristics in Smith *et al.* (1983, entire) where he assigned bluehead suckers in Kinlichee Creek (the Little Colorado River watershed) as Zuni bluehead sucker.

If you previously submitted comments or information on the proposed listing rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning this proposed listing will take into consideration all written comments and any additional information we receive.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review.

However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0101, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0101, or by mail from the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

## References Cited

A complete list of references cited and a geographical reference map in this rulemaking is available on the Internet at *http://www.regulations.gov* and *http://www.fws.gov/southwest/es/NewMexico/* and upon request from the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

## Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 30, 2013.

**Stephen Guertin,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 2014–00164 Filed 1–8–14; 8:45 am]

**BILLING CODE 4310–55–P**

# Notices

Federal Register
Vol. 79, No. 6
Thursday, January 9, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Wallowa-Whitman National Forest; Oregon; Lower Joseph Creek Restoration Project

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** In the Lower Joseph Creek Restoration Project area, decades of fire suppression and past land management activities have resulted in overstocked stand conditions, reduced forage productivity, degraded wetlands and springs, reduced grassland extent, and increased ladder fuels relative to historic reference and anticipated future conditions. Dry and moist upland forest types in the project area are showing a deficit of open stands dominated by large trees of ponderosa pine, larch, and Douglas-fir. Standing and down dead trees were also an important component of these stands. The purpose of the Lower Joseph Creek Restoration Project is to restore, maintain, and enhance forest and rangeland resiliency to natural disturbances, protect natural resources at risk to uncharacteristic wildfires and insect and disease outbreaks, contribute to local economic and social vitality, modify fire behavior potential, and improve future forest, range, and fire management opportunities. The USDA Forest Service will prepare an Environmental Impact Statement (EIS) to disclose the potential environmental effects of implementing restoration treatments on National Forest System lands within the project area.

**DATES:** Comments concerning the scope of the analysis must be received by 30 days following the date that this notice appears in the **Federal Register**. The draft environmental impact statement is expected July 2014 and the final environmental impact statement is expected December 2014. The comment period on the Draft Environmental Impact Statement will close 45 days after the date the EPA publishes the Notice of Availability in the **Federal Register**. A Final Environmental Impact Statement (FEIS) and draft Record of Decision (ROD) will be published after all comments are reviewed and responded to. Objections to the FEIS and draft ROD must be filed 45 days following publication of the legal notice of the ''opportunity to object''.

**ADDRESSES:** Send written comments to John Laurence, Forest Supervisor, Wallowa-Whitman National Forest, c/o Blue Mountains Restoration Strategy, 72510 Coyote Rd., Pendleton, OR 97801. Comments may also be sent via email to: *comments-pacificnorthwest-wallowa-whitman@fs.fed.us,* or via facsimile to 541–278–3730 c/o Blue Mountains Restoration Strategy.

**FOR FURTHER INFORMATION CONTACT:** Ayn Shlisky, Blue Mountains Restoration Strategy Team Lead, Umatilla National Forest, 72510 Coyote Rd., Pendleton, OR 97801; phone 541–278–3762. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Lower Joseph Creek project area lies adjacent and east of Oregon State Highway 3 on the northern boundary of the Wallowa-Whitman National Forest (WAWNF), approximately 20 miles north of Enterprise. The project area is bounded by Cold Springs Ridge to the northeast, Forest Road 46 to the east, and Elk Mountain to the south. It contains the upper reaches of the Joseph Creek drainage, including the watersheds of Lower and Upper Swamp Creek, Peavine Creek, Rush Creek, Davis Creek, Sumac Creek, Lower and Upper Cottonwood Creeks, Broady Creek, Horse Creek, Cougar Creek, and Green Gulch.

The area is characterized by deep canyons with very steep, grass-covered side slopes interspersed with numerous exposed rock (basalt) layers. Vegetation is generally composed of: (1) Warm/moist forest communities on steep canyon slopes (42% of forested area), (2) warm/dry forests on south-facing slopes, in transitional areas with scablands, and on shallower soils (about 30%), (3) cool/dry forest on gently rolling uplands with deeper soils (26%), and (4) relatively small amounts of wet mixed conifer and subalpine fir/Engelmann spruce forests. Elevations range from about 3600 to 5000 feet.

#### Purpose and Need for Action

The project takes advantage of effective collaboration between representatives from environmental organizations, timber industry, county governments, the general public, and various government agencies to assess conditions and develop restoration and management strategies in the Lower Joseph Creek project area. All interested parties will have an opportunity to provide input on how this project develops, including the types of treatments, products produced, and monitoring that occurs.

In general, relative to desired conditions, the Lower Joseph Creek project area exhibits: (1) A deficit of forest stands with large trees and open canopies, (2) an overabundance of young open forest stands with relatively dense tree seedling understories (cold and moist forests), (3) a surplus of small diameter downed woody fuel and fuel ladders, (4) reduced understory plant diversity and productivity, (5) reduced grassland extent due to conifer expansion into grassland habitat, (6) improving trends in fish habitat quality and connectivity and opportunities for continued improvement, (7) reduced fire frequencies, and increased vulnerability to uncharacteristic disturbance from wildfire, (8) roads with native surface conditions, and other management impacts to wetlands, springs, riparian areas and stream channels, and (9) opportunities to contribute to the economic vitality of the local community.

Tangible products, such as wood, fiber, firewood, watershed restoration projects, forage, wild edible plants and mushrooms, and income generated from this project would contribute to the stability of highly valued forest and range products infrastructure, family wage earners and local industries. In turn, these products and income will support other local businesses, hospitals, and services contributing to the overall economic vitality of Wallowa County and northeast Oregon. In

addition, less tangible but valuable results are expected, such as learning how to build strong working relationships among local collaborators and the Forest Service, developing effective restoration plans, and creating NEPA-ready projects that can be quickly implemented.

The Wallowa-Whitman National Forest is committed to meeting our Federal Trust Responsibility to consult and coordinate with American Indian Tribes. Actions analyzed to meet the purpose and need will address potential effects to treaty reserved rights and cultural resources.

The purpose and need for action is consistent with the 1990 Wallowa-Whitman National Forest Land and Resource Management Plan, as amended (Forest Plan). It is supported by differences between existing and desired ecosystem conditions, as determined from the Forest Plan, local policy recommendations for desired ranges of variation in vegetation conditions, local landscape assessments (e.g., Lower Joseph Creek Watershed Assessment (2013)), collaboration with the Wallowa-Whitman Forest Collaborative and other publics, other agencies, consultation with Tribes, and field reviews. The purpose and need is also driven by goals of the National Cohesive Wildland Fire Management Strategy (2011), particularly goals to restore and maintain landscape resiliency to fire-related disturbances, and reduce risk of wildfire to human communities and infrastructure. The purpose and need is also consistent with the Endangered Species Act for the protection and restoration of Snake River steelhead as well as the Clean Water Act for protection of water quality and waterways in the project area.

**Proposed Action**

The Forest Service proposes to implement activities across the approximately 98,561 acre Lower Joseph Creek project area. Silviculture treatments would provide a diversity of forest structures that are more in line with desired conditions, and more resilient to anticipated future environmental conditions. Thinning, and mechanical fuel treatments across approximately 20,000 acres would encourage the development of large tree structural characteristics, understory plant diversity, forage productivity, and resilience to disturbances such as wildfire. Thinning of largely younger trees across an additional 5,000 acres, which are in the process of recovery after stand replacement disturbance, would encourage the development of spatial heterogeneity and increase the proportion of early seral tree species. Silvicultural treatments would generally retain and protect large trees of early seral species and trees with old growth physical characteristics consistent with historical reference conditions. Prescribed burning of hazardous fuels, where ecologically appropriate, on up to 90,000 acres would reduce fuel loads, increase understory productivity and diversity, allow fire to perform its natural ecological role, and reduce uncharacteristic disturbance from wildfire, insects, and disease.

Restoration of wetlands and springs would allow these landscape components to play their natural role in providing for effective grazing management, wildlife habitat, and high quality drinking water. Restoration of some riparian areas would protect and restore watershed function. Riparian and flood plain restoration may include road closure or modification, channel reconstruction, fencing, planting, conifer removal, instream structure placement, and bank stabilization.

The transportation system would be managed through road construction, reconstruction, use of temporary roads, and seasonal or permanent closures, as needed to support public access, proposed forest management activities, wildlife habitat quality, and aquatic habitat connectivity. The majority of road-related activities would make use of the existing system road network. A roads analysis will be conducted to assess the transportation system and the appropriate actions needed to meet project and administrative needs, public access, forest plan standards and guidelines, future needs, and consultation guidance for federally listed fish. Approximately 1.5 miles of new system road would be constructed; 24 miles of system road would be reconstructed; and 26 miles of new temporary roads would be constructed. Of the roads that have already been identified for seasonal or permanent closure under past decisions, or that have been naturally closed, 40 miles would be seasonally closed, and approximately 45 miles would be permanently closed or decommissioned, as determined in the roads analysis and an evaluation of each segment's status, future need, and impact on other resources. Roads proposed for any type of closure will focus on resource damage to water quality, fish habitat and wildlife habitat. Where possible, detrimental soil impacts from roads would be mitigated.

In the interest of landscape learning and streamlining NEPA, two Research Natural Areas, which have been proposed for establishment in the WAW Forest Plan (Horse Pasture Ridge (338 acres) and Haystack Rock (425 acres)) would be established and serve as untreated baseline study areas. The establishment of the two RNAs will require no changes in current land management allocations, except for any necessary adjustments to RNA boundaries mapped in the current Forest Plan to facilitate management or correct mapping errors.

Additional benefits of implementation of the proposed action include maintenance and enhancement of culturally significant resources, settings, viewsheds, and sensitive plant and animal species habitat, including those of interest to the Tribes. A monitoring strategy will be developed to support adapting management strategies and sharing lessons learned through time. Input from interested parties and the most current, applicable science will be used to guide this monitoring.

Connected actions that would be included in the analysis include road maintenance, and hazard tree cutting or removal. Fuels associated with silvicultural treatments (activity fuels) would be treated with a suite of available tools including, but not limited to, mastication, removal, pile and burn, cutting and scattering limbs, or prescribed fire.

Project design elements and site specific mitigation measures would be developed during the analysis of individual activity areas to reduce or eliminate unwanted effects, including those affecting tribal resources and cultural values. Mitigation measures may include seasonal operating restrictions, snag creation, and/or soil amendments (e.g., adding biochar) on compacted or detrimental soils.

**Forest Plan Amendments**

1. The Forest Service proposes to amend the forest plan in some areas to allow for the removal of trees greater than 21″ in diameter at breast height. To ensure conservation of old trees, the project would adopt scientifically-derived guidelines, such as the ''Van Pelt guidelines'' (2008), to assess tree age regardless of the diameter of individual trees.

2. The Forest Service may need to amend the forest plan, if necessary, to allow tree harvests that restore old growth characteristics, natural ecological processes, or habitat for old growth dependent species in Old Growth Preserves (Forest Plan Management Area 15).

3. The Forest Service may need to amend the forest plan in some areas where restoration activities would not

meet visual quality objectives in the short-term.

**Responsible Official**

The responsible official is the Wallowa-Whitman Forest Supervisor.

**Nature of Decision To Be Made**

The Forest Supervisor of the Wallowa-Whitman National Forest will decide whether to implement the action as proposed, whether to take no action at this time, or whether to implement any alternatives that are proposed. The Forest Supervisor will also decide whether to amend the 1990 Wallowa-Whitman National Forest Land and Resource Management Plan, if an action alternative is chosen.

**Scoping Process**

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Issues that are raised with the proposal may lead to alternative ways to meet the purpose and need of the project.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment periods and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered.

Dated: December 20, 2013.

**John Laurence,**

*Forest Supervisor, Wallowa-Whitman National Forest.*

[FR Doc. 2014–00058 Filed 1–8–14; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### National Institute of Food and Agriculture

### Solicitation of Veterinary Shortage Situation Nominations for the Veterinary Medicine Loan Repayment Program (VMLRP)

**AGENCY:** National Institute of Food and Agriculture, USDA.

**ACTION:** Notice and solicitation for nominations.

**SUMMARY:** The National Institute of Food and Agriculture (NIFA) is soliciting nominations of veterinary service shortage situations for the Veterinary Medicine Loan Repayment Program (VMLRP) for fiscal year (FY) 2014, as authorized under the National Veterinary Medical Services Act (NVMSA), 7 U.S.C. 3151a. This notice initiates a 60-day nomination period and prescribes the procedures and criteria to be used by State, Insular Area, DC and Federal Lands to nominate veterinary shortage situations. Each year all eligible nominating entities may submit nominations, up to the maximum indicated for each entity in this notice. NIFA is conducting this solicitation of veterinary shortage situation nominations under a previously approved information collection (OMB Control Number 0524–0046).

**DATES:** Shortage situation nominations, both new and carry over, must be submitted on or before March 10, 2014.

**ADDRESSES:** Submissions must be made by email at *vmlrp@nifa.usda.gov* to the Veterinary Medicine Loan Repayment Program; National Institute of Food and Agriculture; U.S. Department of Agriculture.

**FOR FURTHER INFORMATION CONTACT:** Gary Sherman; National Program Leader, Veterinary Science; National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue SW.; Washington, DC 20250–2220; Voice: 202–401–4952; Fax: 202–401–6156; Email: *vmlrp@nifa.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background and Purpose**

A landmark series of three peer-reviewed studies published in 2007 in the Journal of the American Veterinary Medical Association (JAVMA), and sponsored by the Food Supply Veterinary Medicine Coalition (*www.avma.org/fsvm/recognition.asp*), gave considerable attention to the growing shortage of food supply veterinarians, the causes of shortages in this sector, and the consequences to the US food safety infrastructure and to the general public if this trend continues to worsen. Food supply veterinary medicine embraces a broad array of veterinary professional activities, specialties and responsibilities, and is defined as the full range of veterinary medical practices contributing to the production of a safe and wholesome food supply and to animal, human, and environmental health. However, the privately practicing food animal veterinary practitioner population within the US is, numerically, the largest, and arguably the most important single component of the food supply veterinary medical sector. Food animal veterinarians, working closely with livestock producers and State and Federal officials, constitute the first line of defense against spread of endemic and zoonotic diseases, introduction of high consequence foreign animal diseases, and other threats to the health and wellbeing of both animals and humans who consume animal products.

Among the most alarming findings of the Coalition-sponsored studies was objective confirmation that insufficient numbers of veterinary students are selecting food supply veterinary medical careers. This development has led both to current shortages and to projections for worsening shortages over the next 10 years. Burdensome educational debt was the leading concern students listed for opting not to choose a career in food animal practice or other food supply veterinary sectors. According to a survey of veterinary medical graduates conducted by the American Veterinary Medical Association (AVMA) in the spring of 2012, the average educational debt for students graduating from veterinary school is approximately $151,000. Such debt loads incentivize students to select other veterinary careers, such as companion animal medicine, which tend to be more financially lucrative and, therefore, enable students to more quickly repay their outstanding educational loans. Furthermore, when this issue was studied in the Coalition report from the perspective of identifying solutions to this workforce imbalance, panelists were asked to rate 18 different strategies for addressing shortages. Responses from the panelists overwhelmingly showed that student debt repayment and scholarship programs were the most important strategies in addressing future shortages (JAVMA 229:57–69).

**Paperwork Reduction Act**

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by the implementation of these guidelines have been approved by OMB Control Number 0524–0046.

**List of Subjects in Guidelines for Veterinary Shortage Situation Nominations**

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II. Nomination of Veterinary Shortage Situations
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**Guidelines for Veterinary Shortage Situation Nominations**

**I. Preface and Authority**

In January 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997 (NARETPA). This law established a new Veterinary Medicine Loan Repayment Program (7 U.S.C. 3151a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations.

In FY 2010, NIFA announced the first funding opportunity for the VMLRP and received 257 applications from which NIFA executed 53 awards totaling $5,186,000. In FY 2011, NIFA received 159 applications from which NIFA executed 75 awards totaling $7,251,000. In FY 2012, NIFA received 139 applications from which NIFA executed 45 awards totaling $4,415,000. There was a cumulative total of up to $4,000,000 available for awards heading into the FY 2013 funding opportunity. Funding for FY 2014 and future years will be based on annual appropriations and balances, if any, carried forward from prior years, and may vary from year to year.

Section 7105 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246, (FCEA) amended section 1415A to revise the determination of veterinarian shortage situations to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations. NARETPA section 1415A requires the Secretary, when determining the amount of repayment for a year of service by a veterinarian to consider the ability of USDA to maximize the number of agreements from the amounts appropriated and to provide an incentive to serve in veterinary service shortage areas with the greatest need. The Secretary delegated the authority to carry out this program to NIFA pursuant to 7 CFR 2.66(a)(141). Pursuant to the requirements enacted in the NVMSA of 2004 (as revised), and the implementing regulation for this Act, Part 3431 Subpart A of the VMLRP Final Rule [75 FR 20239–20248], NIFA hereby implements guidelines for authorized State Animal Health Officials (SAHO) to nominate veterinary shortage situations for the FY 2014 program cycle:

**II. Nomination of Veterinary Shortage Situations**

*A. General*

1. Eligible Shortage Situations

Section 1415A of NARETPA, as amended and revised by Section 7105 of FCEA directs determination of veterinarian shortage situations to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations. While the NVMSA (as amended) specifies priority be given to food animal medicine shortage situations, and that consideration also be given to specialty areas such as public health, epidemiology and food safety, the Act does not identify any areas of veterinary practice as ineligible. Accordingly, all nominated veterinary shortage situations will be considered eligible for submission. However, the competitiveness of submitted nominations, upon evaluation by the external review panel convened by NIFA, will reflect the intent of Congress that priority be given to certain types of veterinary service shortage situations. NIFA therefore anticipates that the most competitive nominations will be those directly addressing food supply veterinary medicine shortage situations.

NIFA has adopted definitions of the practice of veterinary medicine and the practice of food supply medicine that are broadly inclusive of the critical roles veterinarians serve in both public practice and private practice situations. Nominations describing either public or private practice veterinary shortage situations will therefore be eligible for submission. However, NIFA interprets that Congressional intent is to give priority to the private practice of food animal medicine. NIFA is grateful to the Association of American Veterinary Medical Colleges (AAVMC), the American Veterinary Medical Association (AVMA), and other stakeholders for their recommendations regarding the appropriate balance of program emphasis on public and private practice shortage situations. NIFA will seek to achieve a final distribution of approximately 90 percent of nominations (and eventual agreements) that are geographic, private practice, food animal veterinary medicine shortage situations, and approximately 10 percent of nominations that reflect public practice shortage situations.

2. State Respondents and Use of Consultation

Respondents on behalf of each State include the chief State Animal Health Official (SAHO), as duly authorized by the Governor or the Governor's designee in each State. The SAHOs are requested to submit nominations to *vmlrp@nifa.usda.gov* by way of the Veterinarian Shortage Situation Nomination Form (OMB Control Number 0524–0046), which is available in the State Animal Health Officials section on the VMLRP Web site at *www.nifa.usda.gov/vmlrp.* One form must be submitted for each nominated shortage situation. NIFA strongly encourages the SAHO to involve leading health animal experts in the State in the identification and prioritization of shortage situation nominations.

3. Rationale for Capping Nominations and State Allocation Method

In its consideration of fair, transparent and objective approaches to solicitation of shortage area nominations, NIFA evaluated three alternative strategies before deciding on the appropriate strategy. The first option considered was to impose no limits on the number of nominations submitted. The second was to allow each state the same number of nominations. The third (eventually selected) was to differentially cap the number of nominations per state based on defensible and intuitive criteria.

The first option, providing no limits to the number of nominations per state, is fair to the extent that each state and insular area has equal opportunity to nominate as many situations as desired. However, funding for the VMLRP is limited (relative to anticipated demand), so allowing potentially high and disproportionate submission rates of nominations could both unnecessarily burden the nominators and the reviewers with a potential avalanche of nominations and dilute highest need situations with lower need situations. Moreover, NIFA believes that the distribution of opportunity under this program (i.e., distribution of mapped shortage situations resulting from the nomination solicitation and review process) should roughly reflect the national distribution of food supply veterinary service demand. By not capping nominations based on some objective criteria, it is likely there would be no correlation between the mapped pattern and density of certified shortage situations and the actual pattern and density of need. This in turn could undermine confidence in the program with Congress, the public, and other stakeholders.

The second option, limiting all states and insular areas to the same number of nominations suffers from some of the same disadvantages as option one. It has the benefit of limiting administrative burden on both the SAHO and the nomination review process. However, like option one, there would be no correlation between the mapped pattern of certified shortage situations and the actual pattern of need. For example, Guam and Rhode Island would be allowed to submit the same number of nominations as Texas and Nebraska, despite the large difference in the sizes of their respective animal agriculture industries and rural land areas requiring veterinary service coverage. The third option, to cap the number of nominations in relation to major parameters correlating with veterinary service demand, achieves the goals both of practical control over the administrative burden to the states and NIFA, and of achieving a mapped pattern of certified nominations that approximates the theoretical actual shortage distribution. In addition, this method limits dilution of highest need areas with lower need areas. The disadvantage of this strategy is that there is no validated, unbiased, direct measure of veterinary shortage, and so it is necessary to employ parameters that correlate with the hypothetical cumulative relative need for each state in comparison to other states.

In the absence of a validated unbiased direct measure of relative veterinary service need or risk for each state and insular area, the National Agricultural Statistics Service (NASS) provided NIFA with reliable and public data that correlate with demand for food supply veterinary service. NIFA consulted with NASS and determined that the NASS variables most strongly correlated with state-level food supply veterinary service need are ''Livestock and Livestock Products Total Sales ($)'' and ''Land Area'' (acres). The ''Livestock and Livestock Products Total Sales ($)'' variable broadly predicts veterinary service need in a State because this is a normalized (to cash value) estimate of the extent of (live) animal agriculture in the state. The State ''land area'' variable predicts veterinary service need because there is positive correlation between state land area, percent of state area classified as rural and the percent of land devoted to actual or potential livestock production. Importantly, land area is also directly correlated with the number of veterinarians needed to provide veterinary services in a state because of the practical limitations relating to the maximum radius of a standard veterinary service area. Due to fuel and other cost factors, the maximum radius a veterinarian operating a mobile veterinary service can cover is approximately 60 miles, which roughly corresponds to two or three contiguous counties of average size.

Although these two NASS variables are not perfect predictors of veterinary service demand, NIFA believes they account for a significant proportion of several of the most relevant factors influencing veterinary service need and risk for the purpose of fairly and transparently estimating veterinary service demand. To further ensure fairness and equitability, NIFA is employing these variables in a straightforward and transparent manner that ensures every state and insular area is eligible for at least one nomination and that all States receive an apportionment of nominations, relative to their geographic size and size of agricultural animal industries.

Following this rationale, the Secretary is specifying the maximum number of nominations per state in order to (1) assure distribution of designated shortage areas in a manner generally reflective of the differential overall demand for food supply veterinary services in different states, (2) assure the number of shortage situation nominations submitted fosters emphasis on selection by nominators and applicants of the highest priority need areas, and (3) provide practical and proportional limitations of the administrative burden borne by SAHOs preparing nominations, and by panelists serving on the NIFA nominations review panel.

Furthermore, instituting a limit on the number of nominations is consistent with language in the Final Rule stating, ''The solicitation may specify the maximum number of nominations that may be submitted by each State animal health official.''

4. State Allocation of Nominations

The number of designated shortage situations per state will be limited by NIFA, and this has an impact on the number of new nominations a state may submit each time NIFA solicits shortage nominations. In the 2014 cycle, NIFA is again accepting the number of nominations equivalent to the allowable number of designated shortage areas for each state. All eligible submitting entities will, for the 2014 cycle, have an opportunity to do the following: (1) Retain designated status for any shortage situation successfully designated in 2013 (if there is no change to any information, the nomination will be approved for 2014 without the need for re-review by the merit panel), (2) rescind any nomination officially designated in 2013, and (3) submit new nominations. The total of the number of new nominations plus designated nominations retained (carried over) may not exceed the maximum number of nominations each entity is permitted. Any amendment to an existing shortage nomination is presumed to constitute a significant change. Therefore, an amended nomination must be rescinded and resubmitted to NIFA as a new nomination and it will be evaluated by the 2014 review panel.

The maximum number of nominations (and potential designations) will remain the same in 2014 as they were for the previous four years. Thus, all states have the opportunity to re-establish the maximum number of designated shortage situations. Awards from previous years have no bearing on a state's maximum number of allowable shortage nomination submissions or number of designations for subsequent years. NIFA reserves the right in the future to proportionally adjust the maximum number of designated shortage situations per state to ensure a balance between available funds and the requirement to ensure priority is given to mitigating veterinary shortages corresponding to situations of greatest need. Nomination Allocation tables for FY 2014 are available under the State

Animal Health Officials section of the VMLRP Web site at *www.nifa.usda.gov/vmlrp.*

Table I lists ''Special Consideration Areas'' which include any State or Insular Area not reporting data, and/or reporting less than $1,000,000 in annual Livestock and Livestock Products Total Sales ($), and/or possessing less than 500,000 acres, as reported by NASS. One nomination is allocated to any State or Insular Area classified as a Special Consideration Area.

Table II shows how NIFA determined nomination allocation based on quartile ranks of States for two variables broadly correlated with demand for food supply veterinary services: ''Livestock and Livestock Products Total Sales ($)'' (LPTS) and ''Land Area (acres)'' (LA). The total number of NIFA-designated shortage situations per state in any given program year is based on the quartile ranking of each state in terms of LPTS and LA. States for which NASS has both LPTS and LA values, and which have at least $1,000,000 LPTS and at least 500,000 acres LA (typically all states plus Puerto Rico), were independently ranked from least to greatest value for each of these two composite variables. The two ranked lists were then divided into quartiles with quartile 1 containing the lowest variable values and quartile 4 containing the highest variable values. Each state then received the number of designated shortage situations corresponding to the number of the quartile in which the state falls. Thus a state that falls in the second quartile for LA and the third quartile for LPTS may submit a maximum of five shortage situation nominations (2 + 3). This transparent computation was made for each state thereby giving a range of 2 to 8 shortage situation nominations, contingent upon each state's quartile ranking for the two variables.

The maximum number of designated shortage situations for each State in 2014 is shown in Table III.

While Federal Lands are widely dispersed within States and Insular Areas across the country, they constitute a composite total land area over twice the size of Alaska. If the 200-mile limit U.S. coastal waters and associated fishery areas are included, Federal Land total acreage would exceed 1 billion. Both State and Federal Animal Health officials have responsibilities for matters relating to terrestrial and aquatic food animal health on Federal Lands. Interaction between wildlife and domestic livestock, such as sheep and cattle, is particularly common in the plains states where significant portions of Federal lands are leased for grazing. Therefore, both SAHOs and the Chief Federal Animal Health Officer (Deputy Administrator, Animal and Plant Health Inspection Service or designee) may submit nominations to address shortage situations on or related to Federal Lands.

NIFA emphasizes that shortage nomination allocation is set to broadly balance the number of designated shortage situations across states prior to the application and award phases of the VMLRP. Awards will be made based strictly on the peer review panels' assessment of the quality of the match between the knowledge, skills and abilities of the applicant and the attributes of the specific shortage situation applied for, thus no state will be given a preference for placement of awardees. Additionally, unless otherwise specified in the shortage nomination form, each designated shortage situation will be limited to one award.

5. FY 2014 Shortage Situation Nomination Process

As described in Section 4 above, all SAHOs will, for the FY 2014 cycle, have an opportunity to do the following: (1) Retain (carry over) designated status for any shortage situation successfully designated in 2013 and not revised, without need for reevaluation by merit review panel, (2) rescind any nomination officially designated in 2013, and (3) submit new nominations. The total number of new nominations and designated nominations retained (carried over) may not exceed the maximum number of shortages each state is allocated. An amendment to an existing shortage nomination constitutes a significant change and therefore must be rescinded and resubmitted to NIFA as a new nomination, to be evaluated by the 2014 review panel. The maximum number of nominations (and potential designations) for each state is the same in 2014 as it was in previous years.

The following process is the mechanism by which a SAHO should retain or rescind a designated nomination: NIFA will initiate the process by sending an email to each SAHO with a PDF copy of the nomination form of each designated area that went unfilled in FY 2013. If the SAHO wishes to retain (carry over) one or more designated nomination(s), the SAHO shall copy and paste the prior year information (unrevised) into the current year's nomination form. The SAHO will then email the carry over nomination(s), along with any new nominations, to *vmlrp@nifa.usda.gov* by the published deadline.

Both new and retained nominations must be submitted on the Veterinary Shortage Situation Nomination form provided in the State Animal Health Officials section at *www.nifa.usda.gov/vmlrp.*

6. Submission and Due Date

Shortage situation nominations, both new and carry over, must be submitted on or before March 10, 2014, by email at *vmlrp@nifa.usda.gov* to the Veterinary Medicine Loan Repayment Program; National Institute of Food and Agriculture; U.S. Department of Agriculture.

7. Period Covered

Each designated shortage situation shall be certified and remain certified until it is filled with a VMLRP award or withdrawn by the SAHO. A SAHO may request that NIFA remove a previously certified and designated shortage situation by sending an email to *vmlrp@nifa.usda.gov*. The request should specifically identify the shortage situation the SAHO wishes to withdraw and the reason(s) for its withdrawal. The program manager will review the request, make a determination, and inform the requesting SAHO of the final action taken. When a request for withdrawal of a designated shortage situation leads to its removal from the list of NIFA-designated shortage situations, the withdrawn situation may not be replaced with a new shortage situation nomination until NIFA issues its next solicitation of shortage situation nominations for this program.

8. Definitions

For the purpose of implementing the solicitation for veterinary shortage situations, the definitions provided in 7 CFR part 3431 are applicable.

*B. Nomination Form and Description of Fields*

1. Access to Nomination Form

The veterinary shortage situation nomination form is available in the State Animal Health Officials section at *www.nifa.usda.gov/vmlrp.* The completed form must be emailed to *vmlrp@nifa.usda.gov*.

2. Physical Location of Shortage Area or Position

Following conclusion of the nomination and designation process, NIFA will prepare lists and/or maps that include all designated shortage situations for the current program year. This effort requires a physical location that represents the center of the service area for a geographic shortage or the location of the main office or work

address for a public practice and/or specialty practice shortage. For example, if the state seeks to certify a tri-county area as a food animal veterinary service (i.e., Type I) shortage situation, a road intersection approximating the center of the tri-county area would constitute a satisfactory physical location for NIFA's listing and mapping purposes. By contrast, if the state is identifying ''veterinary diagnostician'', a Type III nomination, as a shortage situation, then the nominator would complete this field by filling in the address of the location where the diagnostician would work (e.g., State animal disease diagnostic laboratory).

3. Overall Priority of Shortage

Congressional intent is for this program to incentivize applicants to ''serve in veterinary service shortage areas with the greatest need.'' There is therefore the presumption that all areas nominated as shortage situations should be classified as at least ''moderate priority'' shortages. To assist nomination merit review panelists and award phase peer panelists in scoring shortage nominations and ranking applications from VMLRP applicants, SAHOs are asked to characterize each shortage situation nomination as ''Moderate Priority'', ''High Priority'', or ''Critical Priority'' shortages.

Moderate Priority: This shortage prioritization corresponds to an area lacking in some aspect of food supply veterinary services, commensurate with the service percent full-time-equivalency (FTE) specified. Absence of, or insufficient, trained ''eyes and ears'' of a veterinarian serving a food animal production area is sufficient to constitute moderate priority shortage status. This is because access to veterinary services is necessary for basic animal health, animal well-being, production profitability, and for food safety, and because high consequence disease outbreaks in agricultural animals or natural catastrophes can occur spontaneously anywhere. In such cases, early detection of disease and/or treatment of animals are essential. These activities are the authorized purview of a licensed veterinarian. In addition to the above examples, the SAHO is invited to make a unique case based on other situation-specific risk criteria, for classifying a nominated area as a Moderate Priority shortage.

High Priority: This shortage prioritization corresponds to an area lacking sufficient access to food supply veterinary services, commensurate with the service percent FTE specified. High Priority status is justified by meeting the criteria for Moderate Priority status plus any of a variety of additional concerns relating to food supply veterinary medicine and/or public health. For example, the area may exhibit an especially large census of food animals in comparison to available veterinary services. Special animal or public health threats unique to the area, such as a recent history of outbreaks of high consequence, reportable, endemic animal and zoonotic diseases (e.g., Brucellosis, TB, etc.) could also constitute a high priority threat. In addition to the above examples, the SAHO is invited to make a unique case based on other situation-specific risk criteria, for classifying a nominated area as a High Priority shortage.

Critical Priority: This shortage prioritization corresponds to an area severely lacking in some aspect of food supply or public health-related veterinary services, commensurate with the service percent FTE specified. Critical priority status is justified by meeting the criteria for moderate and/or high priority status plus any of a variety of additional serious concerns relating to the roles food supply veterinarians play in protecting animal and public health. For example, an area may exhibit an especially high potential for natural disasters or for incursion of catastrophic foreign animal disease such as Highly Pathogenic Avian Influenza, Mad Cow Disease, or Foot and Mouth Disease. High risk areas could include high through-put international animal importation sites and areas where wild life and domestic food animals cross national borders carrying infectious disease agents (e.g., the U.S.-Mexico border). In addition to the above examples, the submitting SAHO is invited to make a unique case based on other situation-specific risk criteria for classifying a nominated area as a Critical Priority shortage.

4. Type I Shortage—80 Percent or Greater Private Practice Food Supply Veterinary Medicine

SAHOs identifying this shortage type must check one or more boxes indicating which specie(s) constitute the veterinary shortage situation. Indicate either ''Must Cover'' or ''May Cover'' to stipulate which species a future awardee must be prepared, willing, and committed to provide services for, versus which species an awardee could treat using a minor percentage of their time obligated under a VMLRP contract. The Type I shortage situation must entail at least an 80 percent time commitment to private practice food supply veterinary medicine. The nominator will specify the minimum percent time (between 80 and 100 percent of a standard 40 hour week) a veterinarian must commit in order to satisfactorily fill the specific nominated situation. The shortage situation may be located anywhere (rural or non-rural) so long as the veterinary service shortages to be mitigated are consistent with the definition of ''practice of food supply veterinary medicine.'' The minimum 80 percent time commitment is, in part, recognition of the fact that occasionally food animal veterinary practitioners are expected to meet the needs of other veterinary service sectors such as clientele owning companion and exotic animals. Type I nominations are intended to address those shortage situations where the nominator believes a veterinarian can operate profitably committing between 80 and 100 percent time to food animal medicine activities in the designated shortage area, given the client base and other socio-economic factors impacting viability of veterinary practices in the area. This generally corresponds to a shortage area where clients can reasonably be expected to pay for professional veterinary services and where food animal populations are sufficiently dense to support a (or another) veterinarian. The personal residence of the veterinarian (VMLRP awardee) and the address of veterinary practice employing the veterinarian may or may not fall within the geographic bounds of the designated shortage area.

5. Type II Shortage—30 Percent or Greater Private Practice Food Supply Veterinary Medicine in a Rural Area (as Defined)

SAHOs identifying this shortage type must check one or more boxes indicating which specie(s) constitute the veterinary shortage situation. Indicate either ''Must Cover'' or ''May Cover'' to stipulate which species a future awardee must be prepared, willing, and committed to provide services for, versus which species an awardee could treat using a minor percentage of their time obligated under a VMLRP contract. The shortage situation must be in an area satisfying the definition of ''rural.'' The minimum 30 percent-time (12 hr/wk) commitment of an awardee to serve in a rural shortage situation is in recognition of the fact that there may be some remote or economically depressed rural areas in need of food animal veterinary services that are unable to support a practitioner predominately serving the food animal sector, yet the need for food animal veterinary services for an existing, relatively small, proportion of available food animal business is nevertheless great. The Type

II nomination is therefore intended to address those rural shortage situations where the nominator believes there is a shortage of food supply veterinary services, and that a veterinarian can operate profitably committing 30 to 79 percent to food animal medicine in the designated rural shortage area. The nominator will specify the minimum percent time (between 30 and 79 percent) a veterinarian must commit in order to satisfactorily fill the specific nominated situation. Under the Type II nomination category, the expectation is that the veterinarian may provide veterinary services to other veterinary sectors (e.g., companion animal clientele) as a means of achieving financial viability. As with Type I nominations, the residence of the veterinarian (VMLRP awardee) and/or the address of veterinary practice employing the veterinarian may or may not fall within the geographic bounds of the designated shortage area. However, the awardee is required to verify the specified minimum percent time commitment (30 percent to 79 percent, based on a standard 40 hour work week) to service within the specified geographic shortage area.

6. Type III Shortage—Public Practice Shortage (49 Percent or Greater Public Practice)

SAHOs identifying this shortage type must, in the spaces provided, identify the ''Employer'' and the presumptive ''Position Title'', and check one or more of the appropriate boxes identifying the specialty/disciplinary area(s) being nominated as a shortage situation. This is a broad nomination category comprising many types of specialized veterinary training and employment areas relating to food supply veterinary workforce capacity and capability. These positions are typically located in city, county, State and Federal Government, and institutions of higher education. Examples of positions within the public practice sector include university faculty and staff, veterinary laboratory diagnostician, County Public Health Officer, State Veterinarian, State Public Health Veterinarian, State Epidemiologist, FSIS meat inspector, Animal and Plant Health Inspection Service (APHIS) Area Veterinarian in Charge (AVIC), and Federal Veterinary Medical Officer (VMO).

Veterinary shortage situations such as those listed above are eligible for consideration under Type III nomination. However, nominators should be aware that Congress has stipulated that the VMLRP must emphasize private food animal practice shortage situations. Accordingly, NIFA anticipates that loan repayments for the Public Practice sector will be limited to approximately 10 percent of total nominations and available funds.

The minimum time commitment serving under a Type III shortage nomination is 49 percent. The nominator will specify the minimum percent time (between 49 percent and 100 percent) a veterinarian must commit in order to satisfactorily fill the specific nominated situation. NIFA understands that some public practice employment opportunities that are shortage situations may be part-time positions. For example, a veterinarian pursuing an advanced degree (in a shortage discipline area) on a part-time basis may also be employed by the university for the balance of the veterinarian's time to provide part-time professional veterinary service(s) such as teaching, clinical service, or laboratory animal care that may or may not also qualify as veterinary shortage situations. The 49 percent minimum therefore provides flexibility to nominators wishing to certify public practice shortage situations that would be ineligible under more stringent minimum percent time requirements.

7. Written Response Sections

a. Importance and Objectives of a Veterinarian Meeting This Shortage Situation

Within the allowed word limit the nominator should clearly state overarching objectives the State hopes to achieve by placing a veterinarian in the nominated situation. Include the minimum percent time commitment (within the range of the shortage type selected) the awardee is expected to devote to filling the specific food supply veterinary shortage situation.

b. Activities of a Veterinarian Meeting This Shortage Situation

Within the allowed word limit the nominator should clearly state the principal day-to-day professional activities that would have to be conducted in order to achieve the objectives described in a) above.

c. Past Efforts To Recruit and Retain a Veterinarian in the Shortage Situation

Within the allowed word limit the nominator should explain any prior efforts to mitigate this veterinary service shortage and prospects for recruiting veterinarian(s) in the future.

d. Risk of This Veterinarian Position not Being Secured or Retained

Within the allowed word limit the nominator should explain the consequences of not addressing this veterinary shortage situation.

e. Specifying a Different Service Time Requirement (Optional)

Minimum percent FTE service obligated under the VMLRP is specified for each of the three shortage types. However, the nominator may indicate, in the box provided on page 2 of the nomination form, a greater percent FTE than the specified minimum, according to the following guidelines. For a Type I shortage, the minimum FTE obligation is 80%, but the nominator may specify up to 100% (100% FTE corresponds to 40 hrs/week). The minimum FTE obligation is 30% for Type II shortage situation, but the nominator may specify up to 79%. Higher percentages should be submitted as Type I shortages. The minimum FTE obligation is 49% for Type III (public practice) shortage situations, but the nominator may specify up to 100%. An entry should be made in the box for specification of percent FTE if the percentage specified is other than the default minimum. Otherwise the box should be left blank. In assigning a percentage FTE, SAHOs should be cognizant of the impact this has on an eventual awardee. If the percentage is too high for an awardee to achieve, he or she could fall into breach status under the program and owe substantial financial penalties. NIFA requires formal quarterly certification that minimum service time was worked before each quarterly loan repayment is paid to the awardee's lender(s). Accordingly, NIFA advises that a nomination be submitted only if the SAHO is confident that an awardee can meet the default, or optionally specified, minimum FTE percentage each and every one of the 12 quarters (i.e, twelve 3-month periods) constituting the 3-year duration of service under the program.

f. Affirmation Checkboxes

SAHOs submitting shortage nominations should check both ''affirmation'' boxes on the last page of the nomination form. These two affirmations provide assurance that submitting SAHOs understand the shortage nomination process and the importance of the SAHO having reasonable confidence that the nomination submitted describes a bona fide shortage area. The second assurance is particularly important to help avoid the placement of a VMLRP awardee where veterinary coverage already exists, and where undue competition could lead to insufficient clientele demand to support either the awardee or the veterinary practice originally serving the area.

*C. NIFA Review of Shortage Situation Nominations*

1. Review Panel Composition and Process

NIFA will convene a panel of food supply veterinary medicine experts from Federal and state agencies, as well as institutions receiving Animal Health and Disease Research Program funds under section 1433 of NARETPA, who will review the nominations and make recommendations to the NIFA Program Manager. NIFA explored the possibility of including experts from non-governmental professional organizations and sectors for this process, but under NARETPA section 1409A(e), panelists for the purposes of this process are limited to Federal and State agencies and cooperating state institutions (i.e., NARETPA section 1433 recipients), and other postsecondary educational institutions.

NIFA will review the panel recommendations and designate the VMLRP shortage situations. The list of shortage situations will be made available on the VMLRP Web site at *www.nifa.usda.gov/vmlrp.*

2. Review Criteria

Criteria used by the shortage situation nomination review panel and NIFA for certifying a veterinary shortage situation will be consistent with the information requested in the shortage situations nomination form. NIFA understands that defining the risk landscape associated with shortages of veterinary services throughout a state is a process that may require consideration of many qualitative and quantitative factors. In addition, each shortage situation will be characterized by a different array of subjective and objective supportive information that must be developed into a cogent case identifying, characterizing, and justifying a given geographic or disciplinary area as deficient in certain types of veterinary capacity or service. To accommodate the uniqueness of each shortage situation, the nomination form provides opportunities to present a case using both supportive metrics and narrative explanations to define and explain the proposed need. At the same time, the elements of the nomination form provide a common structure for the information collection process which will in turn facilitate fair comparison of the relative merits of each nomination by the evaluation panel.

While NIFA anticipates some arguments made in support of a given shortage situation will be qualitative, respondents are encouraged to present verifiable quantitative and qualitative evidentiary information wherever possible. Absence of quantitative data such as animal and veterinarian census data for the proposed shortage area(s) may lead the panel to recommend not approving the shortage nomination.

The maximum point value review panelists may award for each element is as follows:

20 points: Describe the objectives of a veterinarian meeting this shortage situation as well as being located in the community, area, state/insular area, or position requested above.

20 points: Describe the activities of a veterinarian meeting this shortage situation and being located in the community, area, state/insular area, or position requested above.

5 points: Describe any past efforts to recruit and retain a veterinarian in the shortage situation identified above.

35 points: Describe the risk of this veterinarian position not being secured or retained. Include the risk(s) to the production of a safe and wholesome food supply and/or to animal, human, and environmental health not only in the community but in the region, state/insular area, nation, and/or international community.

An additional 20 points will be used to evaluate overall merit/quality of the case made for each nomination.

Prior to the panel being convened, shortage situation nominations will be evaluated and scored according to the established scoring system by a primary reviewer. When the panel convenes, the primary reviewer will present each nomination orally in summary form. After each presentation, panelists will have an opportunity, if necessary, to discuss the nomination, with the primary reviewer leading the discussion and recording comments. After the panel discussion is complete, any scoring revisions will be made by and at the discretion of the primary reviewer. The panel is then polled to recommend, or not recommend, the shortage situation for designation. Nominations scoring 70 or higher by the primary reviewer (on a scale of 0 to 100), and receiving a simple majority vote in support of designation as a shortage situation will be ''recommended for designation as a shortage situation.'' Nominations scoring below 70 by the primary reviewer, and failure to achieve a simple majority vote in support of designation will be ''not recommended for designation as a shortage situation.'' In the event of a discrepancy between the primary reviewer's scoring and the panel poll results, the VMLRP program manager will be authorized to make the final determination on the nomination's designation.

Done in Washington, DC, this 30 day of December, 2013.

**Sonny Ramaswamy,**

*Director, National Institute of Food and Agriculture.*

[FR Doc. 2014–00138 Filed 1–8–14; 8:45 am]

**BILLING CODE 3410–22–P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* U.S. Census Bureau.

*Title:* Generic Clearance for Internet Nonprobability Panel Pretesting.

*Form Number(s):* None.

*OMB Control Number:* None.

*Type of Request:* New collection.

*Burden Hours:* 8,334.

*Number of Respondents:* 50,000.

*Average Hours Per Response:* 10 minutes.

*Needs and Uses:* The U.S. Census Bureau is requesting a new OMB generic clearance to conduct a variety of medium-scale iterative Internet research pretesting activities. We will dedicate a block of hours to these activities for each of the next three years. OMB will be informed in writing of the purpose and scope of each of these activities, as well as the time frame and number of burden hours used. The number of hours used will not exceed the number set aside for this purpose.

The Census Bureau is committed to conducting research in a cost efficient manner. Currently, several stages of testing occur in research projects at the Census Bureau. As a first stage of research, the Census Bureau pretests questions on surveys or censuses and evaluates the usability and ease of use of Web sites using a small number of subjects during focus groups, usability and cognitive testing. These projects are in-person and labor-intensive, but typically only target samples of 20 to 30 respondents. This small-scale work is done through an existing OMB generic clearance. Often the second stage is a larger-scale field test with a split-panel design of a survey or a release of a Census Bureau data dissemination product with a feedback mechanism. The field tests often involve a lot of preparatory work and often are limited in the number of panels tested due to

the cost considerations. They are often targeted at very large sample sizes with over 10,000 respondents per panel. These are typically done using stand-alone OMB clearances.

Cost efficiencies can occur by testing some research questions in a medium-scale test, using a smaller number of participants than what we typically use in a field test, yet a larger and more diverse set of participants than who we recruit for cognitive and usability tests. Using Internet panel pretesting, we can answer some research questions more thoroughly than in the small-scale testing, but less expensively than in the large-scale field test. This clearance seeks to establish a medium-scale (defined as having sample sizes from 100–2000 per study), cost-efficient method of testing questions and contact strategies over the Internet through different types of nonprobability samples.

For example, email has been identified as a possible cost-effective notification strategy for online data collection. Email has not been used extensively as a notification mode for past censuses nor other government surveys. (Please see ''Supporting literature'' section at the end of this section.) Prior to implementing an email strategy, the Census Bureau needs to determine the best email invitation to maximize the likelihood that someone will open the email and initiate the survey. Assessment of numerous email variations in a large-scale test would be cost-prohibitive. Medium-scale testing of email variations is more efficient. This research will be used to answer some fundamental questions about how to optimize email (and possibly text message) contacts.

This research program will be used by the Census Bureau and survey sponsors to test alternative contact methods, including emails and text messages (via an opt-in strategy), improve online questionnaires and procedures, reduce respondent burden, and ultimately increase the quality of data collected in the Census Bureau censuses and surveys. We will use the clearance to conduct pretesting of decennial and demographic census and survey questionnaires prior to fielding them as well as communications and/or marketing strategies and data dissemination tools for the Census Bureau. The primary method of identifying measurement problems with the questionnaire or survey procedure is split panel tests. This will encompass both methodological and subject matter research questions that can be tested on a medium-scale nonprobability panel.

This research program will also be used by the Census Bureau for remote usability testing of electronic interfaces and to perform other qualitative analyses such as respondent debriefings. An advantage of using remote, medium-scale testing is that participants can test products at their convenience using their own equipment, as opposed to using Census Bureau-supplied computers. A diverse participant pool (geographically, demographically, or economically) is another advantage. Remote usability testing would use click through rates and other paradata, accuracy and satisfaction scores, and written qualitative comments to determine optimal interface designs and to obtain feedback from respondents.

The public will be offered an opportunity to participate in this research remotely, by signing up for an online research panel. If a person opts in, the Census Bureau will occasionally email (or text, if applicable) the person an invitation to complete a survey for one of our research projects. Invited respondents will be told the topic of the survey, and how long it will take to complete it. Under this clearance, we will also conduct similar-scale and similarly designed research using other email lists to validate preliminary findings and expand the research.

One of the testing methodologies to be used is Split sample experiments. This involves testing alternative versions of questionnaires, invitations to questionnaires (e.g., emails or text messages), or Web sites, at least some of which have been designed to address problems identified in draft versions or versions from previous waves. The use of multiple questionnaires, invitations, or Web sites, randomly assigned to permit statistical comparisons, is the critical component here; data collection will be via the Internet. Comparison of revised questionnaires (or invitations) against a control version, preferably, or against each other facilitates statistical evaluation of the performance of alternative versions of the questionnaire (or invitation or Web site).

The number of versions tested and the number of cases per version will depend on the objectives of the test. We cannot specify with certainty a minimum panel size, although we would expect that no questionnaire versions would be administered to less than fifty respondents.

Split sample tests that incorporate methodological questionnaire design experiments will have a larger maximum sample size (up to several hundred cases per panel) than other pretest methods. This will enable the detection of statistically significant differences, and facilitate methodological experiments that can extend questionnaire design knowledge more generally for use in a variety of Census Bureau data collection instruments.

Another testing methodology is Usability Interviews. This method involves getting respondent input to aid in the development of automated questionnaires and Web sites and associated materials. The objective is to identify problems that keep respondents from completing automated questionnaires accurately and efficiently with minimal burden, or that prevent respondents from successfully navigating Web sites and finding the information they seek. Remote usability testing may be conducted under this clearance, whereby a user would receive an invitation to use a Web site or survey, then answer targeted questions about that experience.

This clearance will only cover pretests primarily conducted remotely, via the Internet. Since the types of surveys included under the umbrella of the clearance are so varied, it is difficult to specify at this point what kinds of activities would be involved in any particular test, but a key component will be the comparison of one invitation, questionnaire or Web site to another.

We will provide OMB with a copy of questionnaires and invitations in advance of any testing activity. Depending on the stage of development, this may be the printed material from the last round of a survey or a revised draft based on analysis of other evaluation data. For a test of alternative procedures, the description and rationale for the procedures would be submitted. We will also provide a description of the sample design and the planned administration. OMB will endeavor to provide comments on substantive issues within 10 working days of receipt.

The Census Bureau will consult with the Economics and Statistics Administration (ESA) and OMB prior to submission on the appropriateness of submissions under this clearance that may raise policy or substantive issues. With respect to ESA, this will include all research and testing related to the American Community Survey (ACS) and the 2020 decennial census. In addition, the Census Bureau will consult with ESA on any research and testing proposals that are presented to the Data Stewardship Executive Policy (DSEP) Committee. Consultation with ESA includes the Census Bureau providing copies of the materials to be tested in advance of any testing.

The Census Bureau will send ESA and OMB an annual report at the end of each year summarizing the number of hours used, as well as the nature and results of the activities completed under this clearance.

The information collected in this program of developing and testing questionnaires will be used by staff from the Census Bureau and sponsoring agencies to evaluate and improve the quality of the data in the surveys and censuses that are ultimately conducted. Because the questionnaires being tested under this clearance are still in the process of development, the data that result from these collections are not considered official statistics of the Census Bureau or other Federal agencies. Data will be included in research reports prepared for sponsors inside and outside of the Census Bureau. The results may also be prepared for presentations related to survey methodology at professional meetings or publications in professional journals.

*Affected Public:* Individuals or households.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Data collection for this project is authorized under the authorizing legislation for the questionnaire being tested. This may be Title 13 U.S.C., Sections 131, 141, 161, 181, 182, 193, and 301 for Census Bureau-sponsored surveys, and Title 13 and 15 for surveys sponsored by other Federal agencies. We do not now know what other titles will be referenced, since we do not know what survey questionnaires will be pretested during the course of the clearance.

*OMB Desk Officer:* Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or email (*bharrisk@omb.eop.gov*).

Dated: January 6, 2014.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2014–00147 Filed 1–8–14; 8:45 am]

**BILLING CODE 3510–07–P**

## DEPARTMENT OF COMMERCE

## Economic Development Administration

## Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[12/20/2013 through 12/30/2013]

| Firm name | Firm address | Date accepted for investigation | Product(s) |
|---|---|---|---|
| SPI Lighting, Inc. | 10400 N Enterprise Drive, Mequon, WI 53092. | 12/27/2013 | The firm manufactures commercial and industrial lighting fixtures. |
| Service Printing & Graphics, Inc. | 1146 Harrison St., Kansas City, MO 64106. | 12/27/2013 | The firm manufactures print materials including brochures, business cards, catalogs, posters, signs, banners signs, invitations and programs. |
| Polar Hardware Manufacturing Co., Inc. | 1813 W. Montrose Ave., Chicago, IL 60613. | 12/27/2013 | The firm manufactures hinges, locks, handles and vents. |
| C.D.E. Inc ..... | 104 Eastgate Industrial Drive, New Haven, MO 63068. | 12/30/2013 | The firm manufactures custom metal fabrications including sign frames, auto suspension parts and medical bed frame parts. |

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: December 30, 2013.

**Michael DeVillo,**

*Eligibility Examiner.*

[FR Doc. 2013–31613 Filed 1–8–14; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## Proposed Information Collection; Comment Request; Economic Value of Puerto Rico's Coral Reef Ecosystems for Recreation-Tourism

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), 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 March 10, 2014.

**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 Dr. Vernon R. (Bob) Leeworthy, (301) 713–7261 or *Bob.Leeworthy@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This request is for a regular submission (new information collection).

NOAA and the U.S. Environmental Protection Agency (EPA) have entered a partnership to estimate the market and non-market economic values of Puerto Rico's coral reef ecosystems. Estimates will be made for all ecosystem services for the Guanica Bay Watershed and for recreation-tourism for all of Puerto Rico's coral reef ecosystems.

We will conduct surveys of visitors to Puerto Rico and residents of Puerto Rico who use the coral reef ecosystems to estimate the amount and type of use, their spending while undertaking coral reef use activities, the economic value of reef attributes (e.g. water clarity/visibility, coral abundance and diversity, fish and invertebrate abundance and diversity, and opportunity to see large wildlife) and how economic value changes with changes in reef attributes.

**II. Method of Collection**

Visitors to the island will be recruited into an Internet Panel via stratified random sampling at the various access modes of transportation to the island (e.g. airports, cruise ship docks and ferries). The panel recruitment surveys will use a short-form (5 to 10 minutes) to gather information of place of permanent residence, length of stay in Puerto Rico, activities participated in while on their stay, and demographic information. A tally sheet will be used to screen survey participants for coral reef use. This will then allow for connection to air enplanement data, cruise ship passenger data, and ferry passenger data to estimate the total number of reef users. Those who agree to the Internet Panel will then be asked more detailed questions on intensity of coral reef use (person-days of reef activity by type of activity), spending while doing reef activities, and economic value of reef attributes. For those who do not want to join the Internet Panel, they will be offered mail back surveys to gather the information that would be gathered in the Internet Panels.

Residents of the island will be surveyed face-to-face in the home. Information on activity participation and use of the coral reefs, demographics, and economic value of coral reefs and how those values change with changes in reef attributes will be gathered in the face-to-face in-home surveys. Additional mail backs will be used for importance-satisfaction ratings and spending while recreating on the coral reefs.

**III. Data**

*OMB Control Number:* None.

*Form Number:* None.

*Type of Review:* Regular submission (new information collection).

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 2,000.

*Estimated Time per Response:* 2 hours per individual/household.

*Estimated Total Annual Burden Hours:* 4,000.

*Estimated Total Annual Cost to Public:* $0 in recordkeeping/reporting costs.

**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: January 3, 2014.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2014–00120 Filed 1–8–14; 8:45 am]

**BILLING CODE 3510–NK–P**

## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meeting; Cancellation

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** Vol. 79, No. 2, Friday, January 3, 2014, page 387.

**ANNOUNCED TIME AND DATE OF MEETING:** Wednesday, January 8, 2014, 10 a.m.–12 p.m.

**MEETING CANCELED.**

For a recorded message containing the latest agenda information, call (301) 504–7948.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Dated: January 7, 2014.

**Todd A. Stevenson,**

*Secretary.*

[FR Doc. 2014–00225 Filed 1–7–14; 4:15 pm]

**BILLING CODE 6355–01–P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Sunshine Act Meeting

The National Civilian Community Corps Advisory Board gives notice of the following meeting:

**DATE AND TIME:** Wednesday, February 12, 2014, 1:30 p.m.–2:30 p.m. (ET).

**PLACE:** Conference Room 8312, 8th Floor, Corporation for National and Community Service Headquarters, 1201 New York Avenue NW., Washington, DC 20525.

**CALL-IN INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 800–369–1759 conference call access code number 8093685. Kate Becker will be the lead on the call. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Corporation will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Replays are generally available one hour after a call ends. The toll-free phone number for the

replay is 888–662–6649, replay passcode 2535. The end replay date: February 19, 2014, 2:29 p.m. (CT).

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

I. Meeting Convenes
- Call to Order, Welcome, and Preview of Today's Meeting Agenda
- Introduction & Acknowledgements

II. Approval of Previous Meeting's Minutes
III. Director's Report
IV. Program Report
V. Budget and Operations Report
VI. Public Comment

**ACCOMMODATIONS:** Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person by 5:00 p.m., Friday, February 7, 2014.

**CONTACT PERSON FOR MORE INFORMATION:** Erma Hodge, NCCC, Corporation for National and Community Service, 9th Floor, Room 9802B, 1201 New York Avenue NW., Washington, DC 20525. Phone: 202–606–6696. Fax: 202–606–3459. TTY: 800–833–3722. Email: *ehodge@cns.gov*.

Dated: January 7, 2014.

**Valerie E. Green,**

*General Counsel.*

[FR Doc. 2014–00252 Filed 1–7–14; 4:15 pm]

**BILLING CODE 6050–28–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Record of Decision for the Presidio of Monterey Real Property Master Plan Environmental Impact Statement, Monterey, CA

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** The Department of the Army and the Presidio of Monterey (POM) announce the decision to proceed with the Proposed Alternative contained in the Final Environmental Impact Statement (FEIS) for the POM Real Property Master Plan (RPMP), which allows for timely implementation of the POM RPMP, providing the necessary facilities and infrastructure upgrades to meet DoD requirements. Specific details of the decision are captured in the Army's Record of Decision (ROD) for this action. This ROD explains the potential environmental and socioeconomic impacts associated with proposed development at two properties: The POM and the Ord Military Community (OMC). This alternative provides the proper balance of initiatives for the protection of environmental resources and mission essential actions. The ROD also identifies mitigation that will reduce or eliminate adverse impacts.

**ADDRESSES:** Written requests to obtain a copy of the ROD can be addressed to: U.S. Army Garrison, Directorate of Public Works, Master Planning Division (Attention: Mr. Robert Guidi), P.O. Box 5004, Presidio of Monterey, CA 93944–5004 or send email requests to: *robert.g.guidi@us.army.mil.* For media inquiries, please contact Mr. Daniel Carpenter, Presidio of Monterey Public Affairs, at *presidiopao@gmail.com.*

**FOR FURTHER INFORMATION CONTACT:** Please contact Mr. John Elliot at (831) 242–7777 or by email at *john.elliot5@us.army.mil.* Additional information may be found at the POM Directorate of Public Works Web site at: *http://www.monterey.army.mil/DPW/env_assessment.html.*

**SUPPLEMENTARY INFORMATION:** The POM is located on the Monterey Peninsula between the Cities of Monterey and Pacific Grove and the OMC is located approximately eight miles northeast of the POM and situated within the former Fort Ord military installation adjacent to the City of Seaside. Both properties, collectively referred to as the POM Installation, are located within Monterey County and are in proximity to the Pacific Ocean.

The DoD Foreign Language Proficiency Enhancement Program changes the student-to-instructor ratio and will result in a greater population of students and instructors. The POM needs to train more linguists for deployment throughout the world because current projections indicate a shortfall in personnel properly trained to interface with people of other nations. The existing facilities at the POM neither met current needs nor the projected requirements at the DLIFLC. This fact, coupled with anti-terrorism/force protection requirements, resulted in the need to change the physical landscape at the POM and the OMC.

The ROD incorporates analyses contained in the FEIS for the RPMP, including comments provided during formal comment and review periods. The ROD selects facility improvements and phased construction to maintain and enhance the professional standards established by the Defense Language Institute Foreign Language Center (DLIFLC). Modernization of classrooms, living quarters, and support facilities will help ensure a sustainable mission throughout the foreseeable future.

Under the selected alternative, the majority of new construction and development will be located within the existing central campus at the POM. The POM Barracks Complex Phase I and Phase IV will be constructed. This action places future development of primary and support facilities for the DLIFLC at the POM. The two new barracks and three additional general instruction buildings will be sited to preserve the centralized location of the DLIFLC. No new barracks or instructional buildings are designated for the OMC.

Implementation of this decision is expected to result in direct, indirect, and cumulative impacts to the POM Installation. Environmental impacts are expected to occur as a result of facilities construction and changes in operations. The potential for significant environmental impacts is greatest for aesthetic resources, endangered plant species and associated critical habitat, cultural resources, housing and population, public services (schools), traffic circulation, and water usage. The POM will mitigate adverse effects through a variety of strategies, as described in the FEIS. All practicable means to avoid or minimize environmental harm from the selected alternative have been adopted and a monitoring and enforcement program will be adopted.

The environmentally preferred alternative is the ''no action'' alternative, but this alternative would not have met mission requirements.

The selected alternative allows for timely implementation of the POM RPMP while providing the necessary facilities and infrastructure upgrades to meet the DoD requirements. This decision provides the proper balance of initiatives for the protection of the environment and supports the U.S. Army's effort to fulfill its mandated mission requirements and provide an exceptional learning environment.

A summary of environmental impacts and rationale for the decision can be found in the ROD, which is available along with the FEIS at *http://www.monterey.army.mil/DPW/env_assessment.html.*

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00153 Filed 1–8–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning Automatic Focused Assessment With Sonography for Trauma Exams

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/884,630, entitled ''Automatic Focused Assessment with Sonography for Trauma Exams,'' filed on September 30, 2013. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates to a method for identifying internal trauma in a patient for pneumothorax, hemothorax and abdominal hemorrhage using ultrasound in B-modes with radial, longitudinal, phased array probes, and with M-mode for verification of lung sliding and lung point.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00149 Filed 1–8–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning Small-Molecule Antidotes to Ribosome-Inactivating Proteins

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/826,820, entitled ''Small-Molecule Antidotes to Ribosome-Inactivating Proteins,'' filed on May 23, 2013. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates to a method of treating, inhibiting, reducing, or preventing intoxication caused by a ribosome-inactivating (RIP) in a subject which comprises administering to the subject a therapeutically effective amount of at least one compound or composition according to the present invention.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00146 Filed 1–8–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning System and Method for Generating Documents From a Database

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/839,950, entitled ''System and Method for Generating Documents from a Database,'' filed on June 27, 2013. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates generally to multimedia database systems and in particular to a multimedia database system storing medical images.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00145 Filed 1–8–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning Method for Estimating Core Body Temperature From Heart Rate

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/739,765, entitled ''Method for Estimating Core Body Temperature from Heart Rate'' filed on December 20, 2012. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates to a model which was developed to examine the response of steady state Heart Rate and core temperature in different environments and data from elite athletes where end point core temperatures exceed a definitive temperature.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer .*

[FR Doc. 2014–00148 Filed 1–8–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

### Intent To Prepare a Supplemental Environmental Impact Statement for the Route 460 Location Study From Prince George County to the City of Suffolk, Virginia

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice; correction.

**SUMMARY:** The email address listed for Alice Allen-Grimes under the **FOR FURTHER INFORMATION CONTACT** section of the notice published in the **Federal Register** on Friday, December 27, 2013 (78 FR 78948) was incorrect. The email address should read as follows: *alice.w.allen-grimes@usace.army.mil.*

**FOR FURTHER INFORMATION CONTACT:** Alice Allen-Grimes, email: *Alice.W.Allen-Grimes@usace.army.mil;* (757) 201–7219.

**SUPPLEMENTARY INFORMATION:** None.

**Brenda S. Bowen,**

*Alternate Army Federal Register Liaison Officer.*

[FR Doc. 2014–00152 Filed 1–8–14; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

### North Atlantic Coast Comprehensive Study

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of study initiation; correction on study review.

**SUMMARY:** Information included in the **Federal Register** Notice published on June 19, 2013, 78 FR 36753, has changed. The notice published on June 19, 2013 stated: ''A draft of the North Atlantic Coast Comprehensive Study will be available for public review and comment in early 2014 and a final report is due to Congress in January 2015.'' As the study advanced, it has been determined that formal public review and comment period of a draft of the North Atlantic Coast Comprehensive Study report document will not occur in early 2014 as previously stated. However, in order to prepare a report in the legislatively set time frame for completion of 24 months and to embrace the extensive geographic area impacted by Hurricane Sandy, as well as to promote public involvement throughout, various mechanisms to provide information to the public and solicit input have been established. The Study's public Web site, launched in May 2013, has allowed for public input on resiliency and other key aspects of the Study, and offers interested stakeholders the opportunity to receive updates on the Study as they become available. In addition, a **Federal Register** notice was published on October 4, 2013 requesting peer reviewed data relevant to the Comprehensive Study. Submissions were accepted through December 31, 2013, to allow for adequate time to review and consider for incorporation. This input, as well as input gathered from public engagements, is being used in development of the Comprehensive Study. In addition, the Comprehensive Study has sought to engage technical subject matter experts across all levels of government, academia, NGO's, and the private sector, on a national and international basis. PL 113–2 specifically requires the North Atlantic Coast Comprehensive Study to be conducted in coordination with other federal agencies, and state, local, and tribal officials to ensure consistency with other plans to be developed. While the Study is not a Decision Document, it has been scoped as a foundation and catalyst for further evaluation of coastal flood risk. Subsequent federal agency decision documents would likely include a public comment period required for screening feasible alternatives in accordance with the National Environmental Policy Act.

**ADDRESSES:** For media contacts please contact Mr. Justin Ward, U.S. Army Corps of Engineers, Public Affairs, 302 General Lee Avenue, Brooklyn, NY 11252, at *justin.m.ward@usace.army.mil* or at (347) 370–4550.

**FOR FURTHER INFORMATION CONTACT:** Mr. Justin Ward, U.S. Army Corps of Engineers, Public Affairs.

**SUPPLEMENTARY INFORMATION:** None.

Dated: December 18, 2013.

**Amy M. Guise,**

*Chief, Planning Division, Baltimore District, U.S. Army Corps of Engineers.*

[FR Doc. 2014–00151 Filed 1–8–14; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities—Stepping-Up Technology Implementation

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

*Overview Information:* Educational Technology, Media, and Materials for Individuals With Disabilities—Stepping-up Technology Implementation Notice inviting applications for new awards for fiscal year (FY) 2014.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 84.327S.

**DATES:**

*Applications Available:* January 9, 2014.

*Deadline for Transmittal of Applications:* March 10, 2014.

*Deadline for Intergovernmental Review:* May 9, 2014.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purposes of the Educational Technology, Media, and Materials for Individuals with Disabilities Program [1] are to: (1) Improve results for students with disabilities by promoting the development, demonstration, and use of technology; (2) support educational activities designed to be of educational value in the classroom for students with disabilities; (3) provide support for captioning and video description that is appropriate for use in the classroom; and (4) provide accessible educational materials to students with disabilities in a timely manner.

*Priority:* In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 674 and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.)).

*Absolute Priority:* For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34

[1] This program was formerly called ''Technology and Media Services for Individuals with Disabilities.'' The Department has changed the name to Educational Technology, Media, and Materials for Individuals with Disabilities and updated the purposes of the program to more clearly convey that the program includes accessible educational materials. The program's activities and statutory authorization (20 U.S.C. 1474) remain unchanged.

CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

*Educational Technology, Media, and Materials for Individuals With Disabilities—Stepping-Up Technology Implementation*

*Background:*

The purpose of this priority is to fund cooperative agreements to: (a) Identify strategies needed to effectively implement evidence-based [2] technology tools [3] that benefit students with disabilities; and (b) develop and disseminate products [4] that will help a broad range of schools to effectively implement these technology tools. As Congress recognized in IDEA, ''almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by . . . supporting the development and use of technology, including assistive technology devices and assistive technology services, to maximize accessibility for children with disabilities'' (section 601(c)(5)(H) of IDEA).

The use of technology, including assistive technology devices and assistive technology services, enhances instruction and access to the general education curriculum. Technology can be the great equalizer in a classroom for students with disabilities. Whereas teachers can find it difficult to differentiate instruction for a large number of students in one class, all with different needs and abilities, technology tools that benefit students with disabilities can often help teachers personalize lessons and skill building for each child. ''Most students with disabilities can and do benefit from technology in the classroom. Incorporating technology increases students' motivation to learn and personalizes lessons to a student's individual needs'' (Zorigian & Job, 2008). Furthermore, technologies offer opportunities to support State educational agency (SEA) and local educational agency (LEA) Elementary and Secondary Education Act (ESEA) flexibility plans by: (a) Improving student learning and engagement; (b) accommodating the special needs of students; (c) facilitating student and teacher access to digital content and resources; [5] and (d) improving the quality of instruction through personalized learning and data (Duffey & Fox, 2012; Fletcher, Schaffhauser, & Levi, 2012; U.S. Department of Education, 2010).

The employment of products and resources designed to assist with the implementation of evidence-based technology tools is critical to ensuring that these tools will be effectively used to improve early childhood outcomes, academic achievement, and college- and career-readiness of children with disabilities. Data from a survey of more than 1,000 kindergarten through grade 12 (K–12) teachers, principals, and assistant principals indicated that simply providing teachers with technology does not ensure that it will be used. The survey also indicated that while newer teachers may use technology in their personal lives more often than veteran teachers, they do not use it more frequently in their classrooms than veteran teachers do. In addition, the survey indicated that the more often teachers use technology to improve students' daily classroom engagement, the more likely teachers are to recognize the benefits to understanding different student learning styles (Grunwald Associates, 2010). Additionally, Perlman and Redding (2011) found that in order to be used most effectively, technology must be implemented in ways that align with curricular and teacher goals and must offer students opportunities to use these tools in their learning. While for years there has been a vast improvement in the infrastructure to support the implementation of technology in educational institutions, the integration of technology at all levels still remains surprisingly low (Lu & Overbaugh,

[2] For the purposes of this priority, the definition of ''evidence-based'' consists of the following definitions in 34 CFR 77.1: *Large sample* means an analytic sample of 350 or more students (or other single analysis units) who were randomly assigned to a treatment or control group or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units) and that were randomly assigned to a treatment or control group. *Moderate evidence of effectiveness* means one of the following conditions is met:

(i) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards without reservations [What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*], found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(ii) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards with reservations [What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*], found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice, and includes a large sample and a multi-site sample (**Note:** multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph). *Multi-site sample* means more than one site, where site can be defined as an LEA, locality, or State. *Relevant outcome* means the student outcome or outcomes (or the ultimate outcome if not related to students) that the proposed process, product, strategy, or practice is designed to improve, consistent with the specific goals of a program. *Strong evidence of effectiveness* means that one of the following conditions is met:

(i) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards without reservations [What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*], found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice, and includes a large sample and a multi-site sample (**Note:** multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph).

(ii) There are at least two studies of the effectiveness of the process, product, strategy, or practice being proposed, each of which: Meets the What Works Clearinghouse Evidence Standards with reservations [What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*], found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the studies or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice, and includes a large sample and a multi-site sample.

[3] For the purposes of this priority, ''technology tools'' may include, but are not limited to, digital math text readers for students with visual impairment, reading software to improve literacy and communication development, and text-to-speech software to improve reading performance. These tools must assist or otherwise benefit students with disabilities.

[4] For the purposes of this priority, ''products'' may include, but are not limited to, instruction manuals, lesson plans, demonstration videos, ancillary instructional materials, and professional development modules such as collaborative groups, coaching, mentoring, or online supports.

[5] For the purposes of this priority, ''resources'' include, but are not limited to, school leadership support, professional development support to school staff, and a plan for integrating technology into the classroom curriculum.

2009). For example, even as many systems have recently been deployed to deliver coursework online and the number of students involved in online learning has grown precipitously, many of these online learning technologies have not been designed to be accessible to students with disabilities (Center on Online Learning and Students with Disabilities, 2012). These findings demonstrate a need for products and resources that can ensure technology tools for students with disabilities are implemented effectively.

Since 1998, the Office of Special Education Programs (OSEP) has supported technology and media service projects through the Steppingstones of Technology Innovation for Children with Disabilities (Steppingstones) program. The projects funded under the Steppingstones program developed and evaluated numerous innovative technology tools designed to improve results for children with disabilities. Examples of such tools include: Web-based learning and assessment materials, instructional software, assistive technology devices, methods for using off-the-shelf hardware and software to improve learning, and methods for integrating technology into instruction. In addition, the Department's Institute of Education Sciences (IES) now supports projects to develop and evaluate innovative technology tools. The Stepping-up Technology Implementation program is building on these technology development efforts by identifying, developing, and disseminating products and resources that promote the effective implementation [6] of evidence-based instructional and assistive technology tools in early childhood or K–12 settings.[7]

*Priority:*

The purpose of this priority is to fund cooperative agreements to: (a) Identify strategies needed to effectively implement evidence-based technology tools that benefit students with disabilities; and (b) develop and disseminate products (e.g., instruction manuals, lesson plans, demonstration videos, ancillary instructional materials) that will help early childhood or K–12 settings to effectively implement these technology tools.

To be considered for funding under this absolute priority, applicants must meet the application requirements. Any project funded under this absolute priority must also meet the programmatic and administrative requirements specified in the priority.

*Application Requirements:* An applicant must include in its application—

(a) A logic model or conceptual framework that depicts at a minimum, the goals, activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and provides a framework for both formative and summative evaluations of the project;

**Note:** The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.tadnet.org/pages/589.*

(b) A plan to implement the activities described in the *Project Activities* section of this priority;

(c) A plan, linked to the proposed project's logic model, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and services;

(d) A plan for recruiting and selecting the following:

(1) Three development schools. Development schools are the sites in which iterative development [8] of the implementation of technology tools and products will occur. The project must start implementing the technology tool with one development school in year one of the project period and two additional development schools in year two.

(2) Four pilot schools. Pilot schools are the sites in which try-out, formative evaluation, and refinement of technology tools and products will occur. The project must work with the four pilot schools during years three and four of the project period.

(3) Ten dissemination schools. Dissemination schools will be selected if the project is extended for a fifth year. Dissemination schools will be used to conduct the final test of the effectiveness of the products and the final opportunity for the project to refine the products for use by teachers, but will receive less technical assistance (TA) from the project than the development or pilot schools. Also, at this stage, dissemination schools will extend the benefits of the technology tool to additional students. To be selected as a dissemination school, eligible schools and LEAs must commit to working with the project to implement the evidence-based technology tool. A school may not serve in more than one category (i.e., development, pilot, dissemination).

(e) Information (e.g., early childhood setting; elementary, middle, or high school; persistently lowest-achieving school; [9] priority school [10]) about the diversity of the development, pilot, and dissemination schools; their demographics (e.g., student race or ethnicity, percentage of students eligible

[6] In this context, ''effective implementation'' means ''making better use of research findings in typical service settings through the use of processes and activities (such as accountable implementation teams) that are purposeful and described in sufficient detail such that independent observers can detect the presence and strength of these processes and activities'' (Fixsen, Naoom, Blase, Friedman, & Wallace, 2005).

[7] For the purposes of this priority, ''settings'' include general education classrooms, special education classrooms or any place where school-based instruction occurs.

[8] For the purposes of this priority, ''iterative development'' refers to a process of testing, systematically securing feedback, and then revising the educational intervention that leads to revisions in the intervention to increase the likelihood that it will be implemented with fidelity (Diamond & Powell, 2011).

[9] The term ''persistently lowest-achieving schools'' means, as determined by the State—

(a)(1) Any Title I school in improvement, corrective action, or restructuring that—

(i) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and

(2) Any secondary school that is eligible for, but does not receive, Title I funds that—

(i) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

(b) To identify the persistently lowest-achieving schools, a State must take into account both—

(i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) in reading/language arts and mathematics combined; and

(ii) The school's lack of progress on those assessments over a number of years in the ''all students'' group.

For the purposes of this priority, the Department considers schools that are identified as Tier I or Tier II schools under the School Improvement Grants Program (see 75 FR 66363) as part of a State's approved FY 2009, FY 2010, FY 2011, or FY 2012 application to be persistently lowest-achieving schools. A list of these Tier I and Tier II schools can be found on the Department's Web site at *www2.ed.gov/programs/sif/index.html.*

[10] The term ''priority school'' means a school that has been identified by the State as a priority school pursuant to the State's approved request for ESEA flexibility.

for free or reduced-price lunch); and other pertinent data.

(f) Documentation that the technology tool is evidence-based (as defined in this notice) and that it can be implemented to improve early childhood outcomes, academic achievement, and college- and career-readiness.

(g) A budget for attendance at the following:

(1) A one and one-half day kick-off meeting to be held in Washington, DC, after receipt of the award, and an annual planning meeting held in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

**Note:** Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative.

(2) A three-day project directors' conference in Washington, DC, during each year of the project period.

(3) Two two-day trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP.

*Project Activities.* To meet the requirements of this priority, the project, at a minimum, must conduct the following activities:

(a) Recruit a minimum of three development schools in one LEA and four pilot schools across at least two LEAs in accordance with the plan proposed under paragraph (d) of the *Application Requirements* section of this notice.

**Note:** Final site selection will be determined in consultation with the OSEP project officer following the kick-off meeting.

(b) Identify resources and develop products to support sustained implementation of the selected technology tool. Development of the products must be an interactive process beginning in a single development school and continuing through iterative cycles of development and refinement in the other development schools, followed by a formative evaluation and refinement in the pilot schools. The products must include, at a minimum, the following components to support implementation of the technology tool:

(1) An instrument or method for assessing (i) the need for the technology tool, and (ii) readiness to implement it. Instruments and methods may include resource inventory checklists, school self-study guides, surveys of teacher interest, detailed descriptions of the technology tool for review by school staff, and similar approaches used singly or in combination.

(2) Methods and manuals to support the implementation of the technology tool.

(3) Professional development activities necessary for teachers to implement the technology tool with fidelity and integrate it into the curriculum.

(c) Collect and analyze data on the effect of the technology tool on academic achievement and college- and career-readiness.

(d) Collect formative and summative evaluation data from the development schools and pilot schools to refine and evaluate the products.

(e) If the project is extended to a fifth year, provide the products and the technology tool to no fewer than 10 dissemination schools that are not the same schools used as development and pilot schools.

(f) Collect summative data about the success of the products in supporting implementation of the technology tool in the dissemination schools; and

(g) By the end of the project period, projects must provide information on:

(1) The products and resources that will enable other schools to implement and sustain implementation of the technology tool.

(2) How the technology tool has improved early childhood, academic achievement, or college- and career-readiness for children with disabilities.

(3) A strategy for disseminating the technology tool and accompanying products beyond the schools directly involved in the project.

*Collaboration with the Model Demonstration Coordination Center (MDCC).*

Although these projects are not model demonstration projects, the MDCC, an OSEP-funded project, will provide coordination support among the projects. As long as the MDCC is funded, each project funded under this priority must—

(a) Coordinate with the MDCC and the other projects to determine times for cross-project collaboration conference calls. Individual project timelines may need to be adjusted once the cross-project collaboration calls are established;

(b) Provide MDCC with a description of the schools as described in paragraph (e) of the *Application Requirements* section of this notice; and

(c) Participate in conference call discussions, organized and facilitated by the MDCC, and, to the extent appropriate, establish consistent project design elements such as site selection, evaluation design issues, implementation strategies, sustainability, documentation, and dissemination.

(d) Provide information to MDCC biannually using a template that captures descriptive data on project site selection, processes for installation of technology, and the use of technology and sustainability (i.e., the process of technology implementation).

**Note:** The following Web site provides more information on the MDCC: *http://mdcc.sri.com.*

*Fifth Year of the Project:*

The Secretary may extend a project one year beyond 48 months to work with dissemination schools if the grantee is achieving the intended outcomes and making a positive contribution to the implementation of an evidence-based technology tool in the development and pilot schools. Each applicant must include in its application a plan for the full 60-month award. In deciding whether to continue funding the project for the fifth year, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of the OSEP project officer and other experts selected by the Secretary. This review will be held during the last half of the third year of the project period;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) Evidence of the degree to which the project's activities have contributed to changed practices and improved early childhood outcomes, academic achievement, or college- and career-readiness for students with disabilities.

*Competitive Preference Priority:* Within this absolute priority, we give competitive preference to applications that meet the following priority. For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is a competitive preference priority.

This priority is from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637).

Under 34 CFR 75.105(c)(2)(i) we award an additional five points to an application that meets this priority.

This priority is:

*Enabling More Data-Based Decision-Making.*

Projects that are designed to collect (or obtain), analyze, and use high-quality and timely data, including data

on program participant outcomes, in accordance with privacy requirements,[11] in one or more of the following priority areas:

(a) Improving instructional practices, policies, and child outcomes in early learning settings.

(b) Improving instructional practices, policies, and student outcomes in elementary or secondary schools.

(c) Improving postsecondary student outcomes relating to enrollment, persistence, and completion and leading to career success.

(d) Providing reliable and comprehensive information on the implementation of Department of Education programs, and participant outcomes in these programs by using data from State longitudinal data systems or by obtaining data from reliable third-party sources.

*References:*

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*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priorities in this notice.

*Program Authority:* 20 U.S.C. 1474 and 1481.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

## II. Award Information

*Type of Award:* Cooperative Agreements.

*Estimated Available Funds:* The Administration has requested $29,588,000 for the Educational Technology, Media, and Materials for Individuals with Disabilities program for FY 2014, of which we intend to use an estimated $1,500,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 from the list of unfunded applicants from this competition.

*Estimated Range of Awards:* $475,000 to $500,000 per year.

*Estimated Average Size of Awards:* $500,000 per year.

*Maximum Award:* We will reject any application that proposes a budget exceeding $500,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

*Estimated Number of Awards:* 3.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 48 months with an optional additional 12 months based on performance. Applications must include plans for both the 48 month award and the 12 month extension.

## III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other General Requirements:*

(a) Recipients of funding under this program must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this competition must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

## IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.327S.

[11] ''Privacy requirements'' means the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and its implementing regulations in 34 CFR part 99, the Privacy Act, 5 U.S.C. 552a, as well as all applicable Federal, State and local requirements regarding privacy.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- *Double-space* (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the two-page abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing does apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section; or if you apply standards other than those specified in the application package.

3. *Submission Dates and Times:*

*Applications Available:* January 9, 2014.

*Deadline for Transmittal of Applications:* March 10, 2014.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

*Deadline for Intergovernmental Review:* May 9, 2014.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

**Note:** Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov*. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html*.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp*.

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Stepping-up Technology Implementation competition, CFDA number 84.327S, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Stepping-up Technology Implementation competition at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.327, not 84.327S).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

*Exception to Electronic Submission Requirement:* You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Terry Jackson, U.S. Department of Education, 400 Maryland Avenue SW., Room 4081, Potomac Center Plaza (PCP), Washington, DC 20202–2600. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.327S),
LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.327S),
550 12th Street SW., Room 7041,
Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

**Note for Mail or Hand Delivery of Paper Applications:** If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information,

as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials for Individuals with Disabilities program. These measures are included in the application package and focus on the extent to which projects are of high quality, are relevant to improving outcomes of children with disabilities, contribute to improving outcomes for children with disabilities, and generate evidence of validity and availability to appropriate populations. Projects funded under this competition are required to submit data on these measures as directed by OSEP:

*Program Performance Measure #1:* The percentage of educational technology, media, and materials projects judged to be of high quality.

*Program Performance Measure #2:* The percentage of educational technology, media, and materials projects judged to be of high relevance to improving outcomes of infants, toddlers, children, and youth with disabilities.

*Program Performance Measure #3:* The percentage of educational technology, media, and materials projects that produce findings, products, and other services that contribute to improving results for infants, toddlers, children, and youth with disabilities.

*Program Performance Measure #4:* The percentage of educational technology, media, and materials projects that validate their products and services.

*Program Performance Measure #5:* The percentage of educational technology, media, and materials projects that make validated technologies available for widespread use.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

## VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** Terry Jackson, U.S. Department of Education, 400 Maryland Avenue SW., Room 4081, PCP, Washington, DC 20202–2600. Telephone: (202) 245–6039.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

## VIII. Other Information

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 6, 2014.

**Michael K. Yudin,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2014–00165 Filed 1–8–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### List of Correspondence From April 1, 2013, Through June 30, 2013

**AGENCY:** Office of Special Education and Rehabilitative Services; Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Secretary is publishing the following list of correspondence from the U.S. Department of Education (Department) to individuals during the previous quarter. The correspondence describes the Department's interpretations of the Individuals with Disabilities Education Act (IDEA) or the regulations that implement the IDEA. This list and the letters or other documents described in this list, with personally identifiable information redacted, as appropriate, can be found at: *http://www2.ed.gov/policy/speced/guid/idea/index.html.*

**FOR FURTHER INFORMATION CONTACT:** Jessica Spataro or Mary Louise Dirrigl. Telephone: (202) 245–7605.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you can call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of this list and the letters or other documents described in this list in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting Jessica Spataro or Mary Louise Dirrigl at (202) 245–7605.

**SUPPLEMENTARY INFORMATION:**

The following list identifies correspondence from the Department issued from April 1, 2013, through June 30, 2013. Under section 607(f) of the IDEA, the Secretary is required to publish this list quarterly in the **Federal Register**. The list includes those letters that contain interpretations of the requirements of the IDEA and its implementing regulations, and it may also include letters and other documents that the Department believes will assist the public in understanding the requirements of the law. The list identifies the date and topic of each letter, and it provides summary

information, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been redacted, as appropriate.

**Part B—Assistance for Education of All Children With Disabilities**

*Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements*

Topic Addressed: Individualized Education Programs

○ Letter dated May 21, 2013, to New England Juvenile Defender Center President Christopher Northrop, regarding parent participation at individualized education program (IEP) team meetings.

○ Dear Colleague Letter dated June 19, 2013, regarding the requirements in Part B of the IDEA to provide braille instruction for children who are blind or visually impaired.

*Section 615—Procedural Safeguards*

Topic Addressed: Discipline Procedures

○ Letter dated April 2, 2013, to Utah State Director of Special Education Glenna Gallo, regarding the requirements in Part B of the IDEA that apply to functional behavioral assessments.

**Part C—Infants and Toddlers With Disabilities**

*Section 636—Individulaized Family Service Plan*

Topic Addressed: Natural Environments

○ Letter dated April 18, 2013, to Utah Provider Consortium Chairperson Marsha Johnson, regarding the meaning of community settings for purposes of meeting the natural environments requirement in Part C of the IDEA.

*Section 639—Procedural Safeguards*

Topic Addressed: Confidentiality of Records

○ Letter dated May 8, 2013, to North Texas Rehabilitation Center Early Childhood Intervention Program Director Charlcie Flinn, regarding the confidentiality requirements that apply to early intervention records of infants and toddlers with disabilities in Part C of the IDEA and the Family Educational Rights and Privacy Act.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 6, 2014.

**Michael K. Yudin,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2014–00171 Filed 1–8–14; 8:45 am]

**BILLING CODE 4000–01–P**

## ENVIRONMENTAL PROTECTION AGENCY, REGION 9

**[FRL–9905–23–Region 9]**

### Reissuance of National Pollutant Discharge Elimination System (NPDES) General Permit for Offshore Oil and Gas Exploration, Development and Production Operations Off Southern California

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of final NPDES general permit.

**SUMMARY:** EPA Region 9 is today publishing this notice of availability of its final general NPDES permit (permit No. CAG280000) for discharges from offshore oil and gas exploration, development and production facilities located in Federal waters off the coast of Southern California. The general permit establishes effluent limitations, prohibitions, and other conditions for discharges from facilities that engage in such operations within the geographic coverage area of the general permit. The general permit applies to 23 existing development and production platforms as well as to any new exploratory drilling operations located in and discharging to the specified lease blocks on the Pacific Outer Continental Shelf covered by the permit. The new general permit replaces the previous general permit issued on September 22, 2004 (69 FR 56761).

**DATES:** For purposes of judicial review the permit is considered issued on January 23, 2014. The final permit was signed on December 20, 2013 and is effective on March 1, 2014.

**ADDRESSES:** The final general permit and other related documents in the administrative record are on file and may be inspected any time between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays, at the following address: U.S. EPA, Region 9, NPDES Permits Office (WTR–5), 75 Hawthorne Street, San Francisco, CA 94105–3901.

**FOR FURTHER INFORMATION CONTACT:** Eugene Bromley, EPA, Region 9, NPDES Permits Office (WTR–5), 75 Hawthorne Street, San Francisco, California 94105–3901, or telephone (415) 972–3510. Copies of the final general permit, Addendum to Fact Sheet and the Response to Public Comments will be provided upon request and are also available at EPA, Region 9's Web site at: *http://www.epa.gov/region9/water/npdes/permits.html.*

**SUPPLEMENTARY INFORMATION:** Public notice of Region 9's tentative decision to issue the permit was published in the **Federal Register** on December 20, 2012 (77 FR 75429), and in the Santa Barbara News-Press on December 19, 2012. The public comment period closed on February 4, 2013. Region 9 received written comments from eight parties concerning the proposed permit. Region 9 prepared a separate document (Response to Public Comments) which discusses these comments in more detail and Region 9's responses to the comments.

For the most part, the final permit is very similar to the permit proposed in December 2012. However, the monitoring requirements for produced water discharges were revised based on public comments and also discussions between Region 9 and California Coastal Commission (CCC) staff concerning Region 9's consistency determination for the permit pursuant to the Coastal Zone Management Act (CZMA). Region 9 also added a requirement to maintain an inventory of the chemicals used to formulate well treatment, completion and workover fluids, and if there is a discharge of the fluids, to report the chemical formulation with the quarterly discharge monitoring report. This requirement was added in response to recent concerns regarding the potential effects of discharges of fluids used for offshore hydraulic fracturing operations.

The final permit also includes a number of technical corrections and other relatively minor revisions based on public comment or other sources. These revisions are discussed in more detail in the Response to Public Comments and the final Addendum to Fact Sheet.

B. *Endangered Species Act (ESA).* The ESA and its implementing regulations (50 CFR Part 402) require EPA to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized, funded or carried out by EPA is not likely to jeopardize the continued existence of any threatened or endangered species or adversely affect its critical habitat.

For the 2004 permit, Region 9 concluded that the authorized discharges would not affect listed species or critical habitat for the species. For the general permit reissuance, Region 9 reconsidered this matter, but again concluded that the discharges would not affect such species. Region 9 also forwarded the draft permit and fact sheet to the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) for review and comment on Region 9's conclusion, but no comments were received.

C. *Coastal Zone Management Act (CZMA).* The CZMA provides that a Federal license or permit for activities affecting the coastal zone of a state may not be granted until a state with an approved Coastal Management Plan (CMP) concurs that the activities authorized by the permit are consistent with the CMP. In California, the CZMA authority is the CCC.

In accordance with the requirements of the CZMA and its implementing regulations at 15 CFR Part 930, Region 9 submitted a consistency determination for the draft permit to the CCC in a letter dated December 20, 2012. Region 9 and CCC staff also met in spring 2013 to discuss the permit and conditions necessary to ensure consistency with the CMP. Based on those discussions, Region 9 submitted an amended consistency determination in a letter dated May 2, 2013. At a public meeting held on June 12, 2013, the CCC concurred with Region 9's consistency determination.

D. *Magnuson-Stevens Fishery Conservation and Management Act.* The 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act set forth a number of new mandates for NMFS, regional fishery management councils, and Federal agencies to identify and protect important marine and anadromous fish habitat. Regional fishery management councils, with assistance from NMFS, are required to delineate essential fish habitat (EFH).

The Magnuson-Stevens Act requires that Federal agencies consult with NMFS on all actions undertaken by the agency which may adversely affect EFH. For the 2004 general permit, EPA concluded that the discharges would not have a significant adverse effect on EFH. After a consultation was held regarding the 2004 permit, NMFS concurred with Region 9's conclusion.

For the general permit reissuance, Region 9 reconsidered the effects of the discharges on EFH, but again concluded that the discharges would not have a significant adverse effect on EFH. The draft permit and fact sheet were forwarded to NMFS for review and comment on Region 9's conclusion, but no comments were received.

E. *Permit Appeal Procedures.* Within 120 days following the date the permit is considered issued for purposes of judicial review, any interested person may appeal the permit decision in the Federal Court of Appeals in accordance with Section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any condition of the individual permit (40 CFR 124.19).

F. *Regulatory Flexibility Act.* The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq,* requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. The permit issued today is not a ''rule'' subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Offshore Subcategory guidelines on which many of the permit's effluent limitations are based. That analysis has shown that issuance of this permit would not have a significant impact on a substantial number of small entities.

G. *Paperwork Reduction Act.* The information collection required by this final permit has been approved by Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.,* in submissions made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

**Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: December 20, 2013.

**Jane Diamond,**

*Director, Water Division, EPA Region 9.*

[FR Doc. 2014–00156 Filed 1–8–14; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 24, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Randolph Gillespie Rogers,* Hartsville, South Carolina; to acquire voting shares of Regional Bankshares, Inc., and thereby indirectly acquire voting shares of Heritage Community Bank, both in Hartsville, South Carolina.

Board of Governors of the Federal Reserve System, January 6, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–00140 Filed 1–8–14; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of

the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 3, 2014.

A. Federal Reserve Bank of Minneapolis (Jacqueline K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Central Bancshares, Inc.,* Golden Valley, Minnesota; to acquire 100 percent of the voting shares of First Financial Holdings, Golden Valley, Minnesota, and thereby indirectly acquire voting shares of First National Bank and Trust, Barron, Wisconsin.

Board of Governors of the Federal Reserve System, January 6, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–00141 Filed 1–8–14; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No: FDA–2014–N–0001]**

### Science Board to the Food and Drug Administration; 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:* Science Board to the Food and Drug Administration (Science Board).

*General Function of the Committee:* The Science Board provides advice primarily to the Commissioner of Food and Drugs and other appropriate officials on specific complex scientific and technical issues important to FDA and its mission, including emerging issues within the scientific community. Additionally, the Science Board provides advice to the Agency on keeping pace with technical and scientific developments including in regulatory science; and input into the Agency's research agenda; and on upgrading its scientific and research facilities and training opportunities. It will also provide, where requested, expert review of Agency sponsored intramural and extramural scientific research programs.

*Date and Time:* The meeting will be held on February 5, 2014, from approximately 8:30 a.m. until 12:45 p.m.

*Location:* FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 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:* Martha Monser, Office of the Commissioner, Food and Drug Administration, Bldg. 32, Rm. 4286, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–4627, *martha.monser@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). 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 at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

*Agenda:* On February 5, 2014, the Science Board will discuss the draft final report from the Global Health subcommittee. The Center for Devices and Radiological Health (CDRH) will present a response to the CDRH Research Review subcommittee's report that was accepted by the Science Board at its June 24, 2013, meeting. The Science Board will hear a progress update from the Center for Biologics Evaluation and Research Post-Marketing Safety Review subcommittee. Finally, a recipient of one of the FY 2013 Scientific Achievement Awards (selected by the Science Board) will provide an overview of the activities for which the award was given. 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 January 29, 2014. Oral presentations from the public will be scheduled between approximately 12:10 p.m. and 12:40 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 January 21, 2014. 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 January 22, 2014.

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 Martha Monser 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/ucm111462.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: January 6, 2014.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2014–00157 Filed 1–8–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–N–0001]**

### Cardiovascular and Renal Drugs 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:* Cardiovascular and Renal Drugs 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 February 12, 2014, from 8 a.m. to 5 p.m.

*Location:* FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 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:* Kristina Toliver, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *CRDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). 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 at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

*Agenda:* The committee will discuss new drug application (NDA) 204958, cangrelor injection, submitted by The Medicines Company, for the proposed indication of reduction of thrombotic cardiovascular events including stent thrombosis (events related to blood clots in a stent, a device inserted to keep the artery open) in patients with coronary artery disease undergoing percutaneous coronary intervention (PCI). PCI refers to the opening of narrowed blood vessels supplying the heart muscle by a balloon inserted through an artery puncture with or without a stent. The applicant is also proposing that cangrelor be indicated to maintain P2Y12 inhibition in patients with acute coronary syndromes or patients with stents who are at increased risk for thrombotic events (such as stent thrombosis) when oral P2Y12 therapy is interrupted due to surgery. P2Y12 is a protein involved in blood clotting; inhibiting this protein is a key mechanism of action of cangrelor.

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 meeting 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 January 29, 2014. 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 January 21, 2014. 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 January 22, 2014.

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 Kristina Toliver 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/ucm111462.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: *January 6, 2014.*

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2014–00158 Filed 1–8–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Prospective Grant of Exclusive License: The Development of a Veterinary Rabies Vaccine Based on the ERAg3m Virus Strain

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Provisional Patent Application No. 60/727,038, entitled ''Method of Sequencing Whole Viral Genomes, Related Compositions, and Genome Sequences'', filed October 14, 2005 (HHS Ref. No. E–326–2013/0–

US–01); PCT Patent Application No. PCT/US2006/040134, entitled ''Rabies Virus Compositions and Methods'', filed October 13, 2006, (E–326–2013/0–PCT–02); and Chinese Patent Application No. 200680038314.4, entitled ''Rabies Virus Compositions and Methods'', filed October 13, 2006 (HHS Ref. No. E–326–2013/0–CN–06). The patent rights in these inventions have been assigned to the Government of the United States of America. The prospective exclusive license territory is China, and the field of use may be limited to ''Rabies vaccines based on the ERAg3m virus strain for veterinary use only.''

**DATES:** Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before February 10, 2014 will be considered.

**ADDRESSES:** Requests for copies of the patent application(s), inquiries, and comments relating to the contemplated exclusive license should be directed to: Whitney Blair, J.D., M.P.H., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4937; Facsimile: (301) 402–0220; Email: *whitney.blair@nih.gov.*

**SUPPLEMENTARY INFORMATION:** This license specifically concerns a highly attenuated rabies virus, ERAg3m, with a mutation in the glycoprotein (G) gene and a switch of the G gene with the matrix protein gene in the viral genome. After a one-dose intramuscular vaccination, the ERAg3m virus protected 100% of mice and hamsters from lethal challenge. ERAg3m also may offer better protection than traditional inactivated vaccinations, as demonstrated in co-infection studies. This technology is capable of being developed into a one-dose rabies vaccine for human or veterinary use.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license may be granted unless within thirty (30) days from the date of the published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: January 2, 2014.

**Richard U. Rodriguez,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2014–00126 Filed 1–8–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**FOR FURTHER INFORMATION CONTACT:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**New Compounds for Treating or Preventing Obesity**

Description of Technology: Available for licensing are new compounds developed for the treatment or prevention of obesity. The compounds act to block the absorption of dietary fats in the gut by interfering with signaling through the farnesoid X receptor. There is correlative evidence that inhibition of the farnesoid X receptor can reduce obesity resulting from high fat-based diets. While many farnesoid X receptor agonists are known, until now there have been no known therapeutic agents that can inhibit this receptor.

Also available for licensing are methods of synthesizing the compounds and methods of using the compounds to treat or prevent obesity.

Potential Commercial Applications:

- Pharmaceutical treatments for obesity.
- Pharmaceutical agents to reduce weight gain.

Competitive Advantages:

- There are no known therapeutic agents to inhibit the farnesoid X receptor; thus, agents developed from the present technology could be first-to-market.
- Compounds stay in the intestine and are not toxic.

Development Stage:

- Early-stage.
- In vitro data available.
- In vivo data available (animal).

Inventors: Frank Gonzalez, Fei Li, Changtao Jiang, James Mitchell (all of NCI).

Intellectual Property: HHS Reference No. E–508–2013/0—US Provisional Application No. 61/861,109 filed 01 August 2013.

Licensing Contact: Patrick McCue, Ph.D.; 301–435–5560; *mccuepat@mail.nih.gov.*

**Chimeric Antigen Receptors to CD276 (B7–H3) for Treatment of Cancer**

Description of Technology: Chimeric antigen receptors (CARs) are hybrid proteins consisting of an antibody binding fragment fused to protein signaling domains. When CARs are expressed in T-cells, the T-cells become cytotoxic towards cells expressing the proteins that the CAR recognizes. By developing a CAR that is specific for a cell surface protein that is selectively expressed on diseased cells, it is possible to selectively target those cells for destruction, thereby treating the disease.

Solid tumors are typically treated with a non-specific approach of surgical resection, followed by chemotherapy or radiation therapy. Unfortunately, such an approach is traumatic for the patient, and leads to numerous side-effects. This suggests that a more specific approach to treating solid tumors is needed. CD276 (B7–H3) is a tumor-associated antigen that is expressed on several solid tumors, making it a promising therapeutic target. This technology concerns the generation of three high-affinity CARs (CD276.1, CD276.6 and CD276.17) that target CD276. These CARs can potentially be used in the treatment of cancers associated with CD276 expression.

Potential Commercial Applications:

- Treatment of diseases associated with increased or preferential expression of CD276.
- Specific diseases include neuroblastoma, Ewing's sarcoma,

rhabdomyosarcoma, and prostate, ovarian, colorectal, and lung cancers.

Competitive Advantages:

• High affinity of the CARs increases the likelihood of successful targeting.

• Targeted therapy decreases non-specific killing of healthy, essential cells, resulting in fewer non-specific side-effects and healthier patients.

Development Stage:

• Early-stage.

• In vitro data available.

Inventors: Rimas J. Orentas, et al. (NCI).

Intellectual Property: HHS Reference No. E–104–2013/0–US–01—US Provisional Patent Application No. 61/805,001 filed 25 March 2013.

Related Technologies:

• HHS Reference No. E–291–2012/0—International Patent Application No. PCT/US2013/060332 filed 18 September 2013; ''M971 Chimeric Antigen Receptors,'' Orentas R, et al.

• HHS Reference No. E–007–2014/0—US Provisional Patent Application No. 61/865,845 filed 06 November 2013; ''ALK Specific Chimeric Antigen Receptors,'' Orentas R, Mackall C.

Licensing Contact: David A. Lambertson, Ph.D.; 301–435–4632; *lambertsond@mail.nih.gov.*

Collaborative Research Opportunity: The Pediatric Oncology Branch, CCR, NCI, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize chimeric antigen receptors (CARs) specific for tumor-expressed CD276 (B7–H3). For collaboration opportunities, please contact John D. Hewes, Ph.D. at *hewesj@mail.nih.gov.*

**Bispecific Antibodies To Target Latent HIV–1 Infection**

Description of Technology: The invention describes bispecific antibodies designed to kill latently HIV–1 infected T cells. It is thought that such bispecific antibodies will reduce or eliminate the pool of HIV–1 infected cells, contributing to functional cure. The antibody constructs comprise an HIV Env-binding fragment of a broadly neutralizing antibody linked to an anti-CD3 single chain variable fragment (scFv). One embodiment is a VRC01 scFv linked to the anti-CD3 scFv . Other embodiments comprise Fab fragments of VRC07 or 10E8 antibodies linked to the anti-CD3 scFv. The bispecific antibody simultaneously stimulates infected cells to express gp120, instructs cytotoxic T cells to kill these cells, and neutralizes extraneous viral particles.

Potential Commercial Applications: Immunotherapy of HAART-suppressed HIV–1 infection.

Competitive Advantages:

• Immunotherapy targets latently infected cells harboring virus resistant to HAART.

• Broadly neutralizing antibody fragment neutralizes extraneous viral particles.

Development Stage:

• Pre-clinical.

• In vivo data available (animal).

Inventors: Gary J. Nabel, Xiaoti Guo, Amarenda Pegu, Zhi-yong Yang (all of NIAID).

Intellectual Property:

• HHS Reference No. E–071–2012/0—US Application No. 61/638,437 filed 25 April 2012.

• HHS Reference No. E–071–2012/1—PCT Application No. PCT/US2013/038214 filed 25 April 2013, which published as WO 2013/163427 on 31 October 2013.

Licensing Contact: Cristina Thalhammer-Reyero, Ph.D., M.B.A.; 301–435–4507; *ThalhamC@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases, Vaccine Research Center, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize HIV–1 bispecific antibodies. For collaboration opportunities, please contact Barry Buchbinder, Ph.D. at 301–594–1696.

Dated: January 2, 2014.

**Richard U. Rodriguez,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2014–00123 Filed 1–8–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases: Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

*Date:* February 11, 2014.

*Open:* 8:30 a.m. to 12:30 p.m.

*Agenda:* Discussion of Program Policies.

*Place:* National Institutes of Health, Building 31, Room 6, 31 Center Drive, Bethesda, MD 20892.

*Closed:* 1:30 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, Room 6, 31 Center Drive, Bethesda, MD 20892.

*Contact Person:* Laura K. Moen, Ph.D., Director, Division of Extramural Research Activities, NIAMS/NIH, 6700 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–451–6515 *moenl@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS).

Dated: January 2, 2014.

**Carolyn Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00125 Filed 1–8–14; 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; Fellowships: Oncologic Sciences.

*Date:* January 21, 2014.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Inese Z Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov.*

*Name of Committee:* Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Cellular, Molecular, and Immunobiology Study Section.

*Date:* February 4–5, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Inner Harbor, 110 S. Eutaw Street, Baltimore, MD 21201.

*Contact Person:* George M Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@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: January 2, 2014.

**Carolyn A. Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00124 Filed 1–8–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Accreditation and Approval of Columbia Inspection, Inc., as a Commercial Gauger and Laboratory

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of accreditation and approval of Columbia Inspection, Inc., as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given, pursuant to CBP regulations, that Columbia Inspection, Inc. has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 7, 2013.

**DATES:** *Effective Dates:* The accreditation and approval of Columbia Inspection, Inc., as a commercial gauger and laboratory became effective on August 7, 2013. The next triennial inspection date will be scheduled for August 2016.

**FOR FURTHER INFORMATION CONTACT:** Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Columbia Inspection, Inc., 5013 Pacific Highway East, Suite #2, Fife, WA 98424, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Columbia Inspection, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

| API chapters | Title |
|---|---|
| 2 | Tank calibration. |
| 7 | Temperature determination. |
| 11 | Physical properties. |
| 8 | Sampling. |
| 12 | Calculations. |
| 17 | Maritime measurement. |

Columbia Inspection, Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

| CBPL No. | ASTM | Title |
|---|---|---|
| 27–01 | ASTM D 287 | Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method). |
| 27–05 | ASTM D 4928 | Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration. |
| 27–07 | ASTM D 4807 | Standard Test Method for Sediment in Crude Oil by Membrane Filtration. |
| 27–13 | ASTM D 4294 | Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry. |
| 27–48 | ASTM D 4052 | Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter. |

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: December 30, 2013.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. 2014–00135 Filed 1–8–14; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Accreditation and Approval of Inspectorate America Corporation, as a Commercial Gauger and Laboratory

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 6, 2013.

**DATES:** *Effective Dates:* The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on August 6, 2013. The next triennial inspection date will be scheduled for August 2016.

**FOR FURTHER INFORMATION CONTACT:** Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 22934 Lockness Avenue, Torrance, CA 90501, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

| API Chapters | Title |
|---|---|
| 3 ..... | Gauging. |
| 7 ..... | Temperature determination. |
| 8 ..... | Sampling. |
| 12 ..... | Calculations. |
| 17 ..... | Maritime measurement. |

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

| CBPL No. | ASTM | Title |
|---|---|---|
| 27–01 ..... | ASTM D 287 ..... | Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method). |
| 27–05 ..... | ASTM D 4928 ..... | Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration. |
| 27–06 ..... | ASTM D 473 ..... | Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method. |
| 27–07 ..... | ASTM D 4807 ..... | Standard Test Method for Sediment in Crude Oil by Membrane Filtration. |
| 27–08 ..... | ASTM D 86 ..... | Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure. |
| 27–10 ..... | ASTM D 323 ..... | Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method). |
| 27–11 ..... | ASTM D 445 ..... | Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity). |
| 27–13 ..... | ASTM D 4294 ..... | Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry. |
| 27–46 ..... | ASTM D 5002 ..... | Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer. |
| 27–48 ..... | ASTM D 4052 ..... | Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter. |
| 27–58 ..... | ASTM D 5191 ..... | Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method). |
| | ASTM D 6730 ..... | Standard Test Method for Determination of Individual Components in Spark Ignition Engine Fuels by 100–Metre Capillary (with Precolumn) High-Resolution Gas Chromatography. |

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf*

Dated: December 30, 2013.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. 2014–00131 Filed 1–8–14; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Accreditation and Approval of Inspectorate America Corporation, as a Commercial Gauger and Laboratory

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 30, 2013.

**DATES:** *Effective Dates:* The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on August 30, 2013. The next triennial inspection date will be scheduled for August 2016.

**FOR FURTHER INFORMATION CONTACT:** Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 1350 Slater Road, Suite 7, Ferndale, WA 98248, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

| API Chapters | Title |
|---|---|
| 2 ..... | Tank calibration. |
| 3 ..... | Tank gauging. |
| 7 ..... | Temperature determination. |
| 8 ..... | Sampling. |
| 11 ..... | Physical property. |
| 12 ..... | Calculations. |
| 17 ..... | Marine measurement. |

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

| CBPL No. | ASTM | Title |
|---|---|---|
| 27–01 ..... | ASTM D 287 ..... | Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method). |
| 27–02 ..... | ASTM D 1298 ..... | Standard Test Method for Density, Relative Density, or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method. |
| 27–03 ..... | ASTM D 4006 ..... | Standard Test Method for Water in Crude Oil by Distillation. |
| 27–05 ..... | ASTM D 4928 ..... | Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration. |
| 27–06 ..... | ASTM D 473 ..... | Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method. |
| 27–08 ..... | ASTM D 86 ..... | Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure. |
| 27–13 ..... | ASTM D 4294 ..... | Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry. |
| 27–54 ..... | ASTM D 1796 ..... | Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method (Laboratory Procedure). |
| 27–58 ..... | ASTM D 5191 ..... | Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method). |

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: December 16, 2013.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. 2014–00133 Filed 1–8–14; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Accreditation and Approval of Inspectorate America Corporation, as a Commercial Gauger and Laboratory

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 10, 2013.

**DATES:** *Effective Dates:* The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on September 10, 2013. The next triennial inspection date will be scheduled for September 2016.

**FOR FURTHER INFORMATION CONTACT:** Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 3904 Corporex Park Drive, Suite 145, Tampa, FL 33619, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

| API Chapters | Title |
|---|---|
| 3 ..... | Gauging. |
| 7 ..... | Temperature determination. |
| 8 ..... | Sampling. |
| 9 ..... | Density determination. |
| 12 ..... | Calculations. |
| 17 ..... | Maritime measurement. |

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

| CBPL No. | ASTM | Title |
|---|---|---|
| 27–01 | ASTM D–287 | Standard test method for API gravity of crude petroleum and petroleum products (hydrometer method). |
| 27–06 | ASTM D–473 | Standard test method for sediment in crude oils and fuel oils by the extraction method. |
| 27–08 | ASTM D–86 | Standard test method for distillation of petroleum products at atmospheric pressure. |
| 27–11 | ASTM D–445 | Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity). |
| 27–13 | ASTM D–4294 | Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry. |
| 27–48 | ASTM D–4052 | Standard test method for density and relative density of liquids by digital density meter. |
| 27–57 | ASTM D–7039 | Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry. |
| 27–58 | ASTM D–5191 | Standard test method for vapor pressure of petroleum products (mini-method). |

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf*.

Dated: December 16, 2013.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. 2014–00132 Filed 1–8–14; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Approval of Inspectorate America Corporation, as a Commercial Gauger

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of approval of Inspectorate America Corporation, as a commercial gauger.

**SUMMARY:** Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation, has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of September 19, 2013.

**DATES:** *Effective Dates:* The approval of Inspectorate America Corporation, as commercial gauger became effective on September 19, 2013. The next triennial inspection date will be scheduled for September 2016.

**FOR FURTHER INFORMATION CONTACT:** Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to 19 CFR 151.13, that Inspectorate America Corporation, 3000 North Main Street, Suite 1B, Baytown, TX 77521, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

| API Chapters | Title |
|---|---|
| 3 | Tank gauging. |
| 7 | Temperature determination. |
| 8 | Sampling. |
| 12 | Calculations. |
| 17 | Maritime measurement. |

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf*.

Dated: December 16, 2013.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. 2014–00129 Filed 1–8–14; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5687–N–51]**

### 10-Day Notice of Proposed Information Collection: Section 242 Hospital Mortgage Insurance Program

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Announcement Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 10 days of public comment.

**DATES:** *Comments Due Date:* January 21, 2014.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Paul Giaudrone, Underwriting Director, Office of Hospital Facilities, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5684 (this is not a toll-free number) or email at *Paul.A.Giaudrone@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Paul Giaudrone, Underwriting Director, Office of Hospital Facilities, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Paul.A.Giaudrone@hud.gov* or telephone 202–402–5684. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Mr. Giaudrone.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Pre-Screen for Hospital Mortgage Insurance.
*OMB Approval Number:* 2502–0602.
*Type of Request:* Change Request.
*Form Number:* N/A.
*Description of the need for the information and proposed use:* HUD is developing a new web-based ''Pre-Screening Tool'' to replace the Section 242 Hospital Mortgage Insurance Program's existing Preliminary Review process. The Preliminary Review process evaluates hospitals against Statutory, Regulatory, and credit benchmarks, and occurs before an application is delivered to HUD.
*Respondents* (i.e. affected public): 465.
*Estimated Number of Respondents:* 80.
*Estimated Number of Responses:* 1.
*Frequency of Response:* on occasion.
*Average Hours per Response:* 2 hours.
*Total Estimated Burdens:* 98,811.50.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 2, 2014.

**Laura M. Marin,**

*Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.*

[FR Doc. 2014–00144 Filed 1–8–14; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5687–N–50]**

## 60-Day Notice of Proposed Information Collection: Compliance Inspection Report and Mortgagee's Assurance of Completion

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* March 10, 2014.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Karin Hill, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Karin Hill at *Karin.B.Hill@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Hill.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Compliance Inspection Report and Mortgagee's Assurance of Completion.
*OMB Approval Number:* 2502–0189.
*Type of Request:* Extension of currently approved collection.
*Form Numbers:* HUD 92051, HUD–92300.
*Description of the need for the information and proposed use:* Accurate and thorough property information is critical to the accuracy of underwriting for the mortgage insurance process. This information collection is needed to ensure newly built homes financed with FHA mortgage insurance are constructed in accordance with acceptable building standards and that deficiencies found in newly constructed and existing dwellings are corrected.
*Respondents* (i.e. affected public): 5,668.
*Estimated Number of Respondents:* 5,668.
*Estimated Number of Responses:* 30,000.
*Frequency of Response:* On occasion.
*Average Hours per Response:* .175.
*Total Estimated Burdens:* 18,664.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 2, 2014.

**Laura M. Marin,**

*Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.*

[FR Doc. 2014–00142 Filed 1–8–14; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R1–R–2013–N186; 1265–0000–10137–S3]**

### Camas National Wildlife Refuge, Jefferson County, ID; Draft Comprehensive Conservation Plan and Environmental Assessment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of our draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for the Camas National Wildlife Refuge (NWR, Refuge), in Hamer, Idaho, for public review and comment. The Draft CCP/EA describes our proposal for managing the Refuge for the next 15 years.

**DATES:** To ensure consideration, we need to receive your written comments by February 10, 2014.

**ADDRESSES:** You may submit comments, requests for more information, or requests for copies by any of the following methods. You may request a hard copy or a CD–ROM of the documents.

*Email: FW1PlanningComments@fws.gov*. Include ''Camas NWR CCP'' in the subject line.

*Fax:* Attn: Brian Wehausen, Refuge Manager, 208–662–5525.

*U.S. Mail:* Brian Wehausen, Refuge Manager, Camas NWR, 2150 East 2350 North, Hamer, ID 83425.

*Web site: http://www.fws.gov/camas/refuge_planning.html*; select ''Contact Us.''

*In-Person Drop-off, Viewing, or Pickup:* You may drop off comments during regular business hours at Refuge Headquarters at 2150 East 2350 North, Hamer, ID 83425.

**FOR FURTHER INFORMATION CONTACT:** Brian Wehausen, Refuge Manager, 208–662–5423.

**SUPPLEMENTARY INFORMATION:**

#### Introduction

With this notice, we continue the CCP process at Camas NWR. We started this process through a notice in the **Federal Register** (75 FR 57053; September 17, 2010).

The Camas Refuge was established by President Franklin D. Roosevelt in 1937 for the purpose of serving as a refuge and breeding ground for migratory birds and other wildlife. The Refuge is located 36 miles north of Idaho Falls, near the community of Hamer, Idaho. The Refuge lies in the upper Snake River plain at approximately 4,800 feet in elevation.

About half of the Refuge's 10,578 acres are lakes, ponds, and marshlands, with the remainder consisting of sagebrush-steppe and semi-desert grassland uplands and meadows. There are 292 known species of wildlife that utilize the Refuge during various periods of the year. Approximately 100 species of migratory birds nest at the Refuge, and it is especially important to migrating land birds. A large number of songbirds use the Refuge's cottonwood groves, which are also a significant winter roost site for bald eagles. Greater sandhill cranes gather on the Refuge prior to fall migration. Sage grouse use the Refuge during brood rearing. During migration, which peaks during March and April, and again in October, up to 50,000 ducks, 3,000 geese, and several hundred tundra and trumpeter swans may be present on the Refuge. The Refuge also hosts elk, white-tailed deer, mule deer, pronghorn, and moose.

#### Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System (NWRS), consistent with sound principles of fish and wildlife management, conservation, legal mandates, such as the National Environmental Policy Act, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

#### CCP Alternatives We Are Considering

During the public scoping process, we, along with other governmental agencies, Tribes, and the public, raised several issues which our Draft CCP/EA addresses. To address these issues, we developed and evaluated the following alternatives, summarized below:

*Alternative 1 (No-Action)*

This alternative represents current management.

*Wildlife and Habitat:* Under Alternative 1, the Refuge would continue to be managed to provide consistent deep wetland habitats April through October to support reliable levels of annual waterfowl production. Providing hemi-marsh habitat (habitat with approximately equal areas of emergent vegetation and open water) would continue to be the primary management emphasis. Camas Creek would remain highly altered (diked and incised), and minimal overbank flooding would occur. Management of upland habitats (sagebrush steppe and grasslands) would be minimal (mostly invasive species control and monitoring). Shelterbelt habitats would continue to be irrigated. Tall, mature cottonwoods nearing the end of their life spans would be replaced, and non-native understory trees and shrubs would be replaced with native species.

One hundred forty acres of alfalfa and 20 acres of small grain would be grown annually under cooperative farming agreements. Three hundred thirty acres of formerly farmed fields would be flood irrigated annually, and 150 acres of these fields would be hayed annually by cooperative farmers.

*Public Use:* The Refuge would maintain existing public use facilities, including a parking lot and information kiosk, 0.5-mile pedestrian birding trail and viewing platform, 6.3-mile auto tour road, and 6.5 miles of hunter access roads. Year-round hiking, biking, jogging, cross-country skiing, and/or snowshoeing would be allowed on approximately 27 miles of unimproved service roads. Off-road hiking would be permitted throughout the Refuge from July 15 through February 28. Approximately 24 percent (2,510 acres) of Camas NWR would be open to hunting of migratory game birds (ducks, geese, mergansers, American coots, and Wilson's snipe) and upland game birds (ring-necked pheasants, gray partridge, and sage-grouse) during the State seasons.

Interpretation and environmental education programs would be limited, with no staff or facilities dedicated to these programs. The size of the volunteer program would continue to be limited due to the lack of staff to recruit, train, and manage them.

*Alternative 2 (Preferred Alternative)*

*Wildlife and Habitat:* Under Alternative 2, the Service's Preferred Alternative, the Refuge would provide a more diverse array of wetland, riparian, and upland habitats for not only waterfowl, but a variety of migratory birds and other wildlife. The Refuge would develop a long-term rehabilitation plan for Camas Creek and Refuge wetlands (Wetland and Riparian Rehabilitation Plan or WRRP) by 2017. A Hydrogeomorphic (HGM) Assessment and predictive modeling of water flows based on changes to infrastructure would be completed prior to developing the WRRP. Once the WRRP is completed, the Refuge would initiate strategies, consistent with Idaho water law, to restore the historic form and fluvial processes (e.g. overbank flooding) of Camas Creek. If such restoration is impossible, the stream channel and riparian zone would be rehabilitated to a state of equilibrium with the watershed's ongoing water-sediment production regime, such that the creek is no longer actively incising.

From 2013 to 2017, we would decrease hemi-marsh habitat to 285 acres (range 250–300 acres) within 3–4 annually flooded impoundments, while 2–3 impoundments would be dewatered (drawn down) annually. While the Refuge would provide less deepwater habitat, it would provide more shallow seasonal and habitat, and wetland productivity would increase. Existing naturalized shelterbelt habitat would continue to be managed for tall mature cottonwoods and native understory trees and shrubs, to provide habitat for migratory landbirds and maintain quality wildlife viewing opportunities.

Cooperative farming (160 acres) and haying (150 acres annually) would continue. However, only 150 acres of formerly farmed fields would be irrigated for hay production annually.

*Public Use:* Waterfowl and upland game bird hunting would continue as in Alternative 1. In addition we would establish an elk hunt on 4,112 acres of the Refuge in line with State seasons for GMU 63. A maximum of 20 access permits for elk hunting would be issued annually, with priority being given to youth and mobility impaired hunters.

As in Alternative 1, the 6.3-mile, one-way auto tour route would be maintained year round, and 6.5 miles of Refuge roads (leading to the north and south waterfowl and upland game hunting units) would be open to vehicle and pedestrian access during hunt seasons. The birding trail would be extended from .5 miles to 1.3 miles. Year-round pedestrian hiking, biking, jogging, cross-country skiing, or snowshoeing would be allowed on approximately 27 miles of unmaintained and ungroomed Refuge service roads as conditions permit. The use of personal portable photo blinds (up to 5 on the Refuge daily) would be allowed within 100 feet of Refuge roads or trails. To avoid disturbances to wildlife and their habitat, off-road hiking would be prohibited, except by hunters with valid State licenses in the hunt areas during State seasons. A small visitor contact station, environmental education multi-purpose room, and Refuge office would be constructed.

*Alternative 3*

*Wildlife and Habitat:* Under Alternative 3, upland (sagebrush-steppe and native grassland), wetland, and riparian habitats would receive equal management emphasis. As in Alternative 2, the Refuge would develop a long-term rehabilitation plan for Camas Creek and Refuge wetlands (Wetland and Riparian Rehabilitation Plan) by 2017. In addition, the Refuge would emphasize restoring landscape connectivity within sagebrush ecosystems. Upland management would emphasize maintaining and restoring structural and functional attributes of sage-steppe habitat.

Within the next 8 years, acres of cooperative farming on the Refuge would decrease from 160 acres to 80 acres (60 of irrigated alfalfa and 20 acres of irrigated small grain). Eighty acres of farmland would be slowly restored back to a native sage-steppe community. The Refuge's 330 acres of formerly farmed fields would no longer be irrigated. Haying would occur on up to 150 acres of dryland meadows annually, without irrigation.

As in Alternative 2, existing naturalized shelterbelt habitat would continue to be maintained. Over time, mature cottonwoods would be replaced, while non-native understory trees and shrubs would be replaced with native species. The Refuge would seek outside funding sources to maintain existing shelterbelt habitat and expand this habitat on the periphery of the existing stand, adjacent to current irrigation infrastructure.

*Public Use:* The waterfowl and upland game bird hunting programs would continue as described in Alternatives 1 and 2. As in Alternative 2, we would establish an elk hunt on 4,112 acres of the Refuge in line with State seasons for GMU 63. A maximum of 20 access permits for elk hunting would be issued annually, with priority being given to youth and mobility impaired hunters.

Other public use facilities and programs would be as described for Alternative 2, except that the Refuge would open the 7.5-mile Sandhole Lake loop road seasonally (July 1 through November 1) for vehicle traffic; 10 miles of service roads would be groomed in winter for cross country skiing; and off-road hiking would be allowed year-round on the north waterfowl and upland game hunting unit (980 acres), and January 1 through July 31 in the south waterfowl and upland game hunting unit (1,530 acres). Off-road hiking would be prohibited on the rest of the Refuge to avoid disturbances to wildlife and their habitat. In addition to allowing the use of portable photography blinds (up to 5 per day) within 100 feet of roads, the Refuge would construct three semi-permanent photo blinds. As in Alternative 2, new facilities would allow the Refuge's interpretive, environmental education, and volunteers programs to expand.

**Public Availability of Documents**

In addition to the information in **ADDRESSES**, you can view copies of the Draft CCP/EA on the internet at *http://www.fws.gov/camas/refuge_planning.html,* and printed copies will be available for review at the following libraries: Hamer Public Library, 2450 East 2100 North, Hamer, ID 83425; Idaho Falls Public Library, 457 W. Broadway, Idaho Falls, ID 83402; Rigby City Library, 110 North State Street, Rigby, ID 83442; Marshall Public Library, 113 S. Garfield Ave., Pocatello, ID 83204.

**Next Steps**

After this comment period ends, we will analyze the comments and address them in a final CCP and decision document.

**Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your identifying information from the public, we cannot guarantee that we will be able to do so.

Dated: September 13, 2013.

**Richard Hannan,**

*Acting Regional Director, Pacific Region, Portland, Oregon.*

[FR Doc. 2014–00136 Filed 1–8–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–CAKR–LACL–ANIA–WRST–GAAR–14704; PPAKAKROR4] [PPMPRLE1Y.LS0000]**

### Cape Krusenstern National Monument Subsistence Resource Commission (SRC), Lake Clark National Park SRC, Aniakchak National Monument SRC, Wrangell-St. Elias National Park SRC, and Gates of the Arctic National Park SRC Meetings

**AGENCY:** National Park Service, Interior.

**ACTION:** Meeting notice.

**SUMMARY:** As required by the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), the National Park Service (NPS) is hereby giving notice that the Cape Krusenstern National Monument Subsistence Resource Commission (SRC), the Lake Clark National Park SRC, the Aniakchak National Monument SRC, the Wrangell-St. Elias National Park SRC, and the Gates of the Arctic National Park SRC will hold meetings to develop and continue work on NPS subsistence program recommendations and other related subsistence management issues. The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487 (16 U.S.C. 3118).

*Cape Krusenstern National Monument SRC Meeting Date and Location:* The Cape Krusenstern National Monument SRC will meet from 9:00 a.m. to 5:00 p.m. or until business is completed on Thursday, January 23, 2014, and Friday, January 24, 2014, at the Northwest Arctic Heritage Center in Kotzebue, AK. For more detailed information regarding this meeting, contact Designated Federal Official Frank Hays, Superintendent, at (907) 442–3890; Ken Adkisson, Subsistence Manager, at (907) 443–2522; or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Cape Krusenstern National Monument SRC membership, contact the Superintendent at P.O. Box 1029, Kotzebue, AK 99752, or visit the monument Web site at: *http://www.nps.gov/cakr/contacts.htm.*

*Lake Clark National Park SRC Meeting Date and Location:* The Lake Clark National Park SRC will meet from 12:30 p.m. to 4:30 p.m. or until business is completed on Thursday, January 23, 2014, at the Pedro Bay Village Council Building in Pedro Bay, AK. For more detailed information regarding this meeting, contact Designated Federal Official Margaret Goodro, Superintendent, at (907) 644–3626; Mary McBurney, Subsistence Manager, at (907) 235–7891; or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Lake Clark National Park SRC membership, contact the Superintendent at 240 W. 5th Avenue, Suite 236, Anchorage, AK 9950, or visit the park Web site at: *http://www.nps.gov/lacl/contacts.htm.*

*Aniakchak National Monument SRC Meeting Date and Location:* The Aniakchak National Monument SRC will meet from 1:30 p.m. to 4:30 p.m. or until business is completed on Thursday, January 30, 2014, at the Port Heiden Community Building in Port Heiden, AK. For more detailed information regarding this meeting, contact Designated Federal Official Diane Chung, Superintendent, at (907) 246–3305; Mary McBurney, Subsistence Manager, at (907) 235–7891; or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Aniakchak National Monument SRC membership, contact the Superintendent at P.O. Box 7, King Salmon, AK 99613, or visit the park Web site at: *http://www.nps.gov/ania/contacts.htm.*

*Wrangell-St. Elias National Park SRC Meeting Date and Location:* The Wrangell-St. Elias National Park SRC will meet from 9:00 a.m. to 5:00 p.m. or until business is completed on Tuesday, March 4, 2014, and Wednesday, March 5, 2014, at the Ahtna Cultural Center in Copper Center, AK. If SRC business is completed on Tuesday, March 4, 2014, the SRC will adjourn the meeting and not meet on Wednesday, March 5, 2014. Teleconferencing is available upon request. Teleconference participants should contact Barbara Cellarius, Subsistence Coordinator, via email at: *barbara_cellarius@nps.gov* or telephone (907) 822–7236 by 4:00 p.m. on Friday, February 28, 2014, to request call-in information. For more detailed information regarding this meeting, contact Designated Federal Official Rick Obernesser, Superintendent, at (907) 822–5234; Barbara Cellarius, Subsistence Manager, at (907) 822–7236; or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Wrangell-St. Elias National Park SRC membership, contact the Superintendent at P.O. Box 439, Copper Center, AK 99753, or visit the park Web site at: *http://www.nps.gov/wrst/contacts.htm.*

*Gates of the Arctic National Park SRC Meeting Date and Location:* The Gates of the Arctic National Park SRC will meet from 9:00 a.m. to 5:00 p.m. or until business is completed on Tuesday, April 8, 2014, and Wednesday, April 9, 2014, at the NPS Office, in Bettles, AK. For more detailed information regarding this meeting, contact Designated Federal Official Greg Dudgeon, Superintendent, or Marcy Okada, Subsistence Manager, at (907) 457–5752; or Clarence Summers, Subsistence Manager, at (907) 644–3603. If you are interested in applying for Gates of the Arctic National Park SRC membership, contact the Superintendent at 4175 Geist Road, Fairbanks, AK 99709, or visit the park Web site at: *http://www.nps.gov/gaar/contacts.htm.*

*National Park SRC Proposed Meeting Agenda:*

The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum
2. Welcome and Introduction
3. Review and Adoption of Agenda
4. Approval of Minutes
5. Welcome by Local Community
6. Superintendent's Welcome and Review of the Commission Purpose
7. Commission Membership Status
8. SRC Chair and Members' Reports
9. Superintendent's Report
10. Old Business
11. New Business
12. Federal Subsistence Board Update
13. Alaska Boards of Fish and Game Update
14. National Park Service Reports
    a. Ranger Update
    b. Resource Management Update
    c. Subsistence Manager's Report
15. Public and Other Agency Comments
16. Work Session
17. Set Tentative Date and Location for Next SRC Meeting
18. Adjourn Meeting

SRC meeting locations and dates may change based on inclement weather or exceptional circumstances. If the meeting date and location are changed, the Superintendent will issue a press release and use local newspapers and radio stations to announce the meeting.

**SUPPLEMENTARY INFORMATION:** These meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. The meetings will be recorded and meeting minutes will be available upon request from the Park Superintendent

for public inspection approximately six weeks after the meeting. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 3, 2014.

**Alma Ripps,**

*Chief, Office of Policy.*

[FR Doc. 2014–00115 Filed 1–8–14; 8:45 am]

**BILLING CODE 4312–EF–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[14XR0687NA, RX.18527901.3000000, RR02054000]**

### Central Valley Project Improvement Act, Water Management Plans

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The following Water Management Plans are available for review:

- Arvin-Edison Water Storage District
- City of Fresno
- Terra Bella Irrigation District

To meet the requirements of the Central Valley Project Improvement Act of 1992 and the Reclamation Reform Act of 1982, the Bureau of Reclamation developed and published the Criteria for Evaluating Water Management Plans (Criteria). For the purpose of this announcement, Water Management Plans (Plans) are considered the same as Water Conservation Plans. The above entities have each developed a Plan, which Reclamation has evaluated and preliminarily determined to meet the requirements of these Criteria. Reclamation is publishing this notice in order to allow the public to review the Plans and comment on the preliminary determinations. Public comment on Reclamation's preliminary (i.e., draft) determination of Plan adequacy is invited at this time.

**DATES:** All public comments must be received by February 10, 2014.

**ADDRESSES:** Please mail comments to Ms. Laurie Sharp, Bureau of Reclamation, 2800 Cottage Way, MP–410, Sacramento, California, 95825, or email at *lsharp@usbr.gov.*

**FOR FURTHER INFORMATION CONTACT:** To be placed on a mailing list for any subsequent information, please contact Ms. Sharp at the email address above or 916–978–5232 (TDD 978–5608).

**SUPPLEMENTARY INFORMATION:** We are inviting the public to comment on our preliminary (i.e., draft) determination of Plan adequacy. Section 3405(e) of the Central Valley Project Improvement Act (Title 34 Pub. L. 102–575), requires the Secretary of the Interior to establish and administer an office on Central Valley Project water conservation best management practices that shall ''develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982.'' Also, according to Section 3405(e)(1), these criteria must be developed ''with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices.'' These criteria state that all parties (Contractors) that contract with Reclamation for water supplies (municipal and industrial contracts over 2,000 acre-feet and agricultural contracts over 2,000 irrigable acres) must prepare a Plan that contains the following information:

1. Description of the District;
2. Inventory of Water Resources;
3. Best Management Practices (BMPs) for Agricultural Contractors;
4. BMPs for Urban Contractors;
5. Plan Implementation;
6. Exemption Process;
7. Regional Criteria; and
8. Five-Year Revisions.

Reclamation evaluates Plans based on these criteria. A copy of these Plans will be available for review at Reclamation's Mid-Pacific Regional Office, 2800 Cottage Way, MP–410, Sacramento, California, 95825. Our practice is to make comments, including names and home addresses of respondents, available for public review. If you wish to review a copy of these Plans, please contact Ms. Sharp.

**Public Disclosure**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 23, 2013.

**Richard M. Stevenson,**

*Acting, Regional Resources Manager, Mid-Pacific Region, Bureau of Reclamation.*

[FR Doc. 2014–00077 Filed 1–8–14; 8:45 am]

**BILLING CODE 4310–MN–P**

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–14–001]**

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** January 16, 2014 at 9:30 a.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**Matters To Be Considered**

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. No. 731–TA–990 (Second Review)(Non-Malleable Cast Iron Pipe Firrings from China). The Commission is currently scheduled to complete and file its determination and views on or before January 29, 2014.
5. Vote in Inv. Nos. 701–TA–453 and 731–TA–1136–1137 (Review)(Sodium Nitrite from China and Germany). The Commission is currently scheduled to complete and file its determinations and views on or before January 29, 2014.
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Dated: January 7, 2014.

**William R. Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2014–00215 Filed 1–7–14; 11:15 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1121–0292]**

### Agency Information Collection Activities: Proposed Collection; Comments Requested: Existing Collection, Survey of Sexual Violence (SSV)

**ACTION:** 60-day notice.

The Department of Justice (DOJ), Bureau of Justice Statistics, will be

submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 10, 2014. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ramona R. Rantala, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (phone: 202–307–6170).

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Existing data collection.

(2) *Title of the form/collection:* Survey of Sexual Violence.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: SSV1, SSV2, SSV3, SSV4, SSV5, SSV6, SSVIA, SSVIJ; Bureau of Justice Statistics, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: *State, Local, or Tribal Government.* Other: *Federal Government and business (privately operated correctional institutions, both for-profit and not-for-profit).* The data will be used to develop estimates for the incidence and prevalence of sexual assault within correctional facilities, as well as characteristics of substantiated incidents, as required under the Prison Rape Elimination Act of 2003 (Pub. L. 108–79).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,340 respondents will complete each summary form within 60 minutes and each substantiated incident form (as needed, we estimate about 1,000 forms will be completed) in 15 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,590 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Justice Management Division, Planning Staff, Two Constitution Avenue, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: January 3, 2014.

**Jerri Murray,**

*Department Clearance Officer for PRA, Department of Justice.*

[FR Doc. 2014–00117 Filed 1–8–14; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2010–0021]**

### Grantee Quarterly Progress Report; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified for its Grantee Quarterly Progress Report.

**DATES:** Comments must be submitted (postmarked, sent, or received) by March 10, 2014.

**ADDRESSES:** *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile:* If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger, or courier service:* When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0021, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and the OSHA docket number for the Information Collection Request (ICR) (OSHA–2010–0021). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

*Docket:* To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. To obtain a copy of the ICR, you may contact Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

**FOR FURTHER INFORMATION CONTACT:** Kimberly A. Mason, OSHA Directorate of Training and Education, 2020 S. Arlington Heights Road, Arlington Heights, IL 60005–4102; telephone: (847) 759–7700; email: *HarwoodGrants@dol.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Section 21 of the OSH Act (29 U.S.C. 670) authorizes OSHA to conduct directly, or through grants and contracts, education and training courses. These courses must ensure an adequate number of qualified personnel to fulfill the purposes of the OSH Act, provide them with short-term training, inform them of the importance and proper use of safety and health equipment, and train employers and employees to recognize, avoid, and prevent unsafe and unhealthful working conditions.

Under Section 21, OSHA awards training grants to nonprofit organizations to provide part of the required training. The Agency requires organizations that receive these grants to submit quarterly progress reports that provide information on their grant-funded training activities; these reports allow OSHA to monitor the grantee's performance and to determine if an organization is using grant funds as specified in its grant application. Accordingly, the Agency compares the information provided in the quarterly progress report to the quarterly milestones proposed by the organization in the work plan and budget that accompanied the grant application. This information includes: Identifier data (organization name and grant number); the date and location where the training occurred; the length of training (hours); the number of employees and employers attending training sessions provided by the organization during the quarter; a description of the training provided; a narrative account of grant activities conducted during the quarter; and an evaluation of progress regarding planned versus actual work accomplished. This comparison permits OSHA to determine if the organization is meeting the proposed program goals and objectives, and spending funds in the manner described in the proposed budget.

Requiring these reports on a quarterly basis enables OSHA to identify work plan, training, and expenditure discrepancies in a timely fashion so that it can implement appropriate action. In addition, this information permits the Agency to assess an organization's ability to meet projected milestones and expenditures.

## II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements specified for the Grantee Quarterly Progress Report. OSHA is proposing to increase the burden hours in its currently approved information collection request from 4,944 burden hours to 5,096 burden hours (a total increase of 152 hours). Although the annual number of grants managed by the Agency decreased from a three-year average of 103 to 91, the estimated number of hours required to complete the report increased by 2 hours per quarter. The number of hours required to complete the report was increased in order to collect, compile, and maintain evaluation information for the narrative portion of the report. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

*Type of Review:* Extension of a currently approved collection.

*Title:* Grantee Quarterly Progress Report.

*OMB Control Number:* 1218–0100.

*Affected Public:* Business or other for-profits; not-for-profit institutions.

*Number of Respondents:* 91.

*Frequency of Responses:* Quarterly.

*Average Time per Response:* 14 hours per quarter.

*Estimated Total Burden Hours:* 5,096.

*Estimated Cost (Operation and Maintenance):* $0.

## IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0021). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit

comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

**V. Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1–2012 (72 FR 3912).

Signed at Washington, DC, on January 3, 2014.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2014–00121 Filed 1–8–14; 8:45 am]

**BILLING CODE 4510–26–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71233; File No. SR–CBOE–2013–127]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Order Format 1

January 3, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 24, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend CBOE Rule 6.53A (Types of Order Formats). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rule 6.53A. (Types of Order Formats), which rule describes the types of order formats available to Trading Permit Holders (TPHs) to facilitate order entry. Specifically the Exchange proposes to amend where Order Format 1 orders are processed.

By way of background, order formats are message types that are used to send orders into CBOE Command [3] through a user's selected API. Currently, all orders must be submitted to CBOE using the message type Order Format 1 (''OF1''). Orders using the OF1 format must pass through various processes, including validation checks in the Order Handling Service (''OHS''),[4] before execution, entry into the book, cancellation, or routing for manual handling. Where an order is routed for processing by the OHS depends on various parameters configured by the Exchange and the order entry firm itself. Examples of such parameters are firm-specific volume restrictions (i.e., orders larger than a firm-imposed quantity are routed to booth/order management terminal) or inbound limit order price reasonability (i.e., orders may be rerouted to booth/order management terminal for manual review if ''too marketable''). OF1 supports all order types, including auction responses.

The Exchange proposes to change where OF1 orders are processed. Specifically, the Exchange proposes to have orders using the OF1 format pass through various processes, including the validation checks in the trade engine, as opposed to the OHS. The Exchange notes that OF1 orders will still be subject to the same validation checks. The proposed rule change merely changes where these checks occur.

As before, orders using OF1 can still be executed in the trade engine, routed to TPH and PAR Official workstations located in the trading crowds for manual handling, and/or routed to other order management terminals (''OMTs'') generally located in booths on the trading floor for manual handling. Where an order is routed will still depend upon various parameters set by the Exchange and the order entry firms. For example, if during these checks in the trade engine an order hits a certain parameter that requires it to be routed to a booth/order management terminal (e.g. a firm-specific volume restriction which requires orders larger than the firm-imposed quantity to be routed to booth/order management terminal), that order will be routed to the OHS, and the OHS will then route the order to the appropriate booth/order management terminal for manual review and processing. The Exchange believes that allowing OF1 orders to pass straight to the trade engine for validation checks, as opposed to stopping first in the OHS for these checks, increases overall efficiency. The Exchange finally notes that the proposed new Order Format 1 will operate substantially similar to how C2 Order Format 1 currently operates on C2.[5]

The Exchange will announce the implementation date of the proposed rule change in an Information Circular to be published no later than 90 days following the effective date of this rule filing. The implementation date will be no later than 180 days following the effective date of this rule filing.

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) [6] of the Act. Specifically, the Exchange believes the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] CBOE Command is the trading engine platform for CBOE, C2, CBSX and CBOE Futures Exchange (''CFE''). CBOE Command incorporates both order handling and trade processing on the same platform.

[4] The Order Handling System (''OHS'') performs basic validation checks and has the capability to route orders to the trade engine for automatic execution and book entry, to Trading Permit Holder and PAR Official workstations located in the trading crowds for manual handling, and/or to other order management terminals (''OMTs'') generally located in booths on the trading floor for manual handling.

[5] *See* C2 Rule 6.19(i).

[6] 15 U.S.C. 78f(b).

change is consistent with the requirements under Section 6(b)(5) [7] that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

First, the proposed rule change to have orders using the OF1 format pass through various processes, including validation checks, in the trade engine as opposed to the OHS provides for increased efficiency while still maintaining important validation checks, thereby protecting investors and the public interest. Additionally, clearly specifying the manner in which inbound orders are submitted and processed provides additional transparency in the rules and provides market participants an additional avenue to easily understand the system and processes CBOE offers. The Exchange believes additional transparency removes a potential impediment to and perfecting the mechanism for a free and open market and a national market system, and, in general, protecting investors and the public interest. Additionally, the Exchange believes that the proposed change to Order Format 1 still allows for the Exchange to receive from TPHs information in a uniform format, which aids the Exchange's efforts to monitor and regulate CBOE's markets and TPHs and helps prevent fraudulent and manipulative practices. The Exchange finally believes that the proposed rule change is designed to not permit unfair discrimination among market participants, as the proposed change is applicable to all TPHs and provides that all TPHs must submit their orders using Order Format 1.

*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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule changes impose any burden on intramarket competition because it applies to all TPHs and all orders must be submitted to CBOE using the OF1 message type. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition as it is merely proposing to change the location of where an order using OF1 is processed. The Exchange believes the proposed rule change promotes transparency in the rules without adding any burden on market participants.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) [9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–127 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–2013–127. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–127, and should be submitted on or before January 30, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00119 Filed 1–8–14; 8:45 am]

**BILLING CODE 8011–01–P**

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71232; File No. SR–NYSEArca–2013–118]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified By Amendments Nos. 1 and 2, To List and Trade Shares of the Market Vectors Short High-Yield Municipal Index ETF Under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 January 3, 2014.

### I. Introduction

On October 30, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the Market Vectors Short High-Yield Municipal Index ETF (''Fund'') under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02. On November 8, 2013, the Exchange filed Amendment No. 1 to the proposal.[3] The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on November 19, 2013.[4] On December 31, 2013, the Exchange filed Amendment No. 2 to the proposal.[5] The Commission received no comments on the proposal. This order approves on an accelerated basis the proposed rule change, as modified by Amendments No. 1 and 2 thereto.

### II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02, which governs the listing and trading of Investment Company Units (''Units'') based on fixed income securities indexes. The Fund is a series of the Market Vectors ETF Trust (''Trust'').[6] Van Eck Associates Corporation will be the investment adviser (''Adviser'') for the Fund. Van Eck Securities Corporation will be the Fund's distributor and administrator for the Fund (''Administrator'') and will be responsible for certain clerical, recordkeeping and/or bookkeeping services. The Bank of New York Mellon will be the custodian of the Fund's assets and provides transfer agency and fund accounting services to the Fund.

The investment objective of the Fund will be to seek to replicate as closely as possible, before fees and expenses, the price and yield performance of the Barclays Municipal High Yield Short Duration Index (''Short High Yield Index'' or ''Index''). According to the Exchange, the Advisor will attempt to approximate the investment performance of the Index using a ''passive'' or indexing investment approach, and expects that, over time, the correlation between the Fund's performance (before fees and expenses) and that of the Index will be 95% or better. The Adviser will utilize a ''sampling'' methodology to achieve the Fund's objective.

*A. Primary Investments*

Normally,[7] the Fund will invest at least 80% of its total assets in securities that compose the Short High Yield Index. Depositary receipts or to-be-announced transactions representing securities in the Short High Yield Index may be used by the Fund in seeking performance that corresponds to the Short High Yield Index, and in managing cash flows and may count towards the Fund's 80% policy.

*B. Other Investments*

While the Fund normally will invest at least 80% of its total assets in securities that compose the Index, the Fund may invest its remaining assets in other financial instruments, as described below.

The Fund may invest in securities not included in the Short High Yield Index, money market instruments, including repurchase agreements or other funds which invest exclusively in money market instruments, convertible securities, structured notes (notes on which the amount of principal repayment and interest payments are based on the movement of one or more specified factors, such as the movement of a particular stock or stock index), and certain derivative instruments that are mentioned below. The Fund may also invest, to the extent permitted by the 1940 Act, in other affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds (''ETFs'').[8]

The Fund may invest in repurchase agreements with commercial banks, brokers or dealers to generate income from its excess cash balances and to invest securities lending cash collateral.

The Fund may use exchange-traded futures contracts and exchange-traded or over-the-counter options thereon, together with positions in cash and money market instruments, to simulate full investment in the Index.

The Fund may use cleared or non-cleared index, interest rate or credit default swap agreements. Swap agreements are contracts between parties in which one party agrees to make payments to the other party based on the change in market value or level of a specified index or asset.

The Fund may invest in exchange-traded warrants, which are equity securities in the form of options issued by a corporation which give the holder the right to purchase stock, usually at a price that is higher than the market price at the time the warrant is issued.

The Fund may invest in participation notes, which are issued by banks or

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] In Amendment No. 1, the Exchange: (1) Deleted a sentence relating to the Fund holding depositary receipts and to-be-announced transactions; (2) added a phrase that states that the Administrator, through the National Securities Clearing Corporation (''NSCC''), will make available Indicative Per Share Portfolio Value on a continuous basis throughout the day; (3) made clarifying changes to reflect that the Fund will limit itself to holding up to 15% of its net assets in illiquid assets, not just illiquid securities; and (4) modified certain cross-references.

[4] *See* Securities Exchange Act Release No. 70871 (November 14, 2013), 78 FR 69503 (''Notice'').

[5] In Amendment No. 2, the Exchange deleted a sentence to clarify that Barclays Capital, Inc. (''Index Provider''), which publishes Barclays Municipal High Yield Short Duration Index (1) is a registered broker-dealer and has implemented a fire wall with respect to its relevant personnel regarding access to information concerning the composition and/or changes to the Barclays Municipal High Yield Short Duration Index; (2) is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Barclays Municipal High Yield Short Duration Index; and (3) as well as its broker-dealer affiliate have implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Barclays Municipal High Yield Short Duration Index.

[6] On August 27, 2012, the Trust filed an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) and the Investment Company Act of 1940 (''1940 Act'') (15 U.S.C. 80a-1) (File Nos. 333–123257 and 811–10325) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28021 (October 24, 2007) (File No. 812–13426) (''Exemptive Order'').

[7] According to the Exchange, the word ''normally'' means, without limitation, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[8] While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, –2X, 3X or –3X) ETFs.

broker-dealers and are designed to offer a return linked to the performance of a particular underlying equity security or market.

The Fund will only enter into transactions in derivative instruments with counterparties that the Adviser reasonably believes are capable of performing under the contract and will post as collateral as required by the counterparty.[9]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, in accordance with Commission guidance.[10] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. According to the Exchange, illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

Additional information regarding the Shares, the Fund, and the Index, including procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, risks, and reports to be distributed to beneficial owners of the Shares can be found in the Notice,[11] the Registration Statement,[12] and on the Web site for the Fund (*www.marketvectorsetfs.com*).

[9] According to the Exchange, the Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser will evaluate the creditworthiness of counterparties on a regular basis. In addition to information provided by credit agencies, the Adviser will review approved counterparties using various factors, which may include the counterparty's reputation, the Adviser's past experience with the counterparty and the price/market actions of debt of the counterparty.

[10] According to the Exchange, in reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[11] *See supra,* note 4.

[12] *See supra,* note 6.

*C. The Need for the Proposed Rule Change and Exchange Representations Related Thereto*

Commentary .02(a) to NYSE Arca Equities Rule 5.2(j)(3) permits the generic listing of Units that meet all of the initial and continued listing requirements of the rule. According to the Exchange, the Shares satisfy all of the generic listing criteria except for those set forth in Commentary .02(a)(2), which requires that components that in the aggregate account for at least 75% of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more. Accordingly, the Exchange filed this proposed rule change seeking to list and trade the Shares.

The Exchange represents that: (1) Except for Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3), the Shares satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to Units shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3 under the Act [13] for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to Units including, but not limited to, requirements relating to the dissemination of key information such as the value of the Index and the applicable Intraday Indicative Value (''IIV''),[14] rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the Information Bulletin (''Bulletin'') to Equity Trading Permit Holders (''ETP Holders''), as set forth in Exchange rules applicable to Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.[15]

[13] 17 CFR 240.10A–3.

[14] The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session of 9:30 a.m. to 4:00 p.m., Eastern time. The Exchange states that it understands that several major market data vendors display or make widely available IIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

[15] *See, e.g.,* Securities Exchange Act Release Nos. 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR–NYSEArca–2007–36) (order approving NYSE Arca generic listing standards for Units based on a fixed income index); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for Units and Portfolio Depositary Receipts); 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of Units).

**III. Discussion and Commission's Findings**

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act [16] and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the Exchange's rules 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 facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the Exchange represents that the Shares will comply with all requirements applicable to Units including, but not limited to, requirements relating to the dissemination of key information such as the value of the Index and the applicable IIV,[19] rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the Bulletin to ETP Holders, as set forth in Exchange rules applicable to Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.[20]

Except for Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3), the Shares satisfy all other requirements for generic listing under the rule. Although, according to the Exchange only 15.66% of the weight of the Index components, as of November 27, 2012, had a minimum original principal amount

[16] 15 U.S.C. 78f.

[17] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session of 9:30 a.m. to 4:00 p.m., Eastern time. The Exchange states that it understands that currently several major market data vendors display and/or make widely available IIVs taken from the CTA or other data feeds.

[20] *See, e.g.,* Securities Exchange Act Release Nos. 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR–NYSEArca–2007–36) (order approving NYSE Arca generic listing standards for Units based on a fixed income index); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for Units and Portfolio Depositary Receipts); 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of Units).

outstanding of $100 million or more, the Exchange provided statistical support for its assertion that Index is sufficiently broad-based to deter potential manipulation. According to the Exchange, the most heavily weighted component of the Index represents 2.67% of the weight of the Index, and the five most heavily weighted components represent 10.67% of the weight of the Index.[21] Additionally, the Exchange states: (1) The total dollar amount outstanding of issues in the Index was approximately $757 billion; (2) the average dollar amount outstanding of issues in the Index was approximately $394 million; and (3) the Index is composed of approximately 1,935 issues and 530 unique issuers.[22] Additionally, the Exchange represents that the Index Provider, a registered broker-dealer, has implemented a fire wall with respect to its relevant personnel regarding access to information concerning the composition of or changes to the Index. The Index Provider is also affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition of or changes to the Index. The Index Provider and its broker-dealer affiliate have implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index.[23] For these reasons, the Commission believes that the Exchange has met its burden of showing that the proposed rule change is consistent with Section 6(b)(5) of the Act which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[24] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via the CTA high-speed line. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The IIV of the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session (9:30 a.m., Eastern time to 4:00 p.m., Eastern time), as required by NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 (c).[25] The current value of the Index will be widely disseminated by one or more major market data vendors at least once per day, as required by NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 (b)(ii). The components of the Index and their percentage weighting will be available from major market data vendors. In addition, the portfolio of securities held by the Fund will be disclosed daily on the Fund's Web site at *www.marketvectorsetfs.com* after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. The Administrator, through the NSCC, will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time), the list of securities needed to create Shares, as well as the list of securities to be delivered in connection with Share redemptions.

In support of this proposal, the Exchange has made representations, including:

(1) The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

(2) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 5.2(j)(3) and 5.5(g)(2).

(3) The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) The Financial Industry Regulatory Authority, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

(5) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of its net assets are held in illiquid securities.[26]

This approval order is based on the Exchange's representations. For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[27] and Section 11A(a)(1)(C)(iii) of the Act[28] and the rules and regulations thereunder applicable to a national securities exchange.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2013–118 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 No. SR–NYSEArca–2013–118. This file number should be included on the subject line if email is used. To help the

[21] *See* Notice, *supra* note 4, 78 FR 69505. The Commission notes that Commentary .02(a)(4) to NYSE Arca Equities Rule 5.2(j)(3) requires that no component fixed-income security (excluding Treasury Securities and GSE Securities, as defined therein) represent more than 30% of the weight of the index or portfolio and that the five most heavily weighted component fixed-income securities in the index or portfolio shall not in the aggregate account for more than 65% of the weight of the index or portfolio.

[22] *See* Notice, *supra* note 4, 78 FR 69505.

[23] *See supra* note 7.

[24] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[25] According to the Exchange, several major market data vendors display or make widely available IIVs taken from CTA or other data feeds.

[26] *See* Amendment No. 1, *supra* note 3.

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78k–1(a)(1)(C)(iii).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2013–118 and should be submitted on or before January 30, 2014.

*Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2*

As discussed above,[29] through Amendment No. 2, the Exchange revises the proposed rule change by providing greater detail about how the Funds' NAVs are calculated and the availability of price information regarding the Funds' holdings. The Commission believes that Amendment No. 2 provides more support for the Exchange's contention that its proposed rule change consistent with the Section 6(b)(5) of the Act.[30] In particular, Amendment No. 2 clarified that: (1) The Index Provider is a registered broker-dealer and has implemented a fire wall with respect to its relevant personnel regarding access to information concerning the composition and/or changes to the Index; (2) the Index Provider is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Index; and (3) the Index Provider and its broker-dealer affiliate have implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[31] to approve the proposed rule change, as modified by Amendments Nos. 1 and 2, prior to the 30th day after the date of publication of notice in the **Federal Register**.

**V. Conclusion**

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR–NYSEArca–2013–118) as modified by Amendments No. 1 and 2 thereto be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00118 Filed 1–8–14; 8:45 am]

**BILLING CODE 8011–01–P**

[29] *See* note 5, *supra.*

[30] 15 U.S.C. 78s(b)(5).

[31] 15 U.S.C. 78s(b)(2).

[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

## Environmental Energy Services, Inc., IDI Global, Inc., Inform Worldwide Holdings, Inc., Iptimize, Inc., NGEN, Inc. (a/k/a Nanogen, Inc.), and Patron Systems, Inc.; Order of Suspension of Trading

January 7, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Environmental Energy Services, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IDI Global, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Inform Worldwide Holdings, Inc. because it has not filed any periodic reports since the period ended December 31, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Iptimize, Inc. because it has not filed any periodic reports since the period ended December 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NGEN, Inc. (a/k/a Nanogen, Inc.) because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Patron Systems, Inc. because it has not filed any periodic reports since the period ended March 31, 2007.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on January 7, 2014, through 11:59 p.m. EST on January 21, 2014.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2014–00226 Filed 1–7–14; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

## Order of Suspension of Trading; In the Matter of Matech Corp., MNC Corporation (a/k/a Monaco Coach Corporation), Pacific Fuel Cell Corp., and Penn Octane Corporation

January 7, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Matech Corp. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MNC Corporation (a/k/a Monaco Coach Corporation) because it has not filed any periodic reports since the period ended September 27, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pacific Fuel Cell Corp. because it has not filed any

periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Penn Octane Corp. because it has not filed any periodic reports since the period ended March 31, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on January 7, 2014, through 11:59 p.m. EST on January 21, 2014.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2014–00223 Filed 1–7–14; 11:15 am]

**BILLING CODE 8011–01–P**

## DEPARTMENT OF STATE

**[Public Notice 8581]**

### In the Matter of the Designation of Qari Saifullah Also Known as Qari Saifullah Al Tokhi Also Known as Qari Sahab as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Qari Saifullah, also known as Qari Saifullah Al Tokhi, also known as Qari Sahab, committed, or poses 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.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: October 30, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00150 Filed 1–8–14; 8:45 am]

**BILLING CODE 4710–10–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2013–63]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before January 29, 2014.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2013–0940 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mark Forseth, ANM–113, (425) 227–2796, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, or Katherine Haley, ARM–203, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; email *Katherine.L.Haley@faa.gov;* (202) 493–5708.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 6, 2014.

**Lirio Liu,**

*Director, Office of Rulemaking.*

#### Petition for Exemption

*Docket No.:* FAA–2013–0940.
*Petitioner:* Airbus SAS.
*Section of 14 CFR Affected:* § 26.21.
*Description of Relief Sought:* Airbus seeks relief from the requirement to develop a limit of validity of the engineering data that supports the structural-maintenance program for Airbus Model A380–1A airplanes, none of which are operating under 14 CFR parts 121 and 129.

[FR Doc. 2014–00159 Filed 1–8–14; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2013–0137]**

### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 6, 2013, the Association of American Railroad (AAR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal

railroad safety regulations contained at 49 CFR 213.103, Ballast: general. FRA assigned the petition Docket Number FRA–2013–0137.

AAR, on behalf of itself and its member railroads, requests to study and redefine when ballast material fails under load. AAR proposes to conduct and observe specific performance-based conditions and remedial action procedures existing in isolation under train operations for a 1-year test period. The proposal identifies five specific subdivisions on the BNSF Railway that will serve as test locations exempt from the current safety standard. AAR's petition states that the Federal safety regulations are vague and do not clearly define when ballast material fails to support the track structure according to the current description and application of the Federal regulation. When ballast material fails, ''the condition must be brought into compliance or track speed reduced by one class of track below the class of track the track geometry complies with, except Class 1 track may remain at Class 1 speeds.'' AAR proposes that ''for purposes of this waiver, non-compliant ballast exists where the track drainage in mainline track is impeded for 15½ feet or more without a joint present or 10 feet or more with a joint present, such that the ability of the track structure to maintain track geometry is impaired by a muddy pumping action occurring because of fines and other material originating from the track structure or train operations and water is present.''

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov/.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 24, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2014–00128 Filed 1–8–14; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2013–0080]**

### Notice of Public Hearing and Extension of Public Comment Period

On September 6, 2013, the Federal Railroad Administration (FRA) published a notice in the **Federal Register** (78 FR 54952) announcing the Association of American Railroads' (AAR) request for a waiver of compliance from certain provisions of Title 49 Code of Federal Regulations (CFR) Part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. Specifically, AAR petitioned FRA for a waiver of compliance from 49 CFR 232.207, *Class IA brake tests—1,000-mile inspection,* for the purposes of conducting testing to demonstrate the effectiveness of using wayside wheel temperature detector data to ensure safe braking performance.

Upon investigation, FRA determined that the facts of this proceeding warrant a public hearing. Accordingly, a hearing is hereby scheduled to begin at 10 a.m. on February 19, 2014, at the National Housing Center, National Association of Home Builders, 1201 15th Street NW., Washington, DC 20005. Interested parties are invited to present oral statements at this hearing. For information on facilities or services for persons with disabilities, or to request special assistance at the hearing, contact FRA Railroad Safety Specialist Steve Zuiderveen, by telephone, email, or in writing, at least 5 business days before the date of the hearing. Mr. Zuiderveen's, contact information is as follows: FRA, Office of Railroad Safety, Mail Stop 25, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 493–6337; *Steven.Zuiderveen@dot.gov*.

The informal hearing will be conducted by a representative designated by FRA in accordance with FRA's Rules of Practice (see particularly 49 CFR 211.25). FRA's representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a nonadversarial proceeding in which all interested parties will be given the opportunity to express their views regarding the waiver petition without cross examination. After all initial statements have been completed, those individuals wishing to make brief rebuttal statements will be given an opportunity to do so. In addition, FRA is hereby extending the comment period for this waiver petition to March 21, 2014, to allow any additional comments to be submitted following the public hearing. All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2014–00127 Filed 1–8–14; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### FY13 Discretionary Funding Opportunity: Low or No Emission Vehicle Deployment Program (LoNo) Program

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice for Request for Proposals (RFP).

**SUMMARY:** The Federal Transit Administration (FTA) announces the availability of $24.9 million of Fiscal Year 2013 funds for the deployment of low or no emission transit buses. Of that amount, $21.6 million is available for buses and $3.3 million is available for supporting facilities and related equipment. If additional funding is appropriated for this program in FY 2014, FTA may, at its discretion, also make those funds available under this announcement.

**DATES:** Complete proposals must be submitted electronically through the GRANTS.GOV ''APPLY'' function by March 10, 2014. Prospective applicants should initiate the process by registering on the GRANTS.GOV Web site promptly to ensure completion of the application process before the submission deadline. Instructions for applying can be found on FTA's Web site at *http://www.fta.dot.gov/grants/13077.html* and in the ''FIND'' module of GRANTS.GOV. Mail and fax submissions will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Sean Ricketson, FTA Office of Research Demonstration and Innovation, 202–366–6678 or *sean.ricketson@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

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#### A. Program Authority

The Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, July 6, 2012, amended 49 U.S.C. 5312 to add a new paragraph (d)(5) authorizing FTA to make grants to finance eligible projects under the ''Low or No Emission Vehicle Deployment Program'' (LoNo Program).

The Consolidated and Further Continuing Appropriations Act, 2013, (also referred to as the Full Year Continuing Appropriations Act, 2013) Public Law 113–6, March 26, 2013, has made available $24.9 million in FY 2013 (after sequestration) to carry out the LoNo Program. Of that amount, $21.6 million is available for buses and $3.3 million is available for supporting facilities and related equipment. Given that projects must be competitively selected pursuant to 49 U.S.C. 5312(d)(5)(E), if additional funding is appropriated for this program in FY 2014, FTA may, at its discretion, apply those funds to either scale up selections made under this announcement, or to fund meritorious proposals that were not selected for lack of FY 2013 funding.

#### B. Program Purpose

The LoNo Program provides funding for transit agencies for capital acquisitions and leases of zero emission and low-emission transit buses, including acquisition, construction, and leasing of required supporting facilities such as recharging, refueling, and maintenance facilities.

The main purpose of the LoNo Program is to deploy the cleanest and most energy efficient U.S.-made transit buses that have been largely proven in testing and demonstrations but are not yet widely deployed in transit fleets. The LoNo Program is a capital program focused on deploying new production vehicles that are market-ready or near market-ready. It is not a program for designing and developing prototypes. The program gives priority consideration to the deployment of buses with the lowest energy consumption and least harmful emissions, including direct carbon emissions.

#### C. Eligible Areas

An Eligible Area is defined under section 5312(d)(5)(A)(i) as an area that is:

1. Designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

2. A maintenance area, as defined in section 5303, for ozone or carbon monoxide.

#### D. Eligible Recipients and Applicants

Eligible Recipients and Applicants are:

1. A recipient for an eligible area and designated, in accordance with the planning process under section 5303 and 5304, by a Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

2. A State, for an urbanized area in which an ''eligible area'' as defined under section 5312(d)(5)(A)(i) is located that also has a population under 200,000 individuals, as determined by the Bureau of the Census.

#### E. Eligible Subrecipients

Eligible subrecipients are:

1. Public Transportation Providers

2. A project team member identified in the proposal and deemed a ''Key Party'' by FTA, including consultants, manufacturers, vendors, systems integrators and facilities providers.

#### F. Eligible Projects

The following projects are eligible for funding, in accordance with section 5312(d)(5)(A)(ii):

1. Acquiring or leasing low or no emission transit buses;

2. Constructing or leasing facilities and related equipment for low or no emission transit buses;

3. Constructing new public transportation facilities to accommodate low or no emission transit buses; or,

4. Rehabilitating or improving existing public transportation facilities to accommodate low or no emission transit buses.

#### G. Eligible Vehicles

To be eligible, vehicles must be production transit buses used to provide public transportation and meet either the zero emission bus, or the low emission bus definition below.

For the purposes of this solicitation, a zero-emission transit bus is defined as

a bus that produces no direct carbon emissions and no particulate matter emissions under any and all possible operational modes and conditions. A hydrogen fuel-cell bus qualifies as a zero-emission bus. A battery-electric bus qualifies as a zero-emission transit bus. A zero emission bus and a no emission bus are the same.

For the purposes of this solicitation, a low emission bus is defined as any transit bus that is powered by an engine that produces lower non-methane hydrocarbons (NMHC) and oxides of nitrogen ($NO_X$) than are legally permitted under EPA's engine standards at 49 CFR part 86.

**H. Cost Sharing**

FTA has determined that all eligible expenses under this program are attributable for purposes of complying with the Clean Air Act. Therefore under the provisions of 49 U.S.C. 5323(i) the Federal Government's participation in the costs of leasing or acquiring a transit bus financed under the LoNo Program is limited to 85 percent of the total transit bus cost. The proposer may seek a lower Federal contribution.

Further, the Federal Government's participation in the cost of leasing or acquiring transit bus related equipment and facilities under the LoNo Program is limited to 90 percent of the net project cost of the equipment or facilities attributable to compliance with the Clean Air Act. The Federal Share is 90 percent for these itemized items and 80 percent for the remainder. Again, the proposer may seek a lower Federal contribution.

Therefore, at a minimum, the proposer must provide at least 15 percent of the cost of all transit bus acquisitions and 10 percent of the cost for all related equipment and facilities.

**I. Project Requirements and Considerations**

*1. Priority Consideration*

To meet the requirements of section 5312(d)(5)(F), as amended by MAP–21, priority consideration will be given to projects that have the greatest reduction in energy consumption and harmful emissions, including direct carbon emissions, when compared to standard buses or other low or no emission buses. A zero-emission bus project, for example, will receive priority consideration over a project that proposes buses that produce some level of emissions.

*2. Minimum Project Size*

Proposals should result in the deployment of at least five (5) new transit buses per location. Buses must be largely identical. If possible, FTA asks that proposals be scalable upwards in increments of 1 or 2 transit buses so FTA can allocate all available funding under the LoNo Program, including FY 2014 funds if these become available and FTA elects to apply them to proposals received under this announcement.

*3. Incremental Costs*

The LoNo Program has limited funds. In order to maximize LoNo Program impact, FTA seeks to build on existing transit bus procurements, where possible. The LoNo Program strongly encourages proposals that leverage other funds such that LoNo Program funds are used to cover only the incremental cost of procuring the proposed transit bus model above that of a more conventional higher-emission transit bus.

*4. Leadership and Commitment*

Deploying new technology presents challenges that require leadership and commitment to overcome. FTA seeks both prospective and existing operators of clean technology buses who can demonstrate the technical capacity and commitment required for sustained successful deployments. Transit operators who are already industry leaders should reiterate their commitment to supporting and deploying the cleanest and most energy efficient buses available. Transit agencies new to clean bus technology should highlight their technical capacity and commitment for applying the resources necessary for success. All proposals should describe how the proposed project fits with long term goals of creating and deploying a zero-emission bus fleet.

*5. Project Teams*

FTA prefers proposals that identify project teams, including transit agencies/operators, bus manufacturers, and facilities providers, as well as systems integrators and project management consultants, if any. FTA considers the competitive nature of proposal selection to constitute adequate competition for the purpose of satisfying third party contracting requirements. This approach will enable FTA to select a portfolio of projects that can be implemented with the greatest chance of success in the best interest of the Federal Government.

Further, FTA reserves the right to name any or all proposed team members as a ''Key Party'' and to make any award conditional upon the participation of the ''Key Party.'' A ''Key Party'' is essential to the project as approved by FTA and, is, therefore, eligible for a noncompetitive award by the project sponsor to provide the goods or services described in the proposal. Participation by members of the ''Key Party'' on a selected project may not later be substituted without FTA's approval.

FTA encourages the use of experienced project management consultants on project teams especially if the transit operator involved lacks experience with the technology being proposed. In the event that an applicant or transit agency has a pending procurement or an open procurement for the same type of transit bus that qualifies under this NOFA and the agency wishes to expand the procurement through the LoNo Program, FTA recognizes that identifying all project team members could either contradict or delay the procurement process. Therefore, identifying all project team members is not required. Applicants in this or similar situations are strongly encouraged to apply and in such case the lack of identified team members will not be penalized by FTA. Instead, the applicant should cite the procurement as evidence of ongoing interest and commitment. This clarification applies to procurements of vehicles that qualify under this NOFA.

*6. Bus Testing*

Transit buses proposed for deployment under the LoNo Program must complete current FTA bus testing for production transit buses pursuant to 49 U.S.C. 5318. The LoNo Program is not a platform for the development of prototypes.

*7. Buy America*

All transit buses and related infrastructure and facilities under the LoNo Program must be Buy-America compliant pursuant to 49 U.S.C. 5323(j) and its implementing regulations. FTA will not consider any Buy America waivers under the LoNo Program.

*8. Domestic Content*

To maximize the benefit to domestic manufacturing, FTA seeks proposals that exceed domestic content requirements for the proposed vehicles. If the proposal builds on an existing procurement, the proposer may indicate whether the procurement competition rewards domestic content levels that exceed minimum Buy America requirements.

*9. Documented Success*

FTA seeks transit bus models that have documented successful performance in transit revenue service.

*10. FTA Project Administration*

Successful proposals will be awarded through the FTA Transportation Electronic Award and Management (TEAM) System as Cooperative Agreements or Grant Agreements, at FTA's discretion. Proposals that expand existing procurements will likely be handled consistently with the agreement supporting the existing procurement. The FTA Research Office, in consultation with the appropriate FTA Regional Office, will manage project agreements.

*11. FTA Program and Project Evaluation Activity*

The legislation that created the LoNo Program requires FTA to evaluate all projects in the program. Therefore, the applicant must agree to participate and cooperate with FTA project evaluation activity. Evaluation activity that FTA expects applicants to perform includes collecting and providing raw vehicle and maintenance data, meeting with FTA evaluators on a quarterly basis, and providing evaluators access to the project site and to project team members, when requested by FTA. The FTA Research Office is sensitive to the importance of proprietary information and has a successful record of accommodating those concerns.

*12. Eligible Expenses Prior to Award*

Funds under this NOFA cannot be used to reimburse projects for otherwise eligible expenses incurred prior to FTA award of a Grant Agreement or Cooperative Agreement unless FTA has issued a ''Letter of No Prejudice'' for the project before the expenses are incurred.

*13. Grant Requirements*

Except as otherwise provided in this NOFA, grants or cooperative agreements are subject to the requirements of 49 U.S.C. 5307 as described in the latest FTA Circular 9030.1 for the Urbanized Area Formula Program.

**J. How To Apply**

Project proposals must be submitted electronically through GRANTS.GOV by March 10, 2014. Mail and fax submissions will not be accepted. A complete proposal submission will consist of at least two files: (1) The SF424 Mandatory form (downloaded from GRANTS.GOV) and (2) the Applicant and Proposal Profile supplemental form for LoNo funding (Supplemental Form) found on GRANTS.GOV and the FTA Web site by clicking (or copying and pasting) the LoNo Program link at *www.fta.dot.gov/grants/XXXXX.html* [Supplemental Form is still being developed—link will be provided]. The Supplemental Form provides guidance and a consistent format for proposers to respond to the criteria outlined in this NOFA. Once completed, the Supplemental Form must be placed in the attachments section of the SF424 Mandatory Form. Proposers must use the Supplemental Form designated for the LoNo Program and attach it to the submission in GRANTS.GOV to successfully complete the application process. A proposal submission may contain additional supporting documentation as attachments. If an applicant elects to attach an additional proposal narrative, it must not exceed 10 numbered pages. Submissions must be presentable. The use of non-standard fonts, font sizing, and less than one-inch margins for the inclusion of extra information will create a perception of poor judgment.

Within 48 hours after submitting an electronic application, the applicant 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 or a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, 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.

FTA urges proposers to submit applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated deadline. GRANTS.GOV scheduled maintenance and outage times are announced on the GRANTS.GOV Web site. Deadlines will not be extended due to scheduled Web site maintenance.

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 an application 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 System for Award Management (SAM) 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. Instructions on the GRANTS.GOV registration process are provided in the Appendix.

Applicants that submit multiple projects in one proposal must be sure to clearly define each project by completing a separate Supplemental Form for each project.

Information such as proposer name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF424 form and Supplemental Form. Proposers must fill in all fields unless stated otherwise on the forms. The Supplemental Form template supports pasting copied text from other documents; applicants should verify that pasted text is fully captured on the Supplemental Form and has not been truncated by the character limits built into the form. Proposers should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the federal and local amounts specified are consistent.

**K. Application Content**

The SF424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

1. Applicant name;

2. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number if available. (Note: If selected, applicant will be required to provide DUNS number prior to award);

3. Key contact information (including contact name, address, email address, phone and fax number;

4. Description of services provided by the agency, including areas served;

5. Congressional district(s) where the deployment will take place;

6. A list of project team organizational members, by organization name and address;

7. A Letter of Commitment from each organizational member of the project team;

8. A description of the technical, legal and financial capacity of the applicant and partners to carry out the proposed project;

9. A description of the project and how it meets the program purpose, including any related projects funded under other sources;

10. A description of the transit bus model(s) proposed, including propulsion type, operating ranges, recharging/refueling requirements, and

whether it qualifies as a zero-emission bus under this notice;

11. A description of all greenhouse gas and criteria pollutants that may be emitted by the bus;

12. A description of required support facilities and infrastructure in existence, being procured through other programs, and being proposed through this program;

13. A project management plan;

14. A line-item budget. The budget should be at least for the minimum 5 bus deployment and show the source of funds (requested under this NOFA, local share, other Federal (identify source));

15. If the project can be scaled, a scaling plan;

16. A project schedule outlining steps through completion, including significant milestones; and

17. The proposed deployment location(s).

**L. Proposal Evaluation Criteria**

*1. General Evaluation Criteria*

FTA desires a portfolio of projects that will deploy a significant number of the cleanest, most energy efficient transit buses. Buses that have been successfully demonstrated in revenue service but are not yet in wide use in U.S. transit agency fleets have the best chance for selection. Minor modifications or upgrades of earlier successful models are acceptable. FTA seeks to further reduce risk by selecting projects that include agencies or partners or teams with experience working with new bus technology. Transit agencies lacking experience should demonstrate its technical capacity to successfully deploy new clean bus technology. To maximize program impact, FTA seeks projects that leverage other sources of funding.

*2. Project Evaluation Criteria*

(a) The likelihood the project will result in the successful deployment of at least five largely-identical qualified transit buses operating in a single geographic location;

(b) The amount of projected emissions of the proposed transit bus model, including greenhouse gas and Criteria (EPA-regulated) emissions;

(c) The extent to which the proposal leverages or expands a fleet of zero-emission transit buses;

(d) The extent to which the proposal demonstrates an ongoing and long-term commitment to the deployment of a zero-emission bus fleet;

(e) The extent to which the proposal identifies and demonstrates the technical capacity and commitment of agencies, partners or teams with expertise in the sustained successful deployment of similar projects or propulsion technologies;

(f) The extent to which the proposed project is scalable upwards in increments of 1 or 2 transit buses.

(g) The extent to which the proposal offers a method to use program funds to cover only the incremental cost of the proposed bus model over the cost of a transit bus with a more conventional propulsion system;

(h) The extent to which the proposal identifies project teams, including transit agencies/operators, bus manufacturers, and facilities providers, as well as systems integrators, and project management consultants.

(i) The extent to which the proposal builds on past or current Federally-funded research efforts;

(j) The extent to which the proposal presents transit bus technology with existing documentation of successful revenue operation in a transit system;

(k) The FTA Bus Testing report for the proposed transit buses; if transit bus testing is not complete, the demonstrated commitment to complete transit bus testing prior to bus delivery and acceptance;

(l) The extent to which the proposal builds upon existing investments in charging or fueling infrastructure;

(m) The effectiveness of the project in achieving impacts on general FTA objectives including:

i. Safety

ii. Fuel economy and energy efficiency

iii. Adequate driving range (especially for buses that may have limited range, such as battery-electric).

(n) National Applicability. The applicant should demonstrate the national applicability of the project, including whether the project could be replicated by other transit agencies regionally or nationally.

(o) Domestic Content. The extent to which the buses proposed for acquisition exceed Buy-America domestic content requirements.

(p) Project Management. The applicant must demonstrate the capacity to carry out the project through a project management plan that shows:

i. The applicant is in a fundable status for the FTA grant award;

ii. The applicant's project team has the technical capacity to carry out the project,

iii. A viable project approach, budget, and schedule;

iv. The applicant has the ability and commitment to collect information and document the results of the project as part of an FTA project evaluation effort;

v. There are no outstanding legal, technical, or financial issues with the applicant that would make this a high-risk project; and,

vi. The source(s) of local share and that the funds are available for prompt project implementation if selected.

**M. Review and Selection**

A technical evaluation committee comprised of FTA staff and representatives of other collaborative government agencies will review project proposals against the described evaluation criteria. The technical evaluation committee reserves the right to evaluate proposals it receives and to seek clarification from any proposer about any statement that is made in a proposal that FTA finds ambiguous. FTA may also request additional documentation or information to be considered during the evaluation process. To provide the ability to evaluate technologies in a wide variety of conditions and locales, FTA may select projects to ensure geographic diversity among demonstrations under this NOFA.

After the evaluation of all eligible proposals, the technical evaluation committee will provide project recommendations to the FTA Administrator. The FTA Administrator will determine the final list of project selections, and the amount of funding for each project.

**N. Award Information**

To enhance the value of the portfolio of the projects to be implemented, FTA reserves the right to request an adjustment of the project scope and budget of any proposal selected for funding. Such adjustments shall not constitute a material alteration of any aspect of the proposal that influenced the proposal evaluation or decision to fund the project.

If an application proposes a specific party(ies) to provide unique or innovative goods or services on a project, FTA reserves the right to name such party as a key party and to make any award conditional upon the participation of the key party. A key party is essential to the project as approved by FTA and is therefore eligible for a noncompetitive award by the project sponsor to provide the goods or services described in the application. A key party's participation on a selected project may not be substituted without FTA's approval.

After FTA selects the successful proposals, successful applicants will apply for and FTA will award funding through FTA's current TEAM System. FTA's Office of Research, Demonstration, and Innovation (TRI), in consultation with the appropriate FTA

Regional Office, will manage Project Grant Agreements and Cooperative Agreements.

Applicants must sign and submit current Certifications and Assurances before FTA may award funding under a Cooperative Agreement or Grant Agreement for a competitively selected project. If the applicant has already submitted the annual Certifications and Assurances for the fiscal year in which the award will be made in FTA's current TEAM System, they do not need to be resubmitted. 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 project supported by the FTA agreement. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the agreement executed with FTA for its project. 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.

**Peter Rogoff,**

*Administrator.*

### Appendix A—Registering in System for Award Management (SAM) and GRANTS.GOV

**Registration in Brief**

Registration can take as little as 3–5 business days, but since there could be unexpected steps or delays (for example, if you need to obtain an Employer Identification Number), FTA recommends allowing ample time, up to several weeks, for completion of all steps.

**Step 1: Obtain DUNS Number**

Same day. If requested by phone (1–866–705–5711) DUNS is provided immediately. If your organization does not have one, you will need to go to the Dun & Bradstreet Web site at *http://fedgov.dnb.com/webform* to obtain the number. *Information for Foreign Registrants. *Webform requests take 1–2 business days.

**Step 2: Register With SAM**

Three to five business days or up to two weeks. If you already have a TIN, your SAM registration will take 3–5 business days to process. If you are applying for an EIN please allow up to two weeks. Ensure that your organization is registered with the System for Award Management (SAM). If your organization is not, an authorizing official of your organization must register.

**Step 3: Username & Password**

Same day. Complete your AOR (Authorized Organization Representative) profile on Grants.gov and create your username and password. You will need to use your organization's DUNS Number to complete this step. *https://apply07.grants.gov/apply/OrcRegister.*

**Step 4: AOR Authorization**

*Same day. The E-Business Point of Contact (E-Biz POC) at your organization must login to Grants.gov to confirm you as an Authorized Organization Representative (AOR). Please note that there can be more than one AOR for your organization. In some cases the E-Biz POC is also the AOR for an organization. *Time depends on responsiveness of your E-Biz POC.

**Step 5: Track AOR Status**

At any time, you can track your AOR status by logging in with your username and password. Login as an Applicant (enter your username & password you obtained in Step 3) using the following link: *applicant_profile.jsp.*

[FR Doc. 2014–00134 Filed 1–8–14; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number MARAD–2013–0101]**

### National Maritime Strategy Symposium: Cargo Opportunities and Sealift Capacity; Correction

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice of public meeting; correction.

**SUMMARY:** The Maritime Administration published a document in the **Federal Register** of December 27, 2013, concerning notice of the a public meeting, the National Maritime Strategy Symposium: Cargo Opportunities and Sealift Capacity. The document contained an incorrect reference to an internet address.

**FOR FURTHER INFORMATION CONTACT:** You may contact T. Mitchell Hudson, Jr., (202) 366–9373; or, Christine Gurland, (202) 366–5157.

### Correction

In the **Federal Register** dated December 27, 2013, in FR Doc. 2013–31095, on page 79073, in the second column, lines 8 and 9, correct the ''Follow-Up Action by MARAD'' caption as follows:

Remove ''*http://www.marad@dot.gov*'' and replace it with ''*http://www.marad.dot.gov.*''

* * * * *

Dated: January 6, 2014.

By Order of the Administrator.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2014–00143 Filed 1–8–14; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF THE TREASURY

### Application for Membership on the Federal Advisory Committee on Insurance

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Solicitation of applications for membership on the Federal Advisory Committee on Insurance (FACI).

**SUMMARY:** The charter of the FACI was renewed for a two-year period beginning July 29, 2013. As part of the charter's renewal, the number of members that may serve on the FACI was increased from 15 to 21. The Department of the Treasury (Treasury) seeks applications from individuals who wish to serve on the FACI.

**FOR FURTHER INFORMATION CONTACT:** James P. Brown, Senior Policy Advisor to the Federal Insurance Office, Room 2100, Department of the Treasury, 1425 New York Avenue NW., Washington, DC 20220, at (202) 622–6910 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act,[1] Treasury established a Federal Advisory Committee on Insurance (FACI) to present advice and recommendations to the Federal Insurance Office (FIO) in performing its duties and authorities.

### (I) Authorities of the FIO

The Federal Insurance Office Act of 2010 established the FIO within Treasury. In addition to advising the Secretary of the Treasury (Secretary) on major domestic and prudential international insurance policy issues and serving as a non-voting member on the Financial Stability Oversight Council, FIO's authorities include, among others, to:

- Monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system;
- monitor the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income persons have access to affordable insurance products

[1] Public Law 92–463, 5 U.S.C. App. 2 sections. 1–16, as amended.

regarding all lines of insurance, except health insurance;

• recommend to the Council that it designate an insurer, including the affiliates of such insurer, as an entity subject to regulation as a nonbank financial company supervised by the Board of Governors of the Federal Reserve System;

• coordinate federal efforts and develop federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors and assisting the Secretary in negotiating covered agreements; and

• consult with the states (including state insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance.

**(II) Scope and Membership of the FACI**

The FACI was established to provide an opportunity for state insurance regulators, representatives from the insurance and reinsurance industry, academics, and consumers to offer views directly to FIO on a periodic basis. The FACI may provide advice, recommendations, analysis, and information to FIO covering specific or general insurance topics, processes, studies, and reports. The duties of the FACI shall be solely advisory and any advice and recommendations of the FACI shall be non-binding to FIO.

The FACI is a continuing advisory committee that was established on August 4, 2011 for a two-year term. Beginning July 29, 2013, the charter of the FACI was renewed for an additional two-year term. The charter reauthorizing the FACI increased the maximum number of FACI members from 15 to 21.

Treasury increased the potential size of the FACI's membership to allow participation of the broad diversity within the insurance sector.Providing additional diversity to the FACI membership will enhance the views and advice offered by the FACI.

**(III) Application for FACI Appointment**

Treasury seeks applications from individuals representative of a constituency within the insurance sector to serve on the FACI. The terms of members chosen to serve may vary from one to three years. No person who is a federally-registered lobbyist may serve on the FACI. Some members of the FACI may be required to adhere to the conflict of interest rules applicable to Special Government Employees as defined in 18 U.S.C. 202(a).

To apply, an applicant must submit an appropriately detailed resumé and a cover letter that includes a description of the applicant's reason for applying. An applicant must state in the applicant's materials that he or she agrees to submit to a pre-appointment tax and criminal background investigation in accordance with Treasury Directive 21–03. Applications should be addressed to James Brown and sent via email to *James.Brown@treasury.gov.* The deadline for submitting applications is February 10, 2014.

**Michael T. McRaith,**

*Director, Federal Insurance Office.*

[FR Doc. 2014–00137 Filed 1–8–14; 8:45 am]

**BILLING CODE 4810–25–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on the Readjustment of Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on the Readjustment of Veterans will be held Thursday, February 6 through Friday, February 7, 2014. The meeting will be conducted at the Department of Veterans Affairs Central Office, 810 Vermont Avenue NW., Washington, DC 20420. The agenda for both days will begin at 8 a.m. and end at 4:30 p.m. The meeting on both days is open to the public.

The purpose of the Committee is to review the post-war readjustment needs of combat Veterans and to evaluate the availability and effectiveness of VA programs to meet these needs.

On February 6, the Committee will be briefed by the Secretary of Veterans Affairs on current directions and priorities for serving the Nation's war Veterans. The Committee will also hear from the Principal Deputy Under Secretary for Health on new directions of care in Veterans Health Administration (VHA) and the coordination of VA healthcare with readjustment counseling.

Also on this date the Committee will receive briefings from key program officials in Veterans Health Administration (VHA) and Veterans Benefits Administration (VBA) regarding programs of specific value to the psychological, social and economic readjustment of combat Veterans.

On February 7, the Committee will receive updates on the current activities of the Readjustment Counseling Service Vet Center program to include the full scope of outreach and readjustment counseling services provided to combat Veterans. The briefing will also focus on the coordination of Vet Center services with VHA healthcare and mental health and VBA benefits programs. The Committee will also receive briefings on new legislative authorities extending Vet Center readjustment services to new eligible Veteran populations. The agenda will conclude with a Committee strategic planning session for developing the annual Committee Report.

No time will be allocated at this meeting for receiving oral presentations from the public. However, members of the public may direct written questions or submit prepared statements for review by the Committee in advance of the meeting to Mr. Charles M. Flora, M.S.W., Designated Federal Officer, Readjustment Counseling Service (15), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Because the meeting will be in a Government building, anyone attending must be prepared to show a valid ID for checking in. Please allow 15 minutes before the meeting begins for this process. Those who plan to attend or have questions concerning the meeting may contact Mr. Flora at (202) 461–6525 or *charles.flora@va.gov.*

Dated: January 6, 2014.

**Jeffrey M. Martin,**

*Office Manager, Regulation Policy and Management, Office of the General Counsel.*

[FR Doc. 2014–00155 Filed 1–8–14; 8:45 am]

**BILLING CODE P**

# FEDERAL REGISTER

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Part II

## Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins; Proposed Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[EPA–HQ–OAR–2012–0133; FRL–9903–68–OAR]**

**RIN 2060–AR49**

## National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing amendments, with regard to regulations applicable to three industrial source categories, to two national emission standards for hazardous air pollutants (NESHAP): NESHAP for Source Categories: Generic Maximum Achievable Control Technology Standards; and NESHAP: Manufacture of Amino/Phenolic Resins. The three source categories addressed in this action are Acrylic and Modacrylic Fibers Production, Polycarbonate Production and Amino/Phenolic Resins Production. For all three of these source categories, the EPA is proposing decisions concerning the residual risk and technology reviews. The EPA is also proposing amendments to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown and malfunction; add provisions for affirmative defense; add requirements for electronic reporting of performance test results; clarify provisions pertaining to open-ended valves and lines; add monitoring requirements for pressure relief devices; and add standards for previously unregulated hazardous air pollutant (HAP) emissions sources for certain emission points. We estimate that these proposed amendments will reduce HAP emissions from these three source categories by a combined 22 tons per year.

**DATES:** *Comments.* Comments must be received on or before March 10, 2014. A copy of comments on the information collection provisions should be submitted to the Office of Management and Budget (OMB) on or before February 10, 2014.

*Public Hearing.* If anyone contacts the EPA requesting a public hearing by January 24, 2014, we will hold a public hearing on February 10, 2014. If a hearing is requested, the last day to pre-register in advance to speak at the hearing will be February 3, 2014. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration. If no one contacts the EPA requesting a public hearing to be held concerning this proposed rule by January 24, 2014, a public hearing will not take place. For further information on the hearing, see section I.E of this preamble.

**ADDRESSES:** *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0133, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2012–0133.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2012–0133.
- *Mail:* U.S. Postal Service, send comments to: EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA–HQ–OAR–2012–0133, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2012–0133. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions.* Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0133. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: *http://www.epa.gov/dockets.*

*Docket.* The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2012–0133. All documents in the docket are listed in the *regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in regulations.gov or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

*Public Hearing.* If a public hearing is requested by January 24, 2014, it will be held on February 10, 2014, at the EPA's Research Triangle Park Campus, 109 T.W. Alexander Drive, Research Triangle Park, North Carolina 27711. The hearing will convene at 10:00 a.m. (Eastern Standard Time) and end at 5:00 p.m. (Eastern Standard Time). A lunch break will be held from 12:00 p.m. (Eastern Standard Time) until 1:00 p.m. (Eastern Standard Time). Please contact Ms. Virginia Hunt at (919) 541–0832 or at *hunt.virginia@epa.gov* to request a

hearing, to determine if a hearing will be held and to register to speak at the hearing, if one is held.

**FOR FURTHER INFORMATION CONTACT:** For questions about this proposed action, contact Mr. Nick Parsons, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5372; fax number: (919) 541–0246; and email address: *parsons.nick@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Mark Morris, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5416; fax number: (919) 541–0840; email address: *morris.mark@epa.gov.* For information about the applicability of these three NESHAP to a particular entity, contact Ms. Tavara Culpepper, Office of Enforcement and Compliance Assurance (OECA), telephone number: (202) 564–0902; email address: *culpepper.tavara@epa.gov.*

**SUPPLEMENTARY INFORMATION:** *Preamble Acronyms and Abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACGIH American Conference of Governmental Industrial Hygienists
ADAF age-dependent adjustment factors
AEGL acute exposure guideline levels
AERMOD air dispersion model used by the HEM-3 model
AMF Acrylic and Modacrylic Fibers
APR Amino/Phenolic Resins
BACT best available control technology
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EJ environmental justice
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guidelines
ERT Electronic Reporting Tool
FR **Federal Register**
GACT generally achievable control technology
HAP hazardous air pollutants
HCl hydrochloric acid
HEM-3 Human Exposure Model, Version 1.1.0
HI hazard index
HON National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
HQ hazard quotient
ICR Information Collection Request
IRIS Integrated Risk Information System
km kilometer
LAER lowest achievable emission rate
LDAR leak detection and repair
MACT maximum achievable control technology
MACT Code Code within the NEI used to identify processes included in a source category
mg/m$^3$ milligrams per cubic meter
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NAS National Academy of Sciences
NATA National Air Toxics Assessment
NEI National Emissions Inventory
NESHAP National Emissions Standards for Hazardous Air Pollutants
NIOSH National Institutes for Occupational Safety and Health
NRC National Research Council
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OECA Office of Enforcement and Compliance Assurance
OMB Office of Management and Budget
PAH polycyclic aromatic hydrocarbons
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PC Polycarbonate
POM polycyclic organic matter
ppm parts per million
PRD pressure relief device
RACT reasonably available control technology
RBLC RACT/BACT/LAER Clearinghouse
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTO regenerative thermal oxidizer
RTR residual risk and technology review
SAB Science Advisory Board
SBA Small Business Administration
SOCMI Synthetic Organic Chemical Manufacturing Industry
SOP standard operating procedures
SSM startup, shutdown and malfunction
TEQ toxic equivalency quotient
TLV threshold limit value
TOSHI target organ-specific hazard index
tpy tons per year
TRIM.FaTE Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure model
TTN Technology Transfer Network
UF uncertainty factor
μg/m$^3$ microgram per cubic meter
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
VCS voluntary consensus standards
VOC volatile organic compounds

*Organization of this Document.* The information in this preamble is organized as follows:

I. General Information
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B. What are the source categories and how did the MACT standards regulate their HAP emissions?
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D. What other relevant background information and data are available?
III. Analytical Procedures
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A. What actions are we taking pursuant to CAA sections 112(d)(2) and 112(d)(3)?
B. What are the results of the risk assessment and analyses?
C. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?
D. What are the results and proposed decisions based on our technology review?
VI. Analytical Results and Proposed Decisions for the PC Source Category
A. What are the results of the risk assessment and analyses?
B. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?
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VII. What other actions are we proposing?
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X. Request for Comments

XI. Submitting Data Corrections
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B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
A red-line version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2012–0133).

## I. General Information

### *A. Executive Summary*

#### 1. Purpose of the Regulatory Action

Section 112(d)(1) of the CAA requires the EPA to establish NESHAP for source categories and subcategories of both major sources and area sources of HAP that are listed for regulation under CAA section 112(c). For major sources of HAP, under CAA sections 112(d)(2) and (3), the EPA is required to set standards that reflect the emissions performance achieved by the maximum achievable control technology (MACT) and by other measures used at sources in the subject source category. For area sources, under CAA section 112(d)(5) the EPA is allowed to instead adopt standards reflecting generally achievable control technology (GACT). Section 112(d)(6) of the CAA requires the EPA to review these NESHAP regulations for each covered source category and to revise them as necessary (taking into account developments in practices, processes and control technologies) no less frequently than every 8 years. Section 112(f)(2) of the CAA requires the EPA to assess, within 8 years of promulgation of the original NESHAP for major sources and area sources subject to MACT, the remaining risks due to emissions of HAP from these source categories and determine whether the emissions standards provide an ample margin of safety to protect public health. Section 112(f)(5) provides that the EPA is not required to conduct this latter review for area sources subject to GACT. We refer to these reviews collectively as residual risk and technology reviews (RTRs).

This action presents the results of, and proposed decisions based on, the EPA's reviews of the following three source categories: Acrylic and Modacrylic Fibers Production (AMF), Amino/Phenolic Resins Production (APR) and Polycarbonate Production (PC). As detailed below, the EPA is proposing amendments, based on the relevant RTR, to regulations applicable to each of these three source categories. In addition, we are also proposing amendments to the relevant regulations to address the following: Emissions during periods of startup, shutdown and malfunction; standards for previously unregulated HAP emissions sources; revisions to require monitoring of pressure relief devices in organic HAP service that release to the atmosphere; clarification of provisions pertaining to open-ended valves and lines; and revisions to require electronic reporting of performance test results.

#### 2. Summary of the Major Provisions of the Regulatory Action in Question

With regard to the AMF source category, the EPA has determined that no amendments are needed for this source category based on the risk review under CAA section 112(f). However, based on the technology review under CAA section 112(d)(6), the EPA is proposing to eliminate the less stringent of two currently available options for complying with leak detection and repair program requirements—while retaining the more stringent compliance requirement. In addition, under CAA sections 112(d)(2) and (3), the EPA is proposing requirements to address certain emission points that were not previously regulated.

With regard to the APR source category, the EPA has determined that no amendments are needed for this source category based on the risk and technology reviews under CAA sections 112(d)(6) and 112(f). However, under CAA sections 112(d)(2) and (3), the EPA is proposing requirements to address certain emission points that were not previously regulated.

With regard to the PC source category, the EPA has determined that no amendments are needed for this source category based on the risk review under CAA section 112(f). However, based on the technology review under CAA section 112(d)(6), the EPA is proposing to eliminate the less stringent of two currently available options for complying with leak detection and repair program requirements—while retaining the more stringent compliance requirement.

The EPA is also proposing revisions to all three source categories in four areas. First, the EPA is proposing to revise the standards so that they apply at all times, including during periods of startup, shutdown and malfunction (SSM). Second, the EPA is proposing to require electronic reporting of performance test results. Third, the EPA is clarifying the provisions regarding open-ended lines by adding a definition for what constitutes a ''sealed'' open-ended line. Finally, the EPA is proposing to require monitoring of pressure relief devices (PRDs) in organic HAP service that release to the atmosphere, and that a pressure release from such a PRD is a violation.

#### 3. Costs and Emissions Reductions

Table 1 below summarizes the estimated costs and potential emissions reductions for this action. See section IX of this preamble for further discussion of the costs and impacts.

TABLE 1—SUMMARY OF THE COSTS AND EMISSIONS REDUCTIONS FOR THE PROPOSED ACRYLIC AND MODACRYLIC FIBERS PRODUCTION, AMINO/PHENOLIC RESINS PRODUCTION AND POLYCARBONATE PRODUCTION NESHAP AMENDMENTS

| Source category | Number affected plants | Capital costs ($) | Annualized costs ($/yr) | Emissions reductions (tpy) |
|---|---|---|---|---|
| Acrylic and Modacrylic Fibers Production | 1 | $38,000 | $6,000 | 0.2 |
| Amino/Phenolic Resins Production | 18 | 1,500,000 | 400,000 | 20.1 |
| Polycarbonate Production | 4 | 67,000 | 9,400 | 2.1 |

*B. Does this action apply to me?*

Table 2 of this preamble lists the NESHAP and associated regulated industrial source categories that are the subject of this proposal. Table 2 is not intended to be exhaustive, but rather to provide a guide for readers regarding entities that this proposed action is likely to affect. The proposed standards, once finalized, will be directly applicable to the affected sources. Federal, state, local and tribal government entities would not be affected by this proposed action. As defined in the ''Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990'' (see 57 FR 31576, July 16, 1992), the ''Acrylic and Modacrylic Fibers Production'' source category includes any facility engaged in manufacturing fibers in which the fiber-forming substance is any long-chain, synthetic polymer composed of at least 85 percent, by weight, acrylonitrile units. As defined in the ''Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990'' (see 57 FR 31576, July 16, 1992) and subsequently amended (see 65 FR 3276, January 20, 2000), the ''Amino/Phenolic Resins Production'' source category includes any facility engaged in manufacturing amino resins or phenolic resins. As defined in the ''Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990'' (see 57 FR 31576, July 16, 1992), the ''Polycarbonate Production'' source category includes any facility which manufactures a special class of polyester formed from the dihydroxy compound and any carbonate diester or by ester interchange.

TABLE 2—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

| NESHAP and source category | | NAICS Code [a] |
|---|---|---|
| Generic Maximum Achievable Control Technology Standards .. | Acrylic and Modacrylic Fibers Production | 325220 (325222) |
| | Polycarbonate Production | 325211 (325211) |
| Amino/Phenolic Resins Production | | 325211 (325211) |

[a] North American Industry Classification System 2012 (2007 in parenthesis).

*C. Where can I get a copy of this document and other related information?*

In addition to being available in the docket, an electronic copy of this proposal is available on the Internet through the EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action on the TTN's policy and guidance page for newly proposed or promulgated rules at: *http://www.epa.gov/ttn/oarpg/t3pfpr.html*. The TTN provides information and technology exchange in various areas of air pollution control. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents on the project Web sites: *http://www.epa.gov/ttn/atw/gmact/gmactpg.html* and *http://www.epa.gov/ttn/atw/amino/aminopg.html*. Information on the overall residual risk and technology review program is available at the following Web site: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html*.

*D. What should I consider as I prepare my comments for the EPA?*

*Submitting CBI.* Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: Nick Parsons, c/o OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attn: Docket ID No. EPA–HQ–OAR–2012–0133.

*E. Public Hearing*

If a hearing is held, it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing, if held, will be at a U.S. governmental facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons. The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. If a hearing is held on February 10, 2014, written comments on the proposed rule must be postmarked by March 10, 2014. Commenters should notify Ms. Virginia Hunt if they will need specific equipment, or if there are other special needs related to providing comments at the hearing. The EPA will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each

commenter. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email or CD) or in hard copy form. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Information regarding the hearing (including information as to whether or not one will be held) will be available at: *http://www.epa.gov/ttn/oarpg/t3main.html.* Again, all requests for a public hearing to be held must be received by January 24, 2014.

## II. Background

*A. What is the statutory authority for this action?*

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, after the EPA has identified categories of sources emitting one or more of the HAP listed in CAA section 112(b), CAA section 112(d) requires us to promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAPs. For major sources, the technology-based NESHAP must reflect the maximum degree of emissions reductions of HAPs achievable (after considering cost, energy requirements and non-air quality health and environmental impacts) and are commonly referred to as MACT standards.

MACT standards must require the maximum degree of emissions reduction achievable through the application of measures, processes, methods, systems or techniques, including, but not limited to, measures that: (1) Reduce the volume of or eliminate pollutants through process changes, substitution of materials or other modifications; (2) enclose systems or processes to eliminate emissions; (3) capture or treat pollutants when released from a process, stack, storage or fugitive emission point; (4) are design, equipment, work practice or operational standards (including requirements for operator training or certification); or (5) are a combination of the above. CAA section 112(d)(2)(A)–(E). The MACT standards may take the form of design, equipment, work practice or operational standards where the EPA first determines that either: (1) a pollutant cannot be emitted through a conveyance designed and constructed to emit or capture the pollutants or that any requirement for, or use of, such a conveyance would be inconsistent with law; or (2) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations. CAA section 112(h)(1)–(2).

The MACT ''floor'' is the minimum control level allowed for MACT standards promulgated under CAA section 112(d)(3) and may not be based on cost considerations. For new sources, the MACT floor cannot be less stringent than the emissions control that is achieved in practice by the best-controlled similar source. The MACT floor for existing sources can be less stringent than floors for new sources but not less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on considerations of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts and energy requirements.

The EPA is then required to review these technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every eight years. CAA section 112(d)(6). In conducting this review, the EPA is not required to recalculate the MACT floor. *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013).

The second stage in standard-setting focuses on reducing any remaining (i.e., ''residual'') risk according to CAA section 112(f). This provision requires, first, that the EPA prepare a Report to Congress discussing (among other things) methods of calculating the risks posed (or potentially posed) by sources after implementation of the MACT standards, the public health significance of those risks and the EPA's recommendations as to legislation regarding such remaining risk. The EPA prepared and submitted the *Residual Risk Report to Congress,* EPA–453/R–99–001 (*Risk Report*) in March 1999. Congress did not act in response, thereby triggering the EPA's obligation under CAA section 112(f)(2) to analyze and address residual risk.

Section 112(f)(2) of the CAA requires the EPA to determine for source categories subject to MACT standards whether the emission standards provide an ample margin of safety to protect public health. Section 112(f)(2)(B) of the CAA expressly preserves the EPA's use of the two-step process for developing standards to address any residual risk and the agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the *Risk Report* that the agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and in a challenge to the risk review for the Synthetic Organic Chemical Manufacturing source category, the United States Court of Appeals for the District of Columbia Circuit upheld as reasonable the EPA's interpretation that subsection 112(f)(2) incorporates the approach established in the Benzene NESHAP. *See NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008)(''[S]ubsection 112(f)(2)(B) expressly incorporates the EPA's interpretation of the Clean Air Act from the Benzene standard, complete with a citation to the **Federal Register**.''); *see also A Legislative History of the Clean Air Act Amendments of 1990,* vol. 1, p. 877 (Senate debate on Conference Report).

The first step in the process of evaluating residual risk is the determination of acceptable risk. If risks are unacceptable, the EPA cannot consider cost in identifying the emissions standards necessary to bring risks to an acceptable level. The second step is the determination of whether standards must be further revised in order to provide an ample margin of safety to protect public health. The ample margin of safety is the level at which the standards must be set, unless an even more stringent standard is necessary to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect.

1. Step 1-Determination of Acceptability

The agency in the Benzene NESHAP concluded that ''the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information'' and that the ''judgment on acceptability cannot be reduced to any single factor.'' *Id.* at 38046. The determination of what represents an ''acceptable'' risk is based on a judgment of ''what risks are acceptable in the world in which we live'' (*Risk Report* at 178, quoting *NRDC* v. *EPA,* 824 F. 2d 1146, 1165 (DC Cir. 1987) (en banc) (''Vinyl Chloride''), recognizing that our world is not risk-free.

In the Benzene NESHAP, we stated that ''EPA will generally presume that if the risk to [the maximum exposed] individual is no higher than approximately one in 10 thousand, that risk level is considered acceptable.'' 54 FR 38045. We discussed the maximum individual lifetime cancer risk (or maximum individual risk (MIR)) as being ''the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.'' *Id.* We explained that this measure of risk ''is an estimate of the upper bound of risk based on conservative assumptions, such as continuous exposure for 24 hours per day for 70 years.'' *Id.* We acknowledged that maximum individual lifetime cancer risk ''does not necessarily reflect the true risk, but displays a conservative risk level which is an upper-bound that is unlikely to be exceeded.'' *Id.*

Understanding that there are both benefits and limitations to using the MIR as a metric for determining acceptability, we acknowledged in the Benzene NESHAP that ''consideration of maximum individual risk * * * must take into account the strengths and weaknesses of this measure of risk.'' *Id.* Consequently, the presumptive risk level of 100-in-1 million (1-in-10 thousand) provides a benchmark for judging the acceptability of maximum individual lifetime cancer risk, but does not constitute a rigid line for making that determination. Further, in the Benzene NESHAP, we noted that:

> [p]articular attention will also be accorded to the weight of evidence presented in the risk assessment of potential carcinogenicity or other health effects of a pollutant. While the same numerical risk may be estimated for an exposure to a pollutant judged to be a known human carcinogen, and to a pollutant considered a possible human carcinogen based on limited animal test data, the same weight cannot be accorded to both estimates. In considering the potential public health effects of the two pollutants, the Agency's judgment on acceptability, including the MIR, will be influenced by the greater weight of evidence for the known human carcinogen.

*Id.* at 38046. The agency also explained in the Benzene NESHAP that:

> [i]n establishing a presumption for MIR, rather than a rigid line for acceptability, the Agency intends to weigh it with a series of other health measures and factors. These include the overall incidence of cancer or other serious health effects within the exposed population, the numbers of persons exposed within each individual lifetime risk range and associated incidence within, typically, a 50 km exposure radius around facilities, the science policy assumptions and estimation uncertainties associated with the risk measures, weight of the scientific evidence for human health effects, other quantified or unquantified health effects, effects due to co-location of facilities, and co-emission of pollutants.

*Id.* at 38045. In some cases, these health measures and factors taken together may provide a more realistic description of the magnitude of risk in the exposed population than that provided by maximum individual lifetime cancer risk alone.

As noted earlier, in *NRDC* v. *EPA,* the court held that section 112(f)(2) ''incorporates the EPA's interpretation of the Clean Air Act from the Benzene Standard.'' The court further held that Congress' incorporation of the Benzene approach applies equally to carcinogens and non-carcinogens. 529 F.3d at 1081–82. Accordingly, we also consider non-cancer risk metrics in our determination of risk acceptability and ample margin of safety.

2. Step 2—Determination of Ample Margin of Safety

CAA section 112(f)(2) requires the EPA to determine, for source categories subject to MACT standards, whether those standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the second step of the inquiry, determining an 'ample margin of safety,' again includes consideration of all of the health factors, and whether to reduce the risks even further . . . . Beyond that information, additional factors relating to the appropriate level of control will also be considered, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by section 112.'' 54 FR 38046.

According to CAA section 112(f)(2)(A), if the MACT standards for HAP ''classified as a known, probable, or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one in one million,'' the EPA must promulgate residual risk standards for the source category (or subcategory), as necessary to provide an ample margin of safety to protect public health. In doing so, the EPA may adopt standards equal to existing MACT standards if the EPA determines that the existing standards (i.e. the MACT standards) are sufficiently protective. *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (DC Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'') The EPA must also adopt more stringent standards, if necessary, to prevent an adverse environmental effect,[1] but must consider cost, energy, safety and other relevant factors in doing so.

The CAA does not specifically define the terms ''individual most exposed,'' ''acceptable level'' and ''ample margin of safety.'' In the Benzene NESHAP, 54 FR 38044–38045, we stated as an overall objective:

> In protecting public health with an ample margin of safety under section 112, EPA strives to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately 1-in-1 million and (2) limiting to no higher than approximately 1-in-10 thousand [i.e., 100-in-1 million] the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.

The agency further stated that ''[t]he EPA also considers incidence (the number of persons estimated to suffer cancer or other serious health effects as a result of exposure to a pollutant) to be an important measure of the health risk to the exposed population. Incidence measures the extent of health risks to the exposed population as a whole, by providing an estimate of the occurrence of cancer or other serious health effects in the exposed population.'' *Id.* at 38045.

In the ample margin of safety decision process, the agency again considers all of the health risks and other health

[1] ''Adverse environmental effect'' is defined as any significant and widespread adverse effect, which may be reasonably anticipated to wildlife, aquatic life or natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental qualities over broad areas. CAA section 112(a)(7).

information considered in the first step, including the incremental risk reduction associated with standards more stringent than the MACT standard or a more stringent standard that EPA has determined is necessary to ensure risk is acceptable. In the ample margin of safety analysis, the agency considers additional factors, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by CAA section 112(f). 54 FR 38046.

*B. What are the source categories and how did the MACT standards regulate their HAP emissions?*

1. Acrylic and Modacrylic Fibers Production Source Category

The NESHAP for Acrylic and Modacrylic Fibers Production (''AMF MACT standards''), with the exception of wastewater processes, were promulgated on June 29, 1999 (64 FR 34854), and codified at 40 CFR part 63, subpart YY. The provisions for wastewater were promulgated separately on November 22, 1999 (64 FR 63695), and also codified at 40 CFR part 63, subpart YY. The AMF MACT standards were established in a consolidated rulemaking for certain small source categories consisting of five or fewer major sources. The standards for these source categories were developed under the EPA's Generic MACT program.

Acrylic and modacrylic fibers are manufactured fibers in which the fiber-forming substance is a long-chain synthetic polymer containing acrylonitrile units. The fiber-forming substance in acrylic fibers is composed of at least 85 percent acrylonitrile units by weight, whereas modacrylic fibers are less than 85 but at least 35 percent acrylonitrile units by weight. These acrylic and modacrylic fibers have been used in textiles (including apparel, carpet, awnings, tents, sandbags and auto upholstery) and in industrial applications like concrete reinforcements and industrial filters. These fibers are also used as carbon fiber precursors. Carbon fibers developed from acrylic fibers have high tensile strength and are used in aerospace applications, such as aircraft airframes and engine structures, as well as other applications where light weight and high strength are needed, including racing car bodies, golf club shafts, bicycle frames, fishing rods, automobile springs, sailboat masts and many other items.

The production of AMF involves a polymerization reaction process using either a solution or suspension process in either a batch or continuous mode. The resulting polymer (called ''spin dope'') is spun into fibers using either wet or dry spinning techniques. The spun fibers are then treated to remove excess solvent and to improve fiber characteristics through processes such as washing, stretching, crimping and drying.

Sources of HAP emissions from the production of AMF include: (1) Storage vessels used to store acrylonitrile monomer and co-monomers; (2) process vents on reactors, vessels and storage vessels used for acrylic polymerization, monomer recovery, fiber spinning and solvent recovery operations; (3) fugitive emissions from AMF spinning lines; (4) wastewater treatment systems; and (5) equipment leaks. In the production of AMF, HAP are used primarily as raw materials or reaction inhibitors in the polymerization reaction process. The AMF MACT standards include emission limits for existing and new fiber spinning lines using spin dope from a suspension polymerization process, new sources using a solution polymerization process and for process vents at all facilities. The AMF MACT standards include a combination of equipment standards and work practices for equipment leaks and wastewater, and a combination of equipment standards and emission limits for storage vessels.

To meet the requirements of the AMF MACT standards, the emissions from storage vessels are typically controlled either by floating roofs or fixed roofs that route emissions through a closed vent system to a combustion or recovery device. Emissions from wastewater are generally controlled by equipment modifications (e.g., covers on surface impoundments, containers and drain systems) and pretreatment to remove HAP and biodegradation or pretreatment and discharge to a publicly owned treatment works for biodegradation. Emissions from equipment leaks are typically reduced by leak detection and repair (LDAR) work practice programs. Controls for process vents include combustion or recovery devices, and controls for fiber spinning lines include enclosure of the spinning and washing areas with venting to a combustion or recovery device.

We identified one major source currently operating that is subject to the AMF MACT standards. Acrylonitrile accounts for the majority of the HAP emissions from the AMF processes at this facility (approximately 32 tpy and over 99 percent of the total HAP emissions by mass). The only other HAP reported by this facility is hydroquinone (approximately 3 lbs/yr). As we have stated previously, other organic HAP, where present, would only be associated with those pollutant streams containing acrylonitrile, and where sources control acrylonitrile emissions, comparable levels of control will be achieved for other organic HAP emitted from AMF facilities. See NESHAP: Generic Maximum Achievable Control Technology (Generic MACT); Final Rule, Process Wastewater Provisions; Proposed Rule, 64 FR 34854, 34858 (June 29, 1999). The same is true here—hydroquinone is emitted only from equipment leaks, and equipment leaks are already subject to control through the LDAR program in the rule.

We estimate that the actual emissions levels for all emission sources are representative of the MACT-allowable levels (i.e., the maximum emission levels allowed if in compliance with the MACT standards), as we are not aware of any situations in which the facility is conducting additional work practices or operating a control device such that it achieves a greater emission reduction than required. For more detail about this estimate of the ratio of actual-to-MACT-allowable emissions and the estimation of the MACT-allowable emission levels (and associated risks and impacts), see the memorandum, *MACT Allowable Emissions and Risks for the Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production Source Categories,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

2. Amino/Phenolic Resins Production

The NESHAP for the Manufacture of Amino/Phenolic Resins (''APR MACT standards''; also referred to as Group III Polymers and Resins) were promulgated on January 20, 2000 (65 FR 3275), and codified at 40 CFR part 63, subpart OOO. The APR MACT standards apply to major sources and regulate HAP emissions resulting from the manufacture of amino resins or phenolic resins. These two products can broadly be classified as formaldehyde-based thermosetting resins. An amino resin is a resin produced through the reaction of formaldehyde, or a formaldehyde-containing solution, with one or more compounds that contain an amino group; these compounds include melamine, urea and urea derivatives. A phenolic resin is a resin that is a condensation product of formaldehyde and phenol, or a formaldehyde substitute and/or a phenol substitute.

Substitutes for formaldehyde include acetaldehyde or furfuraldehyde. Substitutes for phenol include other phenolic-starting compounds such as cresols, xylenols, p-tert-butylphenol, p-phenylphenol and nonylphenol. Formaldehyde, phenol, acetaldehyde and cresols are HAP, but the other reactants are not. Amino/phenolic resins are used in the manufacture of plywood, particle board, adhesives, wood furniture and plastic parts.

Generally, the production of APR entails four processes: (1) Raw material (i.e., solvent and catalyst) storage and refining; (2) polymer formation in a reactor; (3) material recovery; and (4) finishing (e.g., cooling, filtering, drying or pulverizing).

Sources of HAP emissions from the production of APR include reactor batch process vents, non-reactor batch process vents, continuous process vents, equipment leaks, wastewater, storage vessels and heat exchangers. In the production of APR, HAP are used primarily as reactants or extraction solvents. The APR MACT standards include a combination of equipment standards and emission limits for the various emission sources.

To meet the requirements of the APR MACT standards, the typical control techniques used to reduce emissions include LDAR programs for heat exchangers and other equipment. Boilers, combustion and recovery devices may be used to control emissions from batch process vents.

We identified 18 currently-operating facilities subject to the APR MACT standards. Methanol, formaldehyde and phenol account for the majority of the HAP emissions from the APR production processes at these facilities (approximately 357 tpy and 96 percent of the total HAP emissions by mass). A variety of other chemicals are used in the production of APR, and these facilities also reported emissions of 23 other HAP. Emissions of three persistent bioaccumulative HAP (PB–HAP) are reported in the data set for this source category, including lead compounds, cadmium compounds, and polycyclic organic matter (POM) (which includes polyaromatic hydrocarbons (PAH)).

We estimate that the actual emissions levels for all sources are representative of the MACT-allowable levels (i.e., the maximum emission levels allowed if in compliance with the MACT standards), as we are not aware of any situations in which facilities are conducting additional work practices or operating a control device such that it achieves a greater emission reduction than required, except batch process vents. As it is possible that the capture systems and control devices used at some facilities achieve greater emission reductions than what is required by the NESHAP for batch process vents, the MACT-allowable level for organic HAP emissions from reactor batch process vents could be up to 3.4 times the actual emissions and the MACT-allowable level for organic HAP emissions from non-reactor batch process vents could be up to 1.6 times the actual emissions for some facilities in this source category. For more detail about this estimate of the ratio of actual-to-MACT-allowable emissions and the estimation of MACT-allowable emission levels (and associated risks and impacts), see the memorandum, *MACT Allowable Emissions and Risks for the Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production Source Categories,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

3. Polycarbonate Production Source Category

The NESHAP for Polycarbonate Production (''PC MACT standards''), with the exception of wastewater processes, were promulgated on June 29, 1999 (64 FR 34854), and codified at 40 CFR part 63, subpart YY. The provisions for wastewater were promulgated separately on November 22, 1999 (64 FR 63695), and also codified at 40 CFR part 63, subpart YY. Along with the AMF and other source categories, the PC source category standards were established in a consolidated rulemaking for certain small source categories consisting of five or fewer major sources. The standards for these source categories were developed under the EPA's Generic MACT program.

Polycarbonates are thermoplastic polymers that can be either transparent or opaque, are heat resistant and are scratch and impact resistant. These properties make PC useful in a variety of applications, including as a dielectric in capacitors, car headlights, water bottles, sports helmets, compact discs and DVDs, eyewear lenses, medical devices, toys and other products.

The production of PC involves a polymerization reaction process using either a solution or suspension process in either a batch or continuous mode. All production of PC in the United States is currently based on the polymerization reaction of bisphenols with phosgene in the presence of catalysts, solvents (mainly methylene chloride) and other additives. After the reaction, the resulting polymer is purified and sent to a recovery process to remove remaining methylene chloride. The resin is dried and stored in silos.

All phosgene used as a feedstock for the production of PC is produced onsite to reduce potential hazards associated with transporting and storing this material. The phosgene is fed directly from dedicated phosgene production equipment to PC polymerization process equipment. Consequently, phosgene production is integrated with the production of PC; the production of PC cannot occur without the other process operating. Since dedicated phosgene production units are integral to the PC production process, the EPA considers such phosgene production units to be part of the PC source category (63 FR 55178, October 18, 1998).

Sources of HAP emissions from the production of PC include storage vessels used to store methylene chloride and other organic solvents; process vents on polymerization, polymer solution purification and solvent recovery equipment; wastewater treatment systems; and equipment leaks. In the production of PC, HAP are used as monomers, co-monomers and solvents in the polymerization reaction. The PC MACT standards include emission limits for continuous process vents. The PC MACT standards include a combination of equipment standards and work practices for equipment leaks and wastewater and a combination of equipment standards and emission limits for storage vessels.

To meet the requirements of the PC MACT standards, the typical control devices used to reduce emissions from storage vessels are fixed roofs with emissions routed through a closed vent system to a combustion or recovery device. Emissions from wastewater are generally controlled by equipment modifications (e.g., covers on surface impoundments, containers and drain systems) and treatment to remove the HAP, including steam stripping followed by recovery or combustion of the stripped HAP. Emissions from equipment leaks are typically reduced by leak detection and repair work practice programs. Controls for continuous and batch process vents include combustion or recovery devices.

We identified four currently-operating facilities subject to the PC MACT standards. Methylene chloride, ethyl chloride and triethylamine account for the majority of the HAP emissions from the PC production processes at these facilities (approximately 330 tpy and over 99 percent of the total HAP emissions by mass). Phosgene and chlorobenzene emissions were also reported from the PC production processes at these facilities.

We estimate that the actual emissions levels for all sources are representative of the MACT-allowable levels (i.e., the maximum emission levels allowed if in compliance with the MACT standards), as we are not aware of any situations in which facilities are conducting additional work practices or operating a control device such that it achieves a greater emission reduction than required, except storage vessels. As it is possible that the capture systems and control devices used at some facilities achieve greater HAP emission reductions than what is required by the NESHAP for some storage vessels, depending on the vessel capacity and vapor pressure of the stored material, the MACT-allowable level of HAP emissions could be up to 2.5 times the actual emissions for storage vessels in this source category. For more detail about this estimate of the ratio of actual to MACT-allowable emissions and the estimation of the MACT-allowable emission levels (and associated risks and impacts), see the memorandum, *MACT Allowable Emissions and Risks for the Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production Source Categories,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

*C. What data collection activities were conducted to support this action?*

To perform the risk assessments for these source categories, we developed data sets for the APR and PC source categories based on information in the 2005 National Emissions Inventory (NEI) (available at *http://www.epa.gov/ttnchie1/net/2005inventory.html*). The NEI is a database that contains information about sources that emit criteria air pollutants, their precursors and HAP. The database includes estimates of annual air pollutant emissions from point, nonpoint and mobile sources in the 50 states, the District of Columbia, Puerto Rico and the Virgin Islands. The EPA collects this information and releases an updated version of the NEI database every 3 years. We reviewed the NEI data and made adjustments where necessary to ensure the proper facilities were included and to ensure the proper processes were allocated to each source category. We also reviewed the emissions and other data to identify data anomalies that could affect risk estimates, such as whether a pollutant was expected to be emitted from facilities in a source category or whether an emission point was located within a facility's fenceline. The NEI data were also reviewed by industry trade groups, including the American Chemistry Council and the Society of Chemical Manufacturers and Affiliates, as well as several state air agencies. Where the EPA received new information from the industry and air agency review, including updated emissions data and process information, facility closure information and information that some facilities were not subject to the APR or PC MACT standards, we revised the NEI data where we concluded the comments supported such adjustment. We used this reviewed and revised data set to conduct the risk assessment and other analyses for each source category. Due to the conservative nature of our emissions estimates, as described in the emissions data memo cited below, we believe that the data set provides a conservative estimate for use in assessing the risk from these source categories. Further details on the changes made to the 2005 NEI data can be found in the memorandum, *Emissions Data and Acute Risk Factor Used in Residual Risk Modeling: Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

To perform the risk assessment for the AMF source category, we developed a data set based on information submitted to the EPA for this purpose by the one operating facility in the source category. On February 23, 2012, the EPA visited this facility, Cytec Carbon Fibers, LLC, located in Piedmont, South Carolina. The purpose of this visit was to better understand the acrylic fiber production processes, the controls in place to reduce HAP emissions and the characteristics of the emission points at this facility. As part of this visit, the EPA requested that facility personnel examine the 2008 NEI HAP inventory data that the EPA had for the facility. The EPA provided this data to the facility prior to the site visit to give the facility the opportunity to correct or update the data. After review of the data, the facility submitted updated information, and the updated data formed the basis for the data set used for modeling.

*D. What other relevant background information and data are available?*

To conduct the technology review, we reviewed information developed since these rules were originally promulgated in 1999 and 2000. Since those rules have been promulgated, the EPA has developed other air toxics regulations for a number of other source categories that emit organic HAP from the same type of emission sources that are present in the three source categories included in this technology review. In these other air toxic regulatory actions, we consistently evaluated any new practices, processes and control techniques. For this technology review, we took into account the regulatory requirements and/or technical analyses associated with these other regulatory actions to identify any practices, processes and control techniques considered in these efforts that could possibly be applied to the source categories addressed in this action.

We also downloaded from the reasonably available control technology (RACT)/best available control technology (BACT)/lowest achievable emission rate (LAER) Clearinghouse for processes in the AMF, APR and PC source categories with permits dating back to the promulgation dates of each MACT regulation. Finally, we conducted an online search of all relevant publications, journals, permits and other documents to identify any new practices, processes or control technologies for HAP emissions sources since the dates of promulgation of the standards.

To evaluate unregulated emission points at facilities regulated by the APR MACT standards, we relied on existing data submitted to the EPA during development of the existing APR MACT standards. To evaluate unregulated emission points for the AMF MACT standards, we relied primarily on data submitted to the EPA by the one operating facility in the source category, along with information gathered during the EPA's visit to the facility.

## III. Analytical Procedures

In this section, we describe the analyses performed to support the proposed decisions for the RTR and other issues addressed in this proposal.

*A. How did we estimate post-MACT risks posed by the source categories?*

The EPA conducted risk assessments that provided estimates of the MIR posed by the HAP emissions from each source in each source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause non-cancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause non-cancer health effects. The assessments also provided estimates of the distribution of cancer risks within the exposed populations, cancer incidence and an evaluation of the potential for adverse environmental effects for each source category. The risk assessment consisted of eight primary steps, as discussed below. The docket for this rulemaking contains the following documents which provide more

information on the risk assessment inputs and models: *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category, Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* and *Draft Residual Risk Assessment for the Polycarbonate Production Source Category.* The methods used to assess risks (as described in the eight primary steps below) are consistent with those peer-reviewed by a panel of the EPA's Science Advisory Board (SAB) in 2009 and described in their peer review report issued in 2010 [2]; they are also consistent with the key recommendations contained in that report.

1. How did we estimate actual emissions and identify the emissions release characteristics?

As discussed in section II.C of this preamble, we created the preliminary data sets for the APR and PC source categories using data in the 2005 NEI, supplemented by data collected from industry, industry trade associations and state air agencies (when available). For the AMF source category, we used data collected from the one facility subject to the AMF MACT standards.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the MACT dataset include estimates of the mass of HAP emitted during the specified annual time period. In some cases, these ''actual'' emission levels are lower than the emission levels required to comply with the MACT standards. The emissions level allowed to be emitted by the MACT standards is referred to as the ''MACT-allowable'' emissions level. We discussed the use of both MACT-allowable and actual emissions in the final Coke Oven Batteries residual risk rule (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP residual risk rules (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those previous actions, we noted that assessing the risks at the MACT-allowable level is inherently reasonable since these risks reflect the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989.)

As described above, the actual emissions data were compiled based on the NEI and information gathered from facilities through industrial trade associations and state air agencies for the APR and PC source categories and through the one facility subject to the AMF MACT standards. To estimate emissions at the MACT-allowable level, we developed a ratio of MACT-allowable to actual emissions for each emissions source type in each source category, based on the level of control required by the MACT standards compared to the level of reported actual emissions and available information on the level of control achieved by the emissions controls in use. For example, if there was information to suggest several facilities in a source category were controlling storage tank emissions by 98 percent while the MACT standards required only 92-percent control, we would estimate that MACT-allowable emissions from these emission points could be as much as four times higher (8-percent allowable emissions compared with 2 percent actually emitted), and the ratio of MACT-allowable to actual would be 4:1 for this emission point type at the facilities in this source category. After developing these ratios for each emission point type in each source category, we next applied these ratios on a facility-by-facility basis to the maximum chronic risk values from the inhalation risk assessment to obtain facility-specific maximum risk values based on MACT-allowable emissions. Further explanation of this evaluation is provided in the technical document, *MACT Allowable Emissions and Risks for the Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production Source Categories,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

3. How did we conduct dispersion modeling, determine inhalation exposures and estimate individual and population inhalation risks?

Both long-term and short-term inhalation exposure concentrations and health risks from the source categories addressed in this proposal were estimated using the Human Exposure Model (Community and Sector HEM–3 version 1.1.0). The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air; (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources [3]; and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

The air dispersion model used by the HEM–3 model (AERMOD) is one of the EPA's preferred models for assessing pollutant concentrations from industrial facilities.[4] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year of hourly surface and upper air observations for 189 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block [5] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant unit risk factors and other health benchmarks is used to estimate health risks. These risk factors and health benchmarks are the latest values recommended by the EPA for HAP and other toxic air pollutants. These values are available at *http://www.epa.gov/ttn/atw/toxsource/summary.html* and are discussed in more detail later in this section.

In developing the risk assessment for chronic exposures, we used the estimated annual average ambient air concentration of each HAP emitted by each source for which we have emissions data in the source category. The air concentrations at each nearby census block centroid were used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculated the MIR for each facility as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week and 52 weeks per year for a 70-year period) exposure to the maximum concentration at the centroid of inhabited census blocks. Individual cancer risks were calculated by multiplying the estimated lifetime

[2] U.S. EPA SAB. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* May 2010.

[3] This metric comes from the Benzene NESHAP. See 54 FR 38046.

[4] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[5] A census block is generally the smallest geographic area for which census statistics are tabulated.

exposure to the ambient concentration of each of the HAP (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE). The URE is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use URE values from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without EPA IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) URE values, where available. In cases where new, scientifically credible dose response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate.

With regard to formaldehyde (one of the primary HAP emitted by facilities in the APR source category), the EPA determined in 2004 that the Chemical Industry Institute of Toxicology (CIIT) cancer dose-response value for formaldehyde ($5.5 \times 10^{-9}$ per $mg/m^3$) was based on better science than the IRIS cancer dose-response value ($1.3 \times 10^{-5}$ per $mg/m^3$). Thus, we switched at that time from using the IRIS value to the CIIT value in risk assessments supporting regulatory actions. Based on subsequent published research, however, the EPA changed its determination regarding the CIIT model and, in 2010, the EPA returned to using the 1991 IRIS value. The EPA has been working on revising the formaldehyde IRIS assessment, and the National Academy of Sciences (NAS) completed its review of the EPA's draft in April of 2011.[6] The EPA is reviewing the public comments and the NAS independent scientific peer review. The EPA will follow the NAS Report recommendations and will present results obtained by implementing the biologically-based dose-response (BBDR) model for formaldehyde. The EPA will compare these estimates with those currently presented in the External Review draft of the assessment and will discuss their strengths and weaknesses. As recommended by the NAS committee, appropriate sensitivity and uncertainty analyses will be an integral component of implementing the BBDR model. The draft IRIS assessment will be revised in response to the NAS peer review, and public comments and the final assessment will be posted on the IRIS database. In the interim, we will present findings using the 1991 IRIS value as a primary estimate, and may also consider other information as the science evolves. As noted above and described in the risk assessment, the IRIS URE for formaldehyde is $1.3 \times 10^{-5}$ $mg/m^3$, whereas, the CIIT URE for formaldehyde is $5.5 \times 10^{-9}$ $mg/m^3$.

We note here that several carcinogens have a mutagenic mode of action.[7] Of these compounds, POM is emitted by facilities in the APR source category. For these compounds, the age-dependent adjustment factors (ADAF) described in the EPA's *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens*[8] were applied. This adjustment has the effect of increasing the estimated lifetime risks for these pollutants by a factor of 1.6.[9] In addition, the EPA expresses carcinogenic potency for compounds in the POM group in terms of benzo[a]pyrene equivalence, based on evidence that carcinogenic POM have the same mutagenic mechanism of action as does benzo[a]pyrene. For this reason, the EPA's Science Policy Council[10] recommends applying the *Supplemental Guidance* to all carcinogenic polycyclic aromatic hydrocarbons for which risk estimates are based on relative potency. Accordingly, we have applied the ADAF to benzo[a]pyrene equivalent portion of all POM mixtures.

The EPA estimated incremental individual lifetime cancer risks associated with emissions from the facilities in the source categories as the sum of the risks for each of the carcinogenic HAP (including those classified as carcinogenic to humans, likely to be carcinogenic to humans and suggestive evidence of carcinogenic potential[11]) emitted by the modeled sources. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of any source were also estimated for the source categories as part of these assessments by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044) and the limitations of Gaussian dispersion models, including AERMOD.

To assess the risk of non-cancer health effects from chronic exposures, we summed the HQ for each of the HAP that affects a common target organ system to obtain the HI for that target organ system (or target organ-specific HI, TOSHI). The HQ is the estimated exposure divided by the chronic reference level, which is a value selected from one of several sources. First, the chronic reference level can be the EPA reference concentration (RfC) (*http://www.epa.gov/riskassessment/glossary.htm*), defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.'' Alternatively, in cases where an RfC from the EPA's IRIS database is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic reference level can be a value from the following prioritized sources: (1) The Agency for Toxic Substances and Disease Registry Minimum Risk Level (*http://www.atsdr.cdc.gov/mrls/index.asp*), which is defined as ''an estimate of daily human exposure to a hazardous substance that is likely to be without an appreciable risk of adverse non-cancer health effects (other than cancer) over a specified duration of exposure''; (2) the CalEPA Chronic Reference Exposure Level (REL) (*http://www.oehha.ca.gov/air/hot_spots/pdf/HRAguidefinal.pdf*), which is defined as ''the concentration level (that is expressed in units of micrograms per cubic meter ($\mu g/m^3$) for inhalation exposure and in a dose expressed in units of milligram per kilogram-day (mg/kg-day) for oral exposures), at or

[6] *http://www.nap.edu/catalog.php?record_id=13142.*

[7] U.S. EPA, 2006. Performing risk assessments that include carcinogens described in the *Supplemental Guidance* as having a mutagenic mode of action. *Science Policy Council Cancer Guidelines Implementation Workgroup Communication II:* Memorandum from W.H. Farland dated June 14, 2006. *http://epa.gov/osa/spc/pdfs/CGIWGCommunication_II.pdf.*

[8] U.S. EPA, 2005. Supplemental Guidance for Assessing Early-Life Exposure to Carcinogens. EPA/630/R–03/003F. *http://www.epa.gov/ttn/atw/childrens_supplement_final.pdf.*

[9] Only one of these mutagenic compounds, benzo[a]pyrene, is emitted by any of the sources covered by this proposal.

[10] U.S. EPA, 2005. Science Policy Council Cancer Guidelines Implementation Workgroup Communication I: Memorandum from W.H. Farland dated October 4, 2005, to Science Policy Council. *http://www.epa.gov/osa/spc/pdfs/canguid1.pdf.*

[11] These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's previous *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's SAB in their 2002 peer review of the EPA's National Air Toxics Assessment (NATA) entitled, *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

below which no adverse health effects are anticipated for a specified exposure duration''; or (3), as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA, in place of or in concert with other values.

The EPA also evaluated screening estimates of acute exposures and risks for each of the HAP at the point of highest off-site exposure for each facility (i.e., not just the census block centroids), assuming that a person is located at this spot at a time when both the peak (hourly) emission rates and worst-case dispersion conditions occur. The acute HQ is the estimated acute exposure divided by the acute dose-response value. In each case, the EPA calculated acute HQ values using best available, short-term dose-response values. These acute dose-response values, which are described below, include the acute REL, acute exposure guideline levels (AEGL) and emergency response planning guidelines (ERPG) for 1-hour exposure durations. As discussed below, we used conservative assumptions for emission rates, meteorology and exposure location for our acute analysis.

As described in the *CalEPA's Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* an acute REL value (*http://www.oehha.ca.gov/air/pdf/acuterel.pdf*) is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' *Id.* at page 2. Acute REL values are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. Acute REL values are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL value does not automatically indicate an adverse health impact.

AEGL values were derived in response to recommendations from the National Research Council (NRC). As described in *Standing Operating Procedures (SOP) of the National Advisory Committee on Acute Exposure Guideline Levels for Hazardous Substances* (*http://www.epa.gov/opptintr/aegl/pubs/sop.pdf*),[12] ''the NRC's previous name for acute exposure levels—community emergency exposure levels—was replaced by the term AEGL to reflect the broad application of these values to planning, response and prevention in the community, the workplace, transportation, the military and the remediation of Superfund sites.'' *Id.* at 2. This document also states that AEGL values ''represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to eight hours.'' *Id.* at 2.

The document lays out the purpose and objectives of AEGL by stating that ''the primary purpose of the AEGL program and the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances is to develop guideline levels for once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. In detailing the intended application of AEGL values, the document states that ''[i]t is anticipated that the AEGL values will be used for regulatory and nonregulatory purposes by U.S. Federal and state agencies, and possibly the international community in conjunction with chemical emergency response, planning and prevention programs. More specifically, the AEGL values will be used for conducting various risk assessments to aid in the development of emergency preparedness and prevention plans, as well as real-time emergency response actions, for accidental chemical releases at fixed facilities and from transport carriers.'' *Id.* at 31.

The AEGL–1 value is then specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or $mg/m^3$ (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' *Id.* at 3. The document also notes that, ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' *Id.* Similarly, the document defines AEGL–2 values as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPG values are derived for use in emergency response, as described in the American Industrial Hygiene Association's ERP Committee document entitled, *ERPGS Procedures and Responsibilities* (*http://sp4m.aiha.org/insideaiha/GuidelineDevelopment/ERPG/Documents/ERP-SOPs2006.pdf*), which states that, ''Emergency Response Planning Guidelines were developed for emergency planning and are intended as health based guideline concentrations for single exposures to chemicals.'' [13] *Id.* at 1. The ERPG–1 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

As can be seen from the definitions above, the AEGL and ERPG values include the similarly-defined severity levels 1 and 2. For many chemicals, a severity level 1 value AEGL or ERPG has not been developed because the types of effects for these chemicals are not consistent with the AEGL–1/ERPG–1 definitions; in these instances, we compare higher severity level AEGL–2 or ERPG–2 values to our modeled exposure levels to screen for potential acute concerns. When AEGL–1/ERPG–1 values are available, they are used in our acute risk assessments.

Acute REL values for 1-hour exposure durations are typically lower than their corresponding AEGL–1 and ERPG–1 values. Even though their definitions are slightly different, AEGL–1 values are often the same as the corresponding ERPG–1 values, and AEGL–2 values are often equal to ERPG–2 values. Maximum HQ values from our acute screening risk assessments typically result when basing them on the acute

[12] NAS, 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2.

[13] *ERP Committee Procedures and Responsibilities.* November 1 2006. American Industrial Hygiene Association.

REL value for a particular pollutant. In cases where our maximum acute HQ value exceeds 1, we also report the HQ value based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1 value).

To develop screening estimates of acute exposures in the absence of hourly emissions data, generally we first develop estimates of maximum hourly emissions rates by multiplying the average actual annual hourly emissions rates by a default factor to cover routinely variable emissions. We choose the factor to use partially based on process knowledge and engineering judgment. The factor chosen also reflects a Texas study of short-term emissions variability, which showed that most peak emission events in a heavily-industrialized four-county area (Harris, Galveston, Chambers and Brazoria Counties, Texas) were less than twice the annual average hourly emissions rate. The highest peak emissions event was 74 times the annual average hourly emissions rate, and the 99th percentile ratio of peak hourly emissions rate to the annual average hourly emissions rate was 9.[14] Considering this analysis, to account for more than 99 percent of the peak hourly emissions, we apply a conservative screening multiplication factor of 10 to the average annual hourly emissions rate in our acute exposure screening assessments as our default approach. However, we use a factor other than 10 if we have information that indicates that a different factor is appropriate for a particular source category. For these source categories, a factor of 10 was applied to all emissions, with one exception. A factor of two was applied for emissions from equipment leaks for all three source categories. A further discussion of why these factors were chosen can be found in the memorandum, *Emissions Data and Acute Risk Factor Used in Residual Risk Modeling: Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

As part of our acute risk assessment process, for cases where acute HQ values from the screening step were less than or equal to 1 (even under the conservative assumptions of the screening analysis), acute impacts were deemed negligible and no further analysis was performed. In cases where an acute HQ from the screening step was greater than 1, additional site-specific data were considered to develop a more refined estimate of the potential for acute impacts of concern. For these source categories, the data refinements employed consisted of using a peak-to-mean hourly emissions ratio based on source category-specific knowledge or data (rather than the default factor of 10) and using the site-specific facility layout to distinguish facility property from an area where the public could be exposed. These refinements are discussed more fully in the *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category, Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* and *Draft Residual Risk Assessment for the Polycarbonate Production Source Category,* which are available in the docket for this action. Ideally, we would prefer to have continuous measurements over time to see how the emissions vary by each hour over an entire year. Having a frequency distribution of hourly emissions rates over a year would allow us to perform a probabilistic analysis to estimate potential threshold exceedances and their frequency of occurrence. Such an evaluation could include a more complete statistical treatment of the key parameters and elements adopted in this screening analysis. Recognizing that this level of data is rarely available, we instead rely on the multiplier approach.

To better characterize the potential health risks associated with estimated acute exposures to HAP, and in response to a key recommendation from the SAB's peer review of the EPA's RTR risk assessment methodologies,[15] we generally examine a wider range of available acute health metrics (e.g., RELs, AEGLs) than we do for our chronic risk assessments. This is in response to the SAB's acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values. In some cases, when Reference Value Arrays [16] for HAP have been developed, we consider additional acute values (i.e., occupational and international values) to provide a more complete risk characterization. As a result, for most chemicals, the 15-minute occupational ceiling values are set at levels higher than a one-hour AEGL–1, making comparisons to them irrelevant unless the AEGL–1 or ERPG–1 levels are exceeded (U.S. EPA 2009). Such is not the case when comparing the available acute inhalation health effect reference values for formaldehyde (U.S. EPA 2009). See section V.B.2 of this preamble for additional information on the acute dose-response values for formaldehyde.

4. How did we conduct the multipathway exposure and risk screening?

The EPA conducted a screening analysis examining the potential for significant human health risks due to exposures via routes other than inhalation (i.e., ingestion). We first determined whether any sources in the source categories emitted any hazardous air pollutants known to be persistent and bioaccumulative in the environment (PB–HAP). The PB–HAP compounds or compound classes are identified for the screening from the EPA's Air Toxics Risk Assessment Library (available at *http://www.epa.gov/ttn/fera/risk_atra_vol1.html*).

For the AMF and PC source categories, we did not identify emissions of any PB–HAP. Because we did not identify PB–HAP emissions, no further evaluation of multipathway risk was conducted for these source categories.

For the APR source category, we identified emissions of lead compounds (1 facility), cadmium compounds (2 facilities) and POM (analyzed as benzo(a)pyrene toxic equivalency quotient (TEQ)) (2 facilities). Because one or more of these PB–HAP are emitted by at least one facility in the APR source category, we proceeded to the second step of the evaluation. In this step, we determined whether the facility-specific emissions rates of each of the emitted PB–HAP were large enough to create the potential for significant non-inhalation human health risks under reasonable worst-case conditions. To facilitate this step, we developed emissions rate thresholds for each PB–HAP using a hypothetical upper-end screening exposure scenario developed for use in conjunction with the EPA's Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure (TRIM.FaTE) model. We conducted a sensitivity analysis on the screening scenario to ensure that its key design parameters would represent the upper end of the

[14] See *http://www.tceq.state.tx.us/compliance/field_ops/eer/index.html* or docket to access the source of these data.

[15] The SAB peer review of RTR Risk Assessment Methodologies is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

[16] U.S. EPA. (2009) Chapter 2.9 Chemical Specific Reference Values for Formaldehyde in Graphical Arrays of Chemical-Specific Health Effect Reference Values for Inhalation Exposures (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/061, and available online at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=211003.*

range of possible values, such that it would represent a conservative but not impossible scenario. The facility-specific emissions rates of each of the PB–HAP were compared to the emission rate threshold values for each of the PB–HAP identified to assess the potential for significant human health risks via non-inhalation pathways. We call this application of the TRIM.FaTE model the Tier I TRIM-Screen.

For the purpose of developing emissions rates for our Tier I TRIM-Screen, we derived emission levels for each PB–HAP (other than lead) at which the maximum excess lifetime cancer risk would be 1-in-1 million or, for HAP that cause non-cancer health effects, the maximum hazard quotient would be 1. If the emissions rate of any PB–HAP exceeds the Tier I screening emissions rate for any facility, we conduct a Tier II multipathway screen. In the Tier II screen, the location of each facility that exceeds the Tier I emission rate is used to refine the assumptions associated with the environmental scenario while maintaining the exposure scenario assumptions. We then adjust the risk-based Tier I screening level for each PB–HAP for each facility based on an understanding of how exposure concentrations estimated for the screening scenario change with meteorology and environmental assumptions. PB–HAP emissions that do not exceed these new Tier II screening levels are considered to pose no unacceptable risks. When facilities exceed the Tier II screening levels, it does not mean that multipathway impacts are significant, only that we cannot rule out that possibility based on the results of the screen. These facilities may be further evaluated for multipathway risks using the TRIM.FaTE model.

In evaluating the potential multi-pathway risk from emissions of lead compounds, rather than developing a screening emissions rate for them, we compared maximum estimated chronic inhalation exposures with the level of the current National Ambient Air Quality Standard (NAAQS) for lead. Values below the level of the primary (health-based) lead NAAQS were considered to have a low potential for multi-pathway risk.

For further information on the multipathway analysis approach, see the *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category, Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* and *Draft Residual Risk Assessment for the Polycarbonate Production Source Category,* which are available in the docket for this action.

5. How did we assess risks considering emissions control options?

In addition to assessing baseline inhalation risks and screening for potential multipathway risks, we also estimated risks considering the potential emissions reductions that would be achieved by the control options under consideration. In these cases, the expected emissions reductions were applied to the specific HAP and emissions points in the source category dataset to develop corresponding estimates of risk and incremental risk reductions.

6. How did we conduct the environmental risk screening assessment?

a. Adverse Environmental Effect

The EPA has developed a screening approach to examine the potential for adverse environmental effects as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

b. Environmental HAP

The EPA focuses on seven HAP, which we refer to as ''environmental HAP,'' in its screening analysis: five persistent bioaccumulative HAP (PB–HAP) and two acid gases. The five PB–HAP are cadmium, dioxins/furans, polycyclic organic matter (POM), mercury (both inorganic mercury and methyl mercury) and lead. The two acid gases are hydrogen chloride (HCl) and hydrogen fluoride (HF). The rationale for including these seven HAP in the environmental risk screening analysis is presented below.

HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment and water. The PB–HAP are taken up, through sediment, soil, water, and/or ingestion of other organisms, by plants or animals (e.g., small fish) at the bottom of the food chain. As larger and larger predators consume these organisms, concentrations of the PB–HAP in the animal tissues increases as does the potential for adverse effects. The five PB–HAP we evaluate as part of our screening analysis account for 99.8 percent of all PB–HAP emissions (on a mass basis from the 2005 NEI).

In addition to accounting for almost all of the mass of PB–HAP emitted, we note that the TRIM.Fate model that we use to evaluate multipathway risk allows us to estimate concentrations of cadmium compounds, dioxins/furans, POM and mercury in soil, sediment and water. For lead, we currently do not have the ability to calculate these concentrations using the TRIM.Fate model. Therefore, to evaluate the potential for adverse environmental effects from lead, we compare the HEM modeled inhalation exposures from the source category emissions of lead with the level of the secondary National Ambient Air Quality Standard (NAAQS) for lead.[17] We consider values below the level of the secondary lead NAAQS to be unlikely to cause adverse environmental effects.

Due to their well-documented potential to cause direct damage to terrestrial plants, we include two acid gases, HCl and HF, in the environmental screening analysis. According to the 2005 NEI, HCl and HF account for about 99 percent (on a mass basis) of the total acid gas HAP emitted by stationary sources. In addition to the potential to cause direct damage to plants, high concentrations of HF in the air have been linked to fluorosis in livestock. Air concentrations of these HAP are already calculated as part of the human multipathway exposure and risk screening analysis using the HEM3–AERMOD air dispersion model, and we are able to use the air dispersion modeling to estimate the potential for an adverse environmental effect.

The EPA acknowledges that other HAP beyond the seven HAP discussed above may have the potential to cause adverse environmental effects. Therefore, the EPA may include other relevant HAP in its environmental risk screening in the future, as modeling science and resources allow. The EPA invites comment on the extent to which other HAP emitted by the source category may cause adverse environmental effects. Such information should include references to peer-reviewed ecological effects benchmarks that are of sufficient quality for making regulatory decisions, as well as information on the presence of

[17] The secondary lead NAAQS is a reasonable measure of determining whether there is an adverse environmental effect since it was established considering ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

organisms located near facilities within the source category that such benchmarks indicate could be adversely affected.

c. Ecological Assessment Endpoints and Benchmarks for PB–HAP

An important consideration in the development of the EPA's screening methodology is the selection of ecological assessment endpoints and benchmarks. Ecological assessment endpoints are defined by the ecological entity (e.g., aquatic communities including fish and plankton) and its attributes (e.g., frequency of mortality). Ecological assessment endpoints can be established for organisms, populations, communities or assemblages, and ecosystems.

For PB–HAP except for lead, we evaluated the following community-level ecological assessment endpoints to screen for organisms directly exposed to HAP in soils, sediment and water:

- Local terrestrial communities (i.e., soil invertebrates, plants) and populations of small birds and mammals that consume soil invertebrates exposed to PB–HAP in the surface soil.
- Local benthic (i.e., bottom sediment dwelling insects, amphipods, isopods and crayfish) communities exposed to PB–HAP in sediment in nearby water bodies.
- Local aquatic (water-column) communities (including fish and plankton) exposed to PB–HAP in nearby surface waters.

For PB–HAP, we also evaluated the following population-level ecological assessment endpoint to screen for indirect HAP exposures of top consumers via the bioaccumulation of HAP in food chains:

- Piscivorous (i.e., fish-eating) wildlife consuming PB–HAP-contaminated fish from nearby water bodies.

For cadmium compounds, dioxins/furans, POM and mercury, we identified the available ecological benchmarks for each assessment endpoint. An ecological benchmark represents a concentration of HAP (e.g., 0.77 ug of HAP per liter of water) that has been linked to a particular environmental effect level (e.g., a no-observed-adverse-effect level (NOAEL)) through scientific study. For PB–HAP we identified, where possible, ecological benchmarks at the following effect levels:

Probable effect levels (PEL): Level above which adverse effects are expected to occur frequently.

Lowest-observed-adverse-effect level (LOAEL): The lowest exposure level tested at which there are biologically significant increases in frequency or severity of adverse effects.

No-observed-adverse-effect levels (NOAEL): The highest exposure level tested at which there are no biologically significant increases in the frequency or severity of adverse effect.

We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, the EPA sources that are used at a programmatic level (e.g., Office of Water, Superfund Program) were used, if available. If not, the EPA benchmarks used in regional programs (e.g., Superfund) were used. If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other federal agencies (e.g., NOAA) or state agencies.

Benchmarks for all effect levels are not available for all PB–HAP and assessment endpoints. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

d. Ecological Assessment Endpoints and Benchmarks for Acid Gases

The environmental screening analysis also evaluated potential damage and reduced productivity of plants due to direct exposure to acid gases in the air. For acid gases, we evaluated the following ecological assessment endpoint:

- Local terrestrial plant communities with foliage exposed to acidic gaseous HAP in the air.

The selection of ecological benchmarks for the effects of acid gases on plants followed the same approach as for PB–HAP (i.e., we examine all of the available benchmarks). For HCl, the EPA identified chronic benchmark concentrations. We note that the benchmark for chronic HCl exposure to plants is greater than the reference concentration for chronic inhalation exposure for human health. This means that where EPA includes regulatory requirements to prevent an exceedance of the reference concentration for human health, additional analyses for adverse environmental effects of HCL would not be necessary.

For HF, EPA identified chronic benchmark concentrations for plants and evaluated chronic exposures to plants in the screening analysis. High concentrations of HF in the air have also been linked to fluorosis in livestock. However, the HF concentrations at which fluorosis in livestock occur are higher than those at which plant damage begins. Therefore, the benchmarks for plants are protective of both plants and livestock.

e. Screening Methodology

For the environmental risk screening analysis, EPA first determined whether any facilities in the AMF, APR and PC source categories emitted any of the seven environmental HAP. For the AMF and PC source categories, we did not identify emissions of any of the seven environmental HAP included in the screen. Because we did not identify environmental HAP emissions, no further evaluation of environmental risk was conducted for those source categories. For the APR source category, we identified emissions of lead compounds (1 facility), cadmium compounds (2 facilities) and POM (analyzed as benzo(a)pyrene TEQ) (2 facilities).

Because one or more of the seven environmental HAP evaluated are emitted by at least one facility in the APR source category, we proceeded to the second step of the evaluation.

f. PB–HAP Methodology

For cadmium, mercury, POM and dioxins/furans, the environmental screening analysis consists of two tiers, and lead is analyzed differently as discussed earlier. In the first tier, we determined whether the maximum facility-specific emission rates of each of the emitted environmental HAP were large enough to create the potential for adverse environmental effects under reasonable worst-case environmental conditions. These are the same environmental conditions used in the human multipathway exposure and risk screening analysis.

To facilitate this step, TRIM.FaTE was run for each PB–HAP under hypothetical environmental conditions designed to provide conservatively high HAP concentrations. The model was set to maximize runoff from terrestrial parcels into the modeled lake, which in turn, maximized the chemical concentrations in the water, the sediments, and the fish. The resulting media concentrations were then used to back-calculate a screening threshold emission rate that corresponded to the relevant exposure benchmark concentration value for each assessment endpoint. To assess emissions from a facility, the reported emission rate for each PB–HAP was compared to the screening threshold emission rate for that PB–HAP for each assessment endpoint. If emissions from a facility do not exceed the Tier I threshold, the

facility ''passes'' the screen, and therefore, is not evaluated further under the screening approach. If emissions from a facility exceed the Tier I threshold, we evaluate the facility further in Tier II.

In Tier II of the environmental screening analysis, the screening emission thresholds are adjusted to account for local meteorology and the actual location of lakes in the vicinity of facilities that did not pass the Tier I screen. The modeling domain for each facility in the Tier II analysis consists of eight octants. Each octant contains 5 modeled soil concentrations at various distances from the facility (5 soil concentrations × 8 octants = total of 40 soil concentrations per facility) and 1 lake with modeled concentrations for water, sediment and fish tissue. In the Tier II environmental risk screening analysis, the 40 soil concentration points are averaged to obtain an average soil concentration for each facility for each PB–HAP. For the water, sediment and fish tissue concentrations, the highest value for each facility for each pollutant is used. If emission concentrations from a facility do not exceed the Tier II threshold, the facility passes the screen, and typically is not evaluated further. If emissions from a facility exceed the Tier II threshold, the facility does not pass the screen and, therefore, may have the potential to cause adverse environmental effects. Such facilities are evaluated further to investigate factors such as the magnitude and characteristics of the area of exceedance.

g. Acid Gas Methodology

The environmental screening analysis evaluates the potential phytotoxicity and reduced productivity of plants due to chronic exposure to acid gases. The environmental risk screening methodology for acid gases is a single-tier screen that compares the average off-site ambient air concentration over the modeling domain to ecological benchmarks for each of the acid gases. Because air concentrations are compared directly to the ecological benchmarks, emission-based thresholds are not calculated for acid gases as they are in the ecological risk screening methodology for PB–HAPs.

For purposes of ecological risk screening, EPA identifies a potential for adverse environmental effects to plant communities from exposure to acid gases when the average concentration of the HAP around a facility exceeds the LOAEL ecological benchmark. In such cases, we further investigate factors such as the magnitude and characteristics of the area of exceedance (e.g., land use of exceedance area, size of exceedance area) to determine if there is an adverse environmental effect.

For further information on the environmental screening analysis approach, see the *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category, Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* and *Draft Residual Risk Assessment for the Polycarbonate Production Source Category,* which are available in the docket for this action.

7. How did we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category emission points of interest, but also emissions of HAP from all other emissions sources at the facility for which we have data. The emissions data for generating these ''facility-wide'' risks were obtained from the 2005 NEI for the APR and PC source categories, and from the 2008 NEI for the AMF source category. We analyzed risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, the modeled source category risks were compared to the facility-wide risks to determine the portion of facility-wide risks that could be attributed to each of the three source categories addressed in this proposal. The *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category, Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* and *Draft Residual Risk Assessment for the Polycarbonate Production Source Category,* available through the docket for this action, provide the methodology and results of the facility-wide analyses, including all facility-wide risks and the percentage of source category contribution to facility-wide risks.

8. How did we consider uncertainties in risk assessment?

In the Benzene NESHAP, we concluded that risk estimation uncertainty should be considered in our decision-making under the ample margin of safety framework. Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health protective and environmentally protective. A brief discussion of the uncertainties in the emissions datasets, dispersion modeling, inhalation exposure estimates and dose-response relationships follows below. A more thorough discussion of these uncertainties is included in the *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category, Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* and *Draft Residual Risk Assessment for the Polycarbonate Production Source Category,* which are available in the docket for this action (EPA–HQ–OAR–2012–0133).

a. Uncertainties in the Emissions Datasets

Although the development of the RTR datasets involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emissions estimates and other factors. The emission estimates considered in this analysis generally are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emissions rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emissions rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (e.g., not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (e.g., not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (e.g., meteorology and receptor

locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations.

c. Uncertainties in Inhalation Exposure

The EPA did not include the effects of human mobility on exposures in the assessment. Specifically, short-term mobility and long-term mobility between census blocks in the modeling domain were not considered.[18] The approach of not considering short or long-term population mobility does not bias the estimate of the theoretical MIR (by definition), nor does it affect the estimate of cancer incidence because the total population number remains the same. It does, however, affect the shape of the distribution of individual risks across the affected population, shifting it toward higher estimated individual risks at the upper end and reducing the number of people estimated to be at lower risks, thereby increasing the estimated number of people at specific high risk levels (e.g., 1-in-10 thousand or 1-in-1 million).

In addition, the assessment predicted the chronic exposures at the centroid of each populated census block as surrogates for the exposure concentrations for all people living in that block. Using the census block centroid to predict chronic exposures tends to over-predict exposures for people in the census block who live farther from the facility and under-predict exposures for people in the census block who live closer to the facility. Thus, using the census block centroid to predict chronic exposures may lead to a potential understatement or overstatement of the true maximum impact, but is an unbiased estimate of average risk and incidence. We reduce this uncertainty by analyzing large census blocks near facilities using aerial imagery and adjusting the location of the block centroid to better represent the population in the block, as well as adding additional receptors where the block population is not well represented by a single location.

In addition, the assessment predicted the chronic exposures at the centroid of each populated census block as surrogates for the exposure concentrations for all people living in that block. Using the census block centroid to predict chronic exposures tends to over-predict exposures for people in the census block who live farther from the facility and under-predict exposures for people in the census block who live closer to the facility. Thus, using the census block centroid to predict chronic exposures may lead to a potential understatement or overstatement of the true maximum impact, but is an unbiased estimate of average risk and incidence. We reduce this uncertainty by analyzing large census blocks near facilities using aerial imagery and adjusting the location of the block centroid to better represent the population in the block, as well as adding additional receptors where the block population is not well represented by a single location.

The assessment evaluates the cancer inhalation risks associated with pollutant exposures over a 70-year period, which is the assumed lifetime of an individual. In reality, both the length of time that modeled emissions sources at facilities actually operate (i.e., more or less than 70 years) and the domestic growth or decline of the modeled industry (i.e., the increase or decrease in the number or size of domestic facilities) will influence the future risks posed by a given source or source category. Depending on the characteristics of the industry, these factors will, in most cases, result in an overestimate both in individual risk levels and in the total estimated number of cancer cases. However, in the unlikely scenario where a facility maintains, or even increases, its emissions levels over a period of more than 70 years, residents live beyond 70 years at the same location, and the residents spend most of their days at that location, then the cancer inhalation risks could potentially be underestimated. However, annual cancer incidence estimates from exposures to emissions from these sources would not be affected by the length of time an emissions source operates.

The exposure estimates used in these analyses assume chronic exposures to ambient (outdoor) levels of pollutants. Because most people spend the majority of their time indoors, actual exposures may not be as high, depending on the characteristics of the pollutants modeled. For many of the HAP, indoor levels are roughly equivalent to ambient levels, but for very reactive pollutants or larger particles, indoor levels are typically lower. This factor has the potential to result in an overstatement of 25 to 30 percent of exposures.[19]

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that should be highlighted. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology and human activity patterns. In this assessment, we assume that individuals remain for 1 hour at the point of maximum ambient concentration as determined by the co-occurrence of peak emissions and worst-case meteorological conditions. These assumptions would tend to be worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure during the time of worst-case impact.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and non-cancer effects from both chronic and acute exposures. Some uncertainties may be considered quantitatively, and others generally are expressed in qualitative terms. We note as a preface to this discussion a point on dose-response uncertainty that is brought out in the EPA's *2005 Cancer Guidelines;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (*EPA 2005 Cancer Guidelines,* pages 1–7). This is the approach followed here as summarized in the next several paragraphs. A complete detailed discussion of uncertainties and variability in dose-response relationships is given in the *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category, Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* and *Draft Residual Risk Assessment for the Polycarbonate Production Source Category,* which are available in the docket for this action.

Cancer URE values used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they

[18] Short-term mobility is movement from one microenvironment to another over the course of hours or days. Long-term mobility is movement from one residence to another over the course of a lifetime.

[19] U.S. EPA. *National-Scale Air Toxics Assessment for 1996.* (EPA 453/R–01–003; January 2001; page 85.)

represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit).[20] In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[21] When developing an upper bound estimate of risk and to provide risk values that do not underestimate risk, health-protective default approaches are generally used. To err on the side of ensuring adequate health protection, the EPA typically uses the upper bound estimates rather than lower bound or central tendency estimates in our risk assessments, an approach that may have limitations for other uses (e.g., priority-setting or expected benefits analysis).

Chronic non-cancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. Specifically, these values provide an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure (RfC) or a daily oral exposure (RfD) to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. To derive values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach (U.S. EPA, 1993, 1994) which considers uncertainty, variability and gaps in the available data. The UF are applied to derive reference values that are intended to protect against appreciable risk of deleterious effects. The UF are commonly default values,[22] e.g., factors of 10 or 3, used in the absence of compound-specific data; where data are available, UF may also be developed using compound-specific information. When data are limited, more assumptions are needed and more UF are used. Thus, there may be a greater tendency to overestimate risk in the sense that further study might support development of reference values that are higher (i.e., less potent) because fewer default assumptions are needed. However, for some pollutants, it is possible that risks may be underestimated.

While collectively termed ''UF,'' these factors account for a number of different quantitative considerations when using observed animal (usually rodent) or human toxicity data in the development of the RfC. The UF are intended to account for: (1) Variation in susceptibility among the members of the human population (i.e., inter-individual variability); (2) uncertainty in extrapolating from experimental animal data to humans (i.e., interspecies differences); (3) uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure (i.e., extrapolating from sub-chronic to chronic exposure); (4) uncertainty in extrapolating the observed data to obtain an estimate of the exposure associated with no adverse effects; and (5) uncertainty when the database is incomplete or there are problems with the applicability of available studies.

Many of the UF used to account for variability and uncertainty in the development of acute reference values are quite similar to those developed for chronic durations, but they more often use individual UF values that may be less than 10. The UF are applied based on chemical-specific or health effect-specific information (e.g., simple irritation effects do not vary appreciably between human individuals, hence a value of 3 is typically used), or based on the purpose for the reference value (see the following paragraph). The UF applied in acute reference value derivation include: (1) Heterogeneity among humans; (2) uncertainty in extrapolating from animals to humans; (3) uncertainty in lowest observed adverse effect (exposure) level to no observed adverse effect (exposure) level adjustments; and (4) uncertainty in accounting for an incomplete database on toxic effects of potential concern. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (e.g., 4 hours) to derive an acute reference value at another exposure duration (e.g., 1 hour).

Not all acute reference values are developed for the same purpose and care must be taken when interpreting the results of an acute assessment of human health effects relative to the reference value or values being exceeded. Where relevant to the estimated exposures, the lack of short-term dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Although every effort is made to identify appropriate human health effect dose-response assessment values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by these source categories are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response assessment value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for new IRIS assessment of that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including with regard to consideration of HAP reductions achieved by various control options.

For a group of compounds that are unspeciated (e.g., glycol ethers), we conservatively use the most protective reference value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (e.g., ethylene glycol diethyl ether) that does not have a specified reference value, we also apply the most protective reference value from the other compounds in the group to estimate risk.

e. Uncertainties in the Multipathway Screening Assessment

For each source category, we generally rely on site-specific levels of PB–HAP emissions to determine whether a refined assessment of the impacts from multipathway exposures is necessary. This determination is based on the results of a two-tiered

[20] IRIS glossary (*http://www.epa.gov/NCEA/iris/help_gloss.htm*).

[21] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

[22] According to the NRC report, *Science and Judgment in Risk Assessment* (NRC, 1994) ''[Default] options are generic approaches, based on general scientific knowledge and policy judgment, that are applied to various elements of the risk assessment process when the correct scientific model is unknown or uncertain.'' The 1983 NRC report, *Risk Assessment in the Federal Government: Managing the Process,* defined default option as ''the option chosen on the basis of risk assessment policy that appears to be the best choice in the absence of data to the contrary'' (NRC, 1983a, p. 63). Therefore, default options are not rules that bind the agency; rather, the agency may depart from them in evaluating the risks posed by a specific substance when it believes this to be appropriate. In keeping with the EPA's goal of protecting public health and the environment, default assumptions are used to ensure that risk to chemicals is not underestimated (although defaults are not intended to overtly overestimate risk). See EPA 2004, *An examination of EPA Risk Assessment Principles and Practices,* EPA/100/B–04/001 available at: *http://www.epa.gov/osa/pdfs/ratf-final.pdf.*

screening analysis that relies on the outputs from models that estimate environmental pollutant concentrations and human exposures for four PB–HAP. Two important types of uncertainty associated with the use of these models in RTR risk assessments and inherent to any assessment that relies on environmental modeling are model uncertainty and input uncertainty.[23]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the actual processes that might occur for that situation. An example of model uncertainty is the question of whether the model adequately describes the movement of a pollutant through the soil. This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA Science Advisory Board reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the multipathway risk assessments conducted in support of RTR.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier I of the multipathway screen, we configured the models to avoid underestimating exposure and risk. This was accomplished by selecting upper-end values from nationally-representative data sets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, lake location and size, meteorology, surface water and soil characteristics and structure of the aquatic food web. We also assume an ingestion exposure scenario and values for human exposure factors that represent reasonable maximum exposures.

In Tier II of the multipathway assessment, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values and we identify the actual location of lakes near the facility rather than the default lake location that we apply in Tier I. By refining the screening approach in Tier II to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. The assumptions and the associated uncertainties regarding the selected ingestion exposure scenario are the same for Tier I and Tier II.

For both Tiers I and II of the multipathway assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying high risks for adverse impacts.

Despite the uncertainties, when individual pollutants or facilities do screen out, we are confident that the potential for adverse multipathway impacts on human health is very low. On the other hand, when individual pollutants or facilities do not screen out, it does not mean that multipathway impacts are significant, only that we cannot rule out that possibility and that a refined multipathway analysis for the site might be necessary to obtain a more accurate risk characterization for the source category.

For further information on uncertainties and the Tier I and II screening methods, refer to the risk document Appendix 4, ''Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR.''

f. Uncertainties in the Environmental Risk Screening Assessment

For each source category, we generally rely on site-specific levels of environmental HAP emissions to perform an environmental screening assessment. The environmental screening assessment is based on the outputs from models that estimate environmental HAP concentrations. The same models, specifically the TRIM.FaTE multipathway model and the AERMOD air dispersion model, are used to estimate environmental HAP concentrations for both the human multipathway screening analysis and for the environmental screening analysis. Therefore, both screening assessments have similar modeling uncertainties.

Two important types of uncertainty associated with the use of these models in RTR environmental screening assessments—and inherent to any assessment that relies on environmental modeling—are model uncertainty and input uncertainty.[24]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the movement and accumulation of environmental HAP emissions in the environment. For example, does the model adequately describe the movement of a pollutant through the soil? This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA Science Advisory Board reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the environmental risk assessments conducted in support of our RTR analyses.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier I of the environmental screen for PB–HAP, we configured the models to avoid underestimating exposure and risk to reduce the likelihood that the results indicate the risks are lower than they actually are. This was accomplished by selecting upper-end values from nationally-representative data sets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, the location and size of any bodies of water, meteorology, surface water and soil characteristics and structure of the aquatic food web. In Tier I, we used the maximum facility-specific emissions for the PB–HAP (other than lead, which was evaluated by comparison to the secondary lead NAAQS) that were included in the environmental screening assessment and each of the media when comparing to ecological benchmarks. This is consistent with the conservative design of Tier I of the screen. In Tier II of the environmental screening analysis for PB–HAP, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the locations of water bodies near the facility location. By refining the screening approach in Tier II to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. To better represent widespread impacts, the modeled soil concentrations are averaged in Tier II to

[23] In the context of this discussion, the term ''uncertainty'' as it pertains to exposure and risk encompasses both variability in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as uncertainty in being able to accurately estimate the true result.

[24] In the context of this discussion, the term ''uncertainty,'' as it pertains to exposure and risk assessment, encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

obtain one average soil concentration value for each facility and for each PB–HAP. For PB–HAP concentrations in water, sediment and fish tissue, the highest value for each facility for each pollutant is used.

For the environmental screening assessment for acid gases, we employ a single-tiered approach. We use the modeled air concentrations and compare those with ecological benchmarks.

For both Tiers I and II of the environmental screening assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying potential risks for adverse environmental impacts.

Uncertainty also exists in the ecological benchmarks for the environmental risk screening analysis. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, EPA benchmarks used at a programmatic level (e.g., Office of Water, Superfund Program) were used if available. If not, we used EPA benchmarks used in regional programs (e.g., Superfund). If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other agencies (e.g., NOAA) or by state agencies.

In all cases (except for lead, which was evaluated through a comparison to the NAAQS), we searched for benchmarks at the following three effect levels, as described in Section III.A.6 of this preamble:

1. A no-effect level (i.e., NOAEL).
2. Threshold-effect level (i.e., LOAEL).
3. Probable effect level (i.e., PEL).

For some ecological assessment endpoint/environmental HAP combinations, we could identify benchmarks for all three effect levels, but for most, we could not. In one case, where different agencies derived significantly different numbers to represent a threshold for effect, we included both. In several cases, only a single benchmark was available. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we used all of the available effect levels to help us to determine whether risk exists and if the risks could be considered significant and widespread.

The EPA evaluated the following seven HAP in the environmental risk screening assessment: Cadmium, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), lead compounds, HCl and HF. These seven HAP represent pollutants that can cause adverse impacts for plants and animals either through direct exposure to HAP in the air or through exposure to HAP that is deposited from the air onto soils and surface waters. These seven HAP also represent those HAP for which we can conduct a meaningful environmental risk screening assessment. For other HAP not included in our screening assessment, we may not have appropriate multipathway models that allow us to predict the concentration of that pollutant. The EPA acknowledges that other HAP beyond the seven HAP that we are evaluating may have the potential to cause adverse environmental effects and, therefore, the EPA may evaluate other relevant HAP in the future, as modeling science and resources allow.

Further information on uncertainties and the Tier I and II environmental screening methods is provided in Appendix 5 of the document ''Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR: Summary of Approach and Evaluation.'' Also, see the *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category, Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* and *Draft Residual Risk Assessment for the Polycarbonate Production Source Category,* available in the docket for this action.

*B. How did we consider the risk results in making decisions for this proposal?*

As discussed in section II.A of this preamble, in evaluating and developing standards under section 112(f)(2), we apply a two-step process to address residual risk. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive level on maximum individual lifetime [cancer] risk (MIR) [25] of approximately [1-in-10 thousand] [i.e., 100-in-1 million].'' 54 FR 38045. If risks are unacceptable, the EPA must determine the emissions standards necessary to bring risks to an acceptable level without considering costs. In the second step of the process, the EPA considers whether the emissions standards provide an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate tighter emission standards if necessary to provide an ample margin of safety.

In past residual risk actions, the EPA considered a number of human health risk metrics associated with emissions from the categories under review, including the MIR, the number of persons in various risk ranges, cancer incidence, the maximum non-cancer HI and the maximum acute non-cancer hazard. See, e.g., 72 FR 25138, May 3, 2007; 71 FR 42724, July 27, 2006. The EPA considered this health information for both actual and allowable emissions. See, e.g., 75 FR 65068, October 21, 2010; 75 FR 80220, December 21, 2010; 76 FR 29032, May 19, 2011. The EPA also discussed risk estimation uncertainties and considered the uncertainties in the determination of acceptable risk and ample margin of safety in these past actions. The EPA considered this same type of information in support of this **Federal Register** proposed rule.

The agency is considering these various measures of health information to inform our determinations of risk acceptability and ample margin of safety under CAA section 112(f). As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and thus ''[t]he Administrator believes that the acceptability of risk under [previous] section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. In responding to comment on our policy under the Benzene NESHAP, the EPA explained that:

[25] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk were an individual exposed to the maximum level of a pollutant for a lifetime.

''[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of non-cancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the Vinyl Chloride mandate that the Administrator ascertain an acceptable level of risk to the public by employing [her] expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in [her] judgment, believes are appropriate to determining what will 'protect the public health'.''

54 FR 38057. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risks. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify those HAP risks that may be associated with emissions from other facilities that do not include the source categories in question, mobile source emissions, natural source emissions, persistent environmental pollution or atmospheric transformation in the vicinity of the sources in these categories.

The agency understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing non-cancer risks, where pollutant-specific exposure health reference levels (e.g., RfCs) are based on the assumption that thresholds exist for adverse health effects. For example, the agency recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse non-cancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (e.g., other facilities) to which an individual is exposed may be sufficient to result in increased risk of adverse non-cancer health effects. In May 2010, the SAB advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [26]

In response to the SAB recommendations, the EPA is incorporating cumulative risk analyses into its RTR risk assessments, including those reflected in today's proposal. The agency is: (1) Conducting facility-wide assessments, which include source category emission points as well as other emission points within the facilities; (2) considering overlapping sources in the same category; and (3) for some persistent and bioaccumulative pollutants, analyzing the ingestion route of exposure. In addition, the RTR risk assessments have always considered aggregate cancer risk from all carcinogens and aggregate non-cancer hazard indices from all non-carcinogens affecting the same target organ system.

Although we are interested in placing source category and facility-wide HAP risks in the context of *total* HAP risks from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Because of the contribution to total HAP risk from emissions sources other than those that we have studied in depth during this RTR review, such estimates of total HAP risks would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

[26] EPA's responses to this and all other key recommendations of the SAB's advisory on RTR risk assessment methodologies (which is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf*) are outlined in a memo to this rulemaking docket from David Guinnup entitled, *EPA's Actions in Response to the Key Recommendations of the SAB Review of RTR Risk Assessment Methodologies.*

*C. How did we perform the technology review?*

Our technology review focused on the identification and evaluation of developments in practices, processes and control technologies that have occurred since the MACT standards were promulgated. Where we identified such developments, in order to inform our decision of whether it is ''necessary'' to revise the emissions standards, we analyzed the technical feasibility of applying these developments, and the estimated costs, energy implications, non-air environmental impacts, as well as considering the emissions reductions. We also considered the appropriateness of applying controls to new sources versus retrofitting existing sources.

Based on our analyses of the available data and information, we identified potential developments in practices, processes and control technologies. For this exercise, we considered any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards.
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction.
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards.
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards.
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

We reviewed a variety of data sources in our investigation of potential practices, processes or controls to consider. Among the sources we

reviewed were the NESHAP for various industries that were promulgated since the MACT standards being reviewed in this action. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes and control technologies considered in these efforts that could be applied to emissions sources in the AMF, APR and PC source categories, as well as the costs, non-air impacts and energy implications associated with the use of these technologies.

We also consulted the EPA's RACT/BACT/LAER Clearinghouse (RBLC), which is a central database of air pollution control technology information that was established by the EPA to promote the sharing of information among permitting agencies and to aid in identifying future possible control technology options that might apply broadly to numerous sources within a category or apply only on a source-by-source basis.

Finally, we reviewed information from other sources, such as state and/or local permitting agency databases and industry-supported databases.

## IV. Analytical Results and Proposed Decisions for the AMF Source Category

### *A. What actions are we taking pursuant to CAA sections 112(d)(2) and 112(d)(3)?*

We identified the absence of an emissions limit for a potentially significant emission source within the provisions of the AMF MACT standards. Specifically, there are no emissions standards or other requirements for spinning lines that use a spin dope produced from a solution polymerization process at existing facilities.[27] As this process is a significant source of emissions for the one facility in the source category, we are proposing to set standards for this process under CAA section 112(d)(2) and (3) in this action.

Since there is only one facility in the source category, the current emissions level of the spinning line at this affected source at this facility represents the MACT floor. As part of our beyond-the-floor analysis, we considered control options for the spinning line more stringent than the MACT floor. We identified two beyond-the-floor options: (1) A scrubber operating at 85 percent control efficiency; and (2) a regenerative thermal oxidizer operating at 95 percent control efficiency. Based on the emission stream flow rate and emissions information provided by the one facility in this source category, the capital costs of the scrubber option are estimated to be approximately $2.6 million, and the total annualized costs are estimated to be approximately $622,000. The capital costs of the thermal oxidizer option are estimated to be approximately $3.4 million and the total annualized costs are estimated to be approximately $1.5 million.

The estimated HAP emissions reduction from the scrubber option is approximately 27 tpy. The cost effectiveness for the scrubber option is approximately $23,000/ton. The estimated HAP emissions reduction from the thermal oxidizer option is approximately 30 tpy. The cost effectiveness for the thermal oxidizer option is approximately $50,000/ton. The incremental cost effectiveness between the 85 percent control option and the 95 percent control option is approximately $280,000/ton of HAP emission reduction. Table 3 summarizes the cost and emission reduction impacts of the proposed options.

For further details on the assumptions and methodologies used in this analysis, see the technical memorandum titled *MACT Floor and Beyond-the-Floor Analyses for Unregulated Emission Sources in the Acrylic and Modacrylic Fibers and Amino and Phenolic Resins Production Source Categories,* available in the docket for this action.

As discussed in section IV.C below, neither of these options are needed in order to support the EPA's finding under CAA section 112(f) that the AMF MACT standards already protect public health with an ample margin of safety. While we do not factor quantified risk reductions into CAA section 112(d)(2) beyond-the-floor analyses, for informational purposes we note that the scrubber option would reduce the MIR for the source category from 20 to 3 and reduce the maximum chronic non-cancer TOSHI from 0.1 to 0.02. The thermal oxidizer option would reduce the MIR for the source category from 20 to 1 and reduce the maximum chronic non-cancer TOSHI from 0.1 to 0.01.

TABLE 3—AMF SOLUTION POLYMERIZATION SPINNING LINE OPTIONS IMPACTS

| Regulatory alternatives | HAP emissions reduction (tpy) | Capital cost ($ million) | Annual cost ($ million/yr) | Cost effectiveness ($/ton HAP removed) | Incremental cost effectiveness ($/ton HAP removed) |
|---|---|---|---|---|---|
| 1 Baseline (MACT floor) | 0 | 0 | 0 | ..... | ..... |
| 2 Scrubber (Beyond-the-floor) | 27 | 2.6 | 0.6 | 23,000 | 23,000 |
| 3 Thermal Oxidizer (Beyond-the-floor) | 30 | 3.4 | 1.5 | 50,000 | 280,000 |

We believe that the costs of these beyond-the-floor options are not reasonable, given the level of HAP emission reduction they would achieve. Therefore, we are proposing an emission standard that reflects the MACT floor. We determined the MACT floor using the emissions and production data provided by the facility and calculated production-based emission rates for several years of production. Taking into account expected variability in the production-based emission rates, we calculated the MACT floor emission rate to be 20 kg organic HAP/Mg (40 lb organic HAP/ton) of acrylic and modacrylic fiber produced.

### *B. What are the results of the risk assessment and analyses?*

#### 1. Inhalation Risk Assessment Results

Table 4 provides an overall summary of the inhalation risk assessment results for the AMF source category.

[27] Note that these uncontrolled emissions were included in the risk assessment for the AMF source category.

TABLE 4—AMF INHALATION RISK ASSESSMENT RESULTS

| Number of facilities [1] | Maximum individual cancer risk (in 1 million) [2] | | Population at risk ≥ 1-in-1 million | Annual cancer incidence (cases per year) | Maximum chronic non-cancer TOSHI [3] | | Maximum off-site acute non-cancer HQ [4] |
|---|---|---|---|---|---|---|---|
| | Actual emissions level | Allowable emissions level | | | Actual emissions level | Allowable emissions level | |
| 1 | 20 | 20 | 81,000 | 0.006 | 0.1 | 0.1 | $HQ_{AEGL-1}$ = 0.08 acrylonitrile. |

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk.
[3] Maximum TOSHI. The target organ with the highest TOSHI for the AMF source category is the respiratory system.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When HQ values exceed 1, we also show HQ values using the next lowest available acute dose-response value. See section III.A.3 of this preamble for explanation of acute dose-response values.

The inhalation risk modeling was performed using actual emissions level data. As shown in Table 4, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 20-in-1 million, the estimated maximum chronic non-cancer TOSHI value is 0.1 and the estimated maximum off-facility site acute HQ value is 0.08, based on the actual emissions level and the AEGL–1 value for acrylonitrile. The total estimated national cancer incidence from this facility based on actual emission levels is 0.006 excess cancer cases per year or one case in every 170 years.

Based on our analysis, we estimate that actual emissions approximate emissions allowable under the MACT standards, as we are not aware of any situations in which the facility is conducting additional work practices or operating a control device such that it achieves a greater emission reduction than required. Therefore, the risk results for MACT-allowable emissions are approximately equal to those for actual emissions. For more detail about this estimate of the ratio of actual to MACT-allowable emissions and the estimation of MACT-allowable emission levels (and associated risks and impacts), see the memorandum, *MACT Allowable Emissions and Risks for the Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production Source Categories,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

2. Acute Risk Results

We estimate that the maximum off-facility site acute HQ value is 0.08, based on the actual emissions level and the AEGL–1 value for acrylonitrile.

3. Multipathway Risk Screening Results

There were no reported emissions of PB–HAP, indicating low potential for human health multipathway risks as a result of PB–HAP emissions from this source category.

4. Environmental Risk Screening Results

The emissions data for the AMF source category indicate that sources within this source category do not emit any of the seven pollutants that we identified as ''environmental HAP,'' as discussed earlier in this preamble. Based on the processes and materials used in the source category, we do not expect any of the seven environmental HAP to be emitted. Also, we are unaware of any adverse environmental effect caused by emissions of HAP that are emitted by this source category. Therefore, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

5. Facility-Wide Risk Results

Table 5 presents the results of the facility-wide risk assessment for the AMF source category. This assessment was conducted based on actual emission levels. For detailed facility-specific results, see Appendix 4 of the *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category* in the docket for this action.

TABLE 5—AMF FACILITY-WIDE RISK ASSESSMENT RESULTS

| | |
|---|---|
| Number of facilities analyzed | 1 |
| **Cancer Risk** | |
| Estimated maximum facility-wide individual cancer risk (in 1 million) | 20 |
| Number of facilities with estimated facility-wide individual cancer risk of 100-in-1 million or more | 0 |
| Number of facilities at which the AMF source category contributes 50 percent or more to the facility-wide individual cancer risks of 100-in-1 million or more | 0 |
| Number of facilities at which the AMF source category contributes 50 percent or more to the facility-wide individual cancer risk of 1-in-1 million or more | 1 |
| **Chronic Non-cancer Risk** | |
| Maximum facility-wide chronic non-cancer TOSHI | 0.1 |
| Number of facilities with facility-wide maximum non-cancer TOSHI greater than 1 | 0 |
| Number of facilities at which the AMF source category contributes 50 percent or more to the facility-wide maximum non-cancer TOSHI of 1 or more | 0 |

The facility-wide MIR from all HAP emissions at the single AMF facility is estimated to be 20-in-1 million, based on actual emissions. The facility-wide maximum individual chronic non-cancer TOSHI is estimated to be 0.1 based on actual emissions.

6. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice (EJ) issues that might be associated with the source category, we performed a demographic analysis of the population close to the facility. In this analysis, we evaluated the distribution of HAP-related cancer and non-cancer risks from the AMF source category across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Environmental Justice Review: Amino/Phenolic Resins, Acrylic and Modacrylic Fibers Production, and Polycarbonate Production,* available in the docket for this action.

The results of the demographic analysis are summarized in Table 6 below. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 km of the facilities.

TABLE 6—AMF DEMOGRAPHIC RISK ANALYSIS RESULTS

| | Nationwide | Population with Cancer risk at or above 1-in-1 million | Population with chronic hazard index above 1 |
|---|---|---|---|
| Total Population | 312,861,256 | 81,000 | 0 |
| **Race by Percent** | | | |
| White | 72 | 63 | 0 |
| All Other Races | 28 | 37 | 0 |
| **Race by Percent** | | | |
| White | 72 | 63 | 0 |
| African American | 13 | 30 | 0 |
| Native American | 1 | 0.4 | 0 |
| Other and Multiracial | 14 | 7 | 0 |
| **Ethnicity by Percent** | | | |
| Hispanic | 17 | 6 | 0 |
| Non-Hispanic | 83 | 94 | 0 |
| **Income by Percent** | | | |
| Below Poverty Level | 14 | 14 | 0 |
| Above Poverty Level | 86 | 86 | 0 |
| **Education by Percent** | | | |
| Over 25 and without High School Diploma | 10 | 17 | 0 |
| Over 25 and with a High School Diploma | 90 | 83 | 0 |

The results of the AMF source category demographic analysis indicate that emissions from the source category expose approximately 81,000 people to a cancer risk at or above 1-in-1 million and approximately 0 people to a chronic non-cancer TOSHI greater than 1. The demographic results for the population potentially impacted by AMF emissions indicate that the minority and African American percentages are higher than the national percentages for these categories (37 percent minority compared to 28 percent nationwide, and 30 percent African American compared to 13 percent nationwide). Furthermore, the demographic results for the population potentially impacted by these source category emissions indicate that the percentage of people over 25 and without a high school diploma is also slightly higher than the nationwide percentage (17 percent compared to 15 percent nationwide). The other demographic percentages for the people exposed to a risk greater than or equal to 1-in-1 million as a result of AMF emissions are essentially the same or lower than the respective nationwide percentages.

Implementation of the provisions included in this proposal are not expected to reduce the number of people estimated to have a cancer risk greater than 1-in-1 million due to HAP emissions from these sources (81,000 people). This is because the proposed emission rate for spinning lines that use spin dope produced from a solution polymerization process is equal to the MACT floor for the one facility in the AMF source category, which will not result in any quantifiable emission reductions.

*C. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?*

1. Risk Acceptability

As noted in section III.B of this preamble, we weigh all health risk factors in our risk acceptability determination, including the MIR; the number of persons in various risk ranges; cancer incidence; the maximum non-cancer HI; the maximum acute non-cancer HQ; the extent of non-cancer risks; the potential for adverse environmental effects; distribution of risks in the exposed population; and risk estimation uncertainty (54 FR 38044, September 14, 1989). For the AMF source category, the risk analysis we performed indicates that the cancer risks to the individual most exposed could be up to 20-in-1 million due to

both actual and allowable emissions. This value is considerably less than 100-in-1 million, which is the presumptive level of acceptability. The risk analysis also shows low cancer incidence (1 in every 170 years), low potential for human health multipathway effects because no PB–HAP are emitted from this source category, and that chronic non-cancer health impacts are unlikely.

We estimate that the worst-case acute HQ value is 0.08 for acrylonitrile, based on an AEGL–1. As described earlier in this preamble, the acute assessment includes some conservative assumptions and some uncertainties. Considering the improbable assumption that worst-case meteorological conditions are present at the same time that maximum hourly emissions of acrylonitrile exceed the average hourly emission rate by a factor of 10 at most emission points simultaneously, coincident with individuals being in the location of maximum impact, and considering the low acute HQ values based on the AEGL–1 dose-response value, we believe that it is unlikely that HAP emissions from this source category would result in adverse acute health effects. Further discussion on these assumptions can be found in the *Draft Residual Risk Assessment for the Acrylic and Modacrylic Fibers Production Source Category,* which is available in the docket for this action.

Our additional analysis of facility-wide risks showed that the maximum facility-wide cancer risk is 20-in-1 million and that the maximum chronic non-cancer TOSHI is estimated to be 0.1.

The EPA has weighed the various health risk measures and health factors, including risk estimation uncertainty, discussed above and in section III.A.8 of this preamble, and we are proposing that the risks from the AMF source category are acceptable.

2. Ample Margin of Safety Analysis

Although we are proposing to determine that the risks from the AMF source category are acceptable, risk estimates for 81,000 individuals in the exposed population are above 1-in-1 million. Consequently, we considered whether the AMF MACT standards provide an ample margin of safety to protect public health. In this analysis, we investigated available emissions control options that might reduce the risk associated with emissions from the source category and considered this information along with all of the health risks and other health information considered in the risk acceptability determination.

For the AMF source category, we did not identify any further control options for storage vessels, process vents, spinning lines or wastewater beyond what is currently required in the rule or is being proposed in this action (see section IV.A of this preamble for our proposed actions related to spinning lines that use a spin dope produced from a polymerization process). For equipment leaks, as discussed in section IV.D of this preamble, we identified an emission control option of requiring compliance with subpart UU rather than subpart TT, and either including or not including the connector LDAR requirements of subpart UU. We estimate that less than 1 percent of the emissions and associated risk at the MACT-allowable levels could be attributed to equipment leaks. We estimate the HAP reduction resulting from compliance with subpart UU without the subpart UU connector monitoring requirements would be 0.2 tpy from the baseline MACT-allowable emissions level, with a cost effectiveness of $1,500/ton HAP reduction. We estimate the HAP reduction resulting from compliance with subpart UU including the subpart UU connector monitoring requirements would be 0.5 tpy from the baseline MACT-allowable emissions level, with a cost effectiveness of $14,000/ton HAP reduction. Neither of these additional control options for equipment leaks would achieve a reduction in the maximum individual cancer risks or any of the other health risk metrics. Due to the minimal reductions in HAP emissions and risk, along with the costs associated with these options, we are proposing that additional HAP emissions controls for AMF production equipment leaks are not necessary to provide an ample margin of safety to protect public health.

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our ample margin of safety determination. Considering all of these factors, the EPA is proposing to determine that the current MACT standards in 40 CFR part 63, subpart YY for the AMF source category provide an ample margin of safety to protect public health.

3. Adverse Environmental Effects

We did not identify emissions of the seven environmental HAP included in our environmental risk screening, and are unaware of any adverse environmental effects caused by other HAP emitted by this source category. Therefore, we do not expect there to be an adverse environmental effect as a result of HAP emissions from this source category. Accordingly, we are proposing to determine that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

*D. What are the results and proposed decisions based on our technology review?*

In the period of time since the AMF MACT standards were promulgated, the EPA has developed air toxics regulations for numerous source categories that emit organic HAP from the same type of emissions sources that are present in the AMF source category. We reviewed the regulatory requirements and technical analyses for these regulations for new practices, processes and control techniques. We also conducted a search of the BACT/RACT/LAER clearinghouse for controls for VOC- and HAP-emitting processes in the Polymers and Resins and the Synthetic Organic Chemical Manufacturing Industry (SOCMI) categories with permits dating back to 1997.

The AMF MACT standards currently require compliance with either subpart TT or subpart UU of 40 CFR part 63 to control emissions from equipment leaks. While many provisions of these two rules are the same or similar, subpart UU requires the use of a lower leak definition for valves in gas and vapor service and in light liquid service, pumps in light liquid service, and connectors in gas and vapor service and in light liquid service. Specifically, subpart UU lowers the leak definition for valves from 10,000 ppm (in subpart TT) to 500 ppm, lowers the leak definition for pump seals from 10,000 ppm (in subpart TT) to 1,000 ppm, and requires instrument monitoring of connectors with a leak definition of 500 ppm, as opposed to sensory monitoring (in subpart TT). We identified the more stringent leak definitions of subpart UU as a development in practices, processes or control technologies for LDAR programs. We also note that the one facility in this source category is complying with subpart TT.

Since the one facility in this source category is currently complying with subpart TT, we analyzed the costs and emission reductions associated with switching from a subpart TT LDAR program to a subpart UU LDAR program, both including and not including the subpart UU connector monitoring requirements, which can be an expensive component of an LDAR program. The estimated costs and emissions reductions associated with these options are shown in Table 7. For Option 1 (subpart UU without connector monitoring), we estimated the capital costs to be approximately $1,400, and the total annualized costs are estimated to be approximately $220. The estimated HAP emissions reduction is approximately 0.2 tpy, and the cost effectiveness is approximately $1,500/ton. For Option 2 (subpart UU with connector monitoring), we estimated the capital costs to be approximately $19,000, and the total annualized costs are estimated to be approximately $7,600. The estimated HAP emissions reduction is approximately 0.5 tpy, and the cost effectiveness is approximately $14,000/ton. The incremental cost effectiveness between Option 1 and Option 2 is approximately $19,000.

While, as discussed in section IV.C above, the equipment leaks control options are not needed to support the EPA's finding under CAA section 112(f) that the AMF MACT standards already protect public health with an ample margin of safety, and while we do not factor quantified risk reductions into CAA section 112(d)(6) technology review analyses, for informational purposes we note that neither Option 1 nor Option 2 of the technology review for equipment leaks would reduce the MIR or the maximum chronic non-cancer TOSHI for the source category.

TABLE 7—AMF EQUIPMENT LEAK OPTIONS IMPACTS

| Regulatory alternatives | HAP emissions reduction (tpy) | Capital cost ($) | Annual cost ($/yr) | Cost effectiveness ($/ton HAP removed) | Incremental cost effectiveness ($/ton HAP removed) |
|---|---|---|---|---|---|
| Option 1: Subpart UU, no connector monitoring | 0.2 | 1,400 | 220 | 1,500 | |
| Option 2: Subpart UU with connector monitoring | 0.5 | 19,000 | 7,600 | 14,000 | 19,000 |

Based on this analysis, we believe the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. We believe the costs of Option 2 are not reasonable, given the level of HAP emission reduction that control option would achieve. Therefore, we are proposing to revise the AMF MACT standards to require facilities to comply with subpart UU rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We are proposing to retain the option to comply with either subpart TT or subpart UU for these components.

For storage vessels, process vents, spinning line fugitive emissions and wastewater, beyond what is currently required in the rule or is being proposed in this action, we did not identify: any add-on control technology or other equipment that was not identified and considered during MACT development; any improvements in add-on control technology or other equipment (that was identified and considered during MACT development) that could result in significant additional HAP emission reduction; any work practice or operational procedure that was not identified and considered during MACT development; any process change or pollution prevention alternative that could be broadly applied that was not identified and considered during MACT development; or any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during MACT development).

For more detailed information on the results of the EPA's technology review, see the memorandum, *Developments in Practices, Processes, and Control Technologies for the Acrylic and Modacrylic Fibers Source Category,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

## V. Analytical Results and Proposed Decisions for the APR Source Category

### *A. What actions are we taking pursuant to CAA sections 112(d)(2) and 112(d)(3)?*

We identified the absence of a limit for two potentially significant emission sources within the provisions of the APR MACT standards. These two emissions sources are storage vessels and continuous process vents at existing facilities.

1. Storage Vessels

Currently, storage vessels at existing facilities in the APR source category are unregulated by the APR MACT standards. Under CAA section 112(d)(2) and (3), we are proposing that the MACT floor level of control is to either maintain and operate a storage vessel with an internal or an external floating roof, or use a fixed roof tank with emissions vented through a closed vent system to any combination of control devices that achieve a 95-percent emissions reduction or reduce emissions to specified control device outlet concentrations. These requirements would apply to storage vessels having a capacity of 50,000 gallons or greater and a vapor pressure of 2.45 psia or greater, or a capacity of 90,000 gallons or greater and a vapor pressure of 0.15 psia or greater. We determined that this level of control represents the MACT floor using available data from the original development of the APR MACT standards, as well as from title V permits for facilities in the source category.

As part of our beyond-the-floor analysis, we considered control options more stringent than the MACT floor. We identified two beyond-the-floor options. For Option 1, we evaluated revising the applicability of the MACT floor to include smaller capacity storage vessels and/or storage vessels containing liquids with lower vapor pressures, such that these additional storage vessels would be subject to the MACT floor control requirements for storage vessels. We evaluated the impacts of changing these thresholds to be consistent with other storage vessel standards already required for the chemical industry regulated by the HON. Specifically, as shown in Table 8, under this option, we evaluated requiring the MACT floor level of emissions control for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, and for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or

greater. Control would also be required for storage vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, as required under the MACT floor, but which is not a requirement of the HON. Since available data for this source category indicates most APR storage vessels have fixed-roofs, under Option 2, we considered the impacts of requiring a 98-percent emissions reduction for storage vessels meeting the capacity and vapor pressure thresholds under Option 1, assuming emissions would be vented through a closed vent system to a regenerative thermal oxidizer (RTO) to attain this increased level of control.

Table 9 presents the impacts for the MACT floor and the two beyond-the-floor options considered. Our analysis indicates that all existing storage vessels exceeding the MACT floor capacity and vapor pressure thresholds are already controlled at the 95-percent level; therefore, we expect no costs of additional emissions reductions associated with the MACT floor level of control. Available data also indicates that there may be no existing storage vessels meeting the size and vapor pressure thresholds of Option 1 that are not already controlled at the 95-percent level. In this case, we would expect no costs or additional emissions reductions associated with Option 1. However, in order to show the maximum potential impacts from this option, we used an analysis of an APR model plant, which assumes that one tank is already meeting the control requirements of the MACT floor and that one additional tank would require control under Option 1. In this analysis, we assumed that the additional tank would be controlled with the same control device as the controlled tank but would require ductwork to route emissions there. Since our data indicates that six facilities report emissions from storage vessels, we assumed that just these six facilities would be impacted by Option 1. As seen in Table 9 of this preamble, for Option 1, we estimated the nationwide capital costs to be approximately $67,000, and the total nationwide annualized costs are estimated to be approximately $15,000. The estimated HAP emissions reduction is approximately 6.3 tpy. For Option 2, we estimated the nationwide capital costs to be approximately $5.2 million and the nationwide total annualized costs are estimated to be approximately $1.6 million. The estimated nationwide HAP emissions reduction is approximately 7.0 tpy, and the incremental cost effectiveness between Option 1 and Option 2 is approximately $2.3 million/ton. We solicit comment on the sizes of storage vessels and the vapor pressures of the contents of these storage vessels at APR facilities.

For further details on the assumptions and methodologies used in this analysis, see the technical memorandum titled *MACT Floor and Beyond-the-Floor Analyses for Unregulated Emission Sources in the Acrylic and Modacrylic Fibers and Amino and Phenolic Resins Production Source Categories,* available in the docket for this action.

While, as discussed in section V.B below, the storage vessel control options are not needed to support the EPA's finding under CAA section 112(f) that the APR MACT standards already protect public health with an ample margin of safety, and while we do not factor quantified risk reductions into CAA section 112(d)(2) beyond-the-floor analyses, for informational purposes we note that neither Option 1 nor Option 2 for storage vessels would reduce the MIR for the source category because the MIR is not caused by emissions from storage vessels. However, the maximum non-cancer TOSHI is due to emissions from storage vessels. Assuming the storage vessel emissions contributing to this TOSHI are from an uncontrolled storage vessel, under both Options 1 and 2, the TOSHI would be reduced to less than the risk caused by other emission point types. The maximum TOSHI at the MACT-allowable level would be reduced from 0.7 to 0.07 with either storage vessel control option.

TABLE 8—STORAGE TANK SIZE AND VAPOR PRESSURE THRESHOLDS CONSIDERED UNDER THE MACT FLOOR AND BEYOND-THE-FLOOR ANALYSES

| Regulatory alternatives | Size and vapor pressure thresholds for control | |
|---|---|---|
| | Size (gallons) | Vapor pressure (psia) |
| MACT Floor | 50,000 ≤ capacity | ≥2.45 |
| | 90,000 ≤ capacity | ≥0.15 |
| Options 1 and 2 | 20,000 ≤ capacity < 40,000 | ≥1.9 |
| | 40,000 ≤ capacity < 90,000 | ≥0.75 |
| | 90,000 ≤ capacity | ≥0.15 |

TABLE 9—NATIONWIDE EMISSIONS REDUCTION AND COST IMPACTS OF CONTROL OPTIONS FOR STORAGE VESSELS AT EXISTING APR FACILITIES

| Regulatory alternatives | HAP emissions reduction (tpy) | Capital cost ($) | Annual cost ($/yr) | Cost effectiveness ($/ton HAP removed) | Incremental cost effectiveness ($/ton HAP removed) |
|---|---|---|---|---|---|
| Baseline (MACT floor) | 0 | 0 | 0 | | |
| Option 1 (Beyond-the-floor)[1] | 6.3 | 67,000 | 15,000 | 2,400 | 2,400 |
| Option 2 (Beyond-the-floor) | 7.0 | 5,200,000 | 1,600,000 | 230,000 | 2,200,000 |

[1] The potential costs and emissions reductions of Option 1 regulatory alternatives are presented here based on a model facility with a single additional storage tank above the thresholds at which control would be required. However, available data indicate that there may be no existing facilities with uncontrolled tanks above the thresholds at which control would be required. In this case, there would be no costs or emissions reductions associated with these regulatory alternatives.

Based on this analysis, we believe that the costs of Option 1 are reasonable, given the level of HAP emissions reduction this option would achieve. We believe that the costs of Option 2 are not reasonable, given the level of HAP

emissions reduction this option would achieve. Therefore, we are proposing to revise the APR MACT standards to require the MACT floor level of control for storage vessels at existing affected sources with the specified capacities and vapor pressures for Option 1.

2. Continuous Process Vents

The EPA has identified the presence of uncontrolled continuous process vents at the two facilities in the APR source category (Georgia Pacific in Crossett, AR, and BTL Specialty Resins in Toledo, OH). Under CAA section 112(d)(2) and (3), we are proposing that the MACT floor level of control is to reduce organic HAP either by 85 percent or to a concentration of 20 parts per million by volume (ppmv), when using a combustion control device, or to a concentration of 50 ppmv when using a non-combustion control device. We determined that this level of control represents the MACT floor using available data from the original development of the APR MACT standards, as well as from title V permits for facilities in the source category.

As part of our beyond-the-floor analysis, we considered control options more stringent than the MACT floor and identified two such options. For Option 1, we evaluated the impacts of requiring a 95-percent emissions reduction, assuming that a scrubber would be used to achieve this increased level of control. For Option 2 we evaluated the impacts of requiring a 98-percent emissions reduction, assuming either a recuperative thermal oxidizer or a regenerative thermal oxidizer would be used to achieve this increased control level.

Table 10 presents the impacts for the MACT floor and the two beyond-the-floor options considered. As seen in Table 10, the MACT floor level of control is expected to reduce HAP emissions by approximately 20.1 tpy and have a cost effectiveness of $16,900/ton of HAP removed. For Option 1, we estimated the capital costs to be approximately $1.3 million, and the total annualized costs are estimated to be approximately $390,000. The estimated HAP emissions reduction is approximately 22.5 tpy, and the incremental cost effectiveness between the MACT floor and Option 1 is approximately $19,500/ton. For Option 2, we estimated the capital costs to be approximately $3.7 million, and the total annualized costs are estimated to be approximately $1.2 million. The estimated HAP emissions reduction is approximately 23.2 tpy, and the incremental cost effectiveness between Option 1 and Option 2 is approximately $1.1 million/ton. We solicit comment on the emissions and emissions release parameters from continuous process vents at existing APR facilities.

For further details on the assumptions and methodologies used in this analysis, see the technical memorandum titled *MACT Floor and Beyond-the-Floor Analyses for Unregulated Emission Sources in the Acrylic and Modacrylic Fibers and Amino and Phenolic Resins Production Source Categories,* available in the docket for this action.

While, as discussed in section V.B below, the continuous process vent control options are not needed to support the EPA's finding under CAA section 112(f) that the APR MACT standards already protect public health with an ample margin of safety, and while we do not factor quantified risk reductions into CAA section 112(d)(2) beyond-the-floor analyses, for informational purposes we note that neither Option 1 nor Option 2 for continuous process vents would reduce the MIR or the maximum chronic non-cancer TOSHI for the source category because neither the MIR nor the non-cancer TOSHI is not caused by emissions from continuous process vents.

TABLE 10—NATIONWIDE EMISSIONS REDUCTION AND COST IMPACTS OF CONTROL OPTIONS FOR CONTINUOUS PROCESS VENTS AT EXISTING APR FACILITIES

| Regulatory alternatives | HAP emissions reduction (tpy) | Capital cost (million $) | Annual cost ($/yr) | Cost effectiveness ($/ton HAP removed) | Incremental cost effectiveness ($/ton HAP removed) |
|---|---|---|---|---|---|
| Baseline (MACT floor) | 20.1 | 1.1 | 340,000 | 16,900 | ..... |
| Option 1 (Beyond-the-floor) | 22.5 | 1.3 | 390,000 | 17,200 | 19,500 |
| Option 2 (Beyond-the-floor) | 23.2 | 3.7 | 1,200,000 | 51,000 | 1,100,000 |

Based on this analysis, we do not believe the costs of the either beyond-the-floor option are reasonable, given the level of HAP emissions reduction that would be achieved with these control options. Therefore, we are proposing to revise the APR MACT standards to require the MACT floor level of control for continuous process vents.

*B. What are the results of the risk assessment and analyses?*

1. Inhalation Risk Assessment Results

Table 11—provides an overall summary of the inhalation risk assessment results for the APR source category.

TABLE 11—APR INHALATION RISK ASSESSMENT RESULTS

| Number of facilities [1] | Maximum individual cancer risk (in 1 million) [2] | | Population at risk ≥ 1-in-1 million | Annual cancer incidence (cases per year) | Maximum chronic non-cancer TOSHI [3] | | Maximum off-site acute non-cancer HQ [4] |
|---|---|---|---|---|---|---|---|
| | Actual emissions level | Allowable emissions level | | | Actual emissions level | Allowable emissions level | |
| 18 ..... | 9 | 10 | 6,300 | 0.001 | 0.2 | 0.7 | $HQ_{REL}$ = 10 formaldehyde<br>$HQ_{AEGL-1}$ = 0.5 formaldehyde |

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk.

[3] Maximum TOSHI. The target organ with the highest TOSHI for the APR source category is the respiratory system.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When HQ values exceed 1, we also show HQ values using the next lowest available acute dose-response value. See section III.A.3 of this preamble for explanation of acute dose-response values.

The inhalation risk modeling was performed using actual emissions level data. As shown in Table 11, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 9-in-1 million, the estimated maximum chronic non-cancer TOSHI value is 0.2 and the estimated maximum off-facility site acute HQ value is 10, based on the actual emissions level and the REL value for formaldehyde. The total estimated national cancer incidence from these facilities based on actual emission levels is 0.001 excess cancer cases per year or one case in every 1,000 years.

Based on our analysis, we estimate that the MACT-allowable emissions levels of organic HAP could be up to 3.4 times the actual emissions for reactor batch process vents in this source category. Because it was not possible to determine whether an emission point was a reactor batch process vent or a non-reactor batch process vent in the NEI data available for this source category, we applied the 3.4 factor to all organic HAP emissions associated with point (rather than fugitive) sources to be conservative. The maximum lifetime individual cancer risk associated with emissions from point sources is estimated to be 3-in-1 million at actual emissions levels. Applying the 3.4 factor to this value results in a MACT-allowable cancer risk of 10-in-1 million. The maximum TOSHI associated with emissions from point sources is estimated to be 0.2 based on actual emissions levels, and application of the 3.4 factor results in a TOSHI at the MACT-allowable emissions level of approximately 0.7. For more detail about this estimate of the ratio of actual to MACT-allowable emissions and the estimation of MACT-allowable emission levels (and associated risks and impacts), see the memorandum, *MACT Allowable Emissions and Risks for the Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production Source Categories,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

2. Acute Risk Results

We estimate that the maximum off-facility site acute HQ value is 10, based on the actual emissions level and the REL value for formaldehyde. The worst-case maximum estimated 1-hour exposure to formaldehyde outside the facility fence line is 0.6 mg/m$^3$. This estimated worst-case exposure exceeds the 1-hour REL by a factor of 10 ($HQ_{REL}$ = 10) and is below the 1-hour AEGL–1 ($HQ_{AEGL-1}$ = 0.5). This exposure estimate does not exceed the AEGL–1, but does exceed the workplace ceiling level guideline for the formaldehyde value developed by the National Institutes for Occupational Safety and Health (NIOSH) [28] ''for any 15 minute period in a work day'' (NIOSH REL-ceiling value of 0.12 mg/m$^3$; $HQ_{NIOSH}$ = 5). The estimate is also above the value developed by the American Conference of Governmental Industrial Hygienists (ACGIH) as ''not to be exceeded at any time'' (ACGIH TLV-ceiling value of 0.37 mg/m$^3$; $HQ_{ACGIH}$ = 2). Additionally, the estimated maximum acute exposure exceeds the Air Quality Guideline value that was developed by the World Health Organization [29] for 30-minute exposures (0.1 mg/m$^3$; $HQ_{WHO}$ = 6). We solicit comment on the use of the occupational values described above in the interpretation of these worst-case acute screening exposure estimates for the APR source category.

3. Multipathway Risk Screening Results

Emissions of three PB–HAP are reported in the data set for this source category, including lead compounds (1 facility), cadmium compounds (2 facilities) and POM (analyzed as benzo(a)pyrene TEQ) (2 facilities). Reported emissions of cadmium compounds and POM are lower than the multipathway screening levels for those PB–HAP, indicating low potential for multipathway risks. Lead is a PB–HAP, but the National Ambient Air Quality Standards (NAAQS) value (which was used for the chronic non-cancer risk assessment) takes into account air-related multipathway exposures, so a separate multipathway screening value was not developed. Results of the analysis for lead indicate that the maximum HEM modeled annual off-site ambient lead concentration was less than 1 percent of the NAAQS for lead, and if the annual emissions occurred during a 3-month period (which is highly unlikely) the maximum 3-month rolling average concentrations would still be less than 1 percent of the NAAQS, indicating low potential for multipathway risks from lead emissions from these facilities. Emissions of lead from this source category were limited to 0.03 lb/yr from a single facility.

4. Environmental Risk Screening Results

As described in section III.A.6, we conducted an environmental risk screening assessment for the APR source category. In the Tier I screening analysis for the PB–HAP other than lead emitted by some sources in the category (POM and cadmium), none of the individual modeled concentrations for any facility in the source category exceeds any of the ecological benchmarks (either the LOAEL or NOAEL). Therefore, we did not conduct a Tier II assessment. For lead compounds, we did not estimate any exceedances of the secondary lead NAAQS. Acid gas emissions were not identified from any source in the category. Based on our screening analysis, we did not identify an adverse environmental effect as defined in CAA section 112(a)(7) from HAP emissions from this source category.

5. Facility-Wide Risk Results

Table 12 displays the results of the facility-wide risk assessment for the APR source category. This assessment was conducted based on actual emission levels. For detailed facility-specific results, see Appendix 4 of the *Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category* in the docket for this action.

[28] NIOSH Occupational Safety and Health Guideline for Formaldehyde; *http://www.cdc.gov/niosh/docs/81-123/pdfs/0293.pdf.*

[29] WHO (2000). Chapter 5.8 Formaldehyde, in Air Quality Guidelines for Europe, second edition. World Health Organization Regional Publications, European Series, No. 91. Copenhagen, Denmark. Available on-line at *http://www.euro.who.int/data/assets/pdf_file/0005/74732/E71922.pdf.*

TABLE 12—APR FACILITY-WIDE RISK ASSESSMENT RESULTS

| | |
|---|---|
| Number of facilities analyzed | 18 |
| Cancer Risk: | |
| Estimated maximum facility-wide individual cancer risk (in 1 million) | 9 |
| Number of facilities with estimated facility-wide individual cancer risk of 100-in-1 million or more | 0 |
| Number of facilities at which the APR source category contributes 50 percent or more to the facility-wide individual cancer risks of 100-in-1 million or more | 0 |
| Number of facilities at which the APR source category contributes 50 percent or more to the facility-wide individual cancer risk of 1-in-1 million or more | 7 |
| Chronic Non-cancer Risk: | |
| Maximum facility-wide chronic non-cancer TOSHI | 0.2 |
| Number of facilities with facility-wide maximum non-cancer TOSHI greater than 1 | 0 |
| Number of facilities at which the APR source category contributes 50 percent or more to the facility-wide maximum non-cancer TOSHI of 1 or more | 0 |

The facility-wide MIR from all HAP emissions at a facility that contains sources subject to the APR MACT standards is estimated to be 9-in-1 million, based on actual emissions. There are 10 facilities with facility-wide MIR of 1-in-1 million or greater, and 7 of these facilities have APR production operations that contribute greater than 50 percent to the facility-wide risks.

The facility-wide maximum individual chronic non-cancer TOSHI is estimated to be 0.2 based on actual emissions.

6. What demographic groups might benefit from this regulation?

To determine whether or not to conduct a demographics analysis, we look at a combination of factors including the MIR, non-cancer TOSHI, population around the facilities in the source category, and other relevant factors. For the APR source category, our analyses show that actual emissions from the APR source category result in no individuals being exposed to cancer risk greater than 9-in-1 million or a non-cancer TOSHI greater than 1. In addition, we estimate the cancer incidence for the source category to be 0.001 cases per year. Therefore, we did not conduct an assessment of risks to individual demographic groups for this rulemaking. However, we did conduct a proximity analysis, which identifies any overrepresentation of minority, low income or indigenous populations near facilities in the source category. The results of this analysis are presented in the section of this preamble entitled ''Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.''

*C. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?*

1. Risk Acceptability

As noted in section III.B of this preamble, we weigh all health risk factors in our risk acceptability determination, including the MIR; the number of persons in various risk ranges; cancer incidence; the maximum non-cancer HI; the maximum acute non-cancer HQ; the extent of non-cancer risks; the potential for adverse environmental effects; distribution of risks in the exposed population; and risk estimation uncertainty (54 FR 38044, September 14, 1989). For the APR source category, the risk analysis we performed indicates that the cancer risks to the individual most exposed could be up to 9-in-1 million due to actual emissions and up to 10-in-1 million due to allowable emissions. These values are considerably less than 100-in-1 million, which is the presumptive level of acceptability. The risk analysis also shows low cancer incidence (1 in every 1,000 years), low potential for human health multipathway effects, and that chronic non-cancer health impacts are unlikely.

We estimate that the worst-case acute HQ could exceed 1 for one HAP, formaldehyde, with a potential maximum HQ up to 10 based on the acute REL for formaldehyde. Three of the 18 facilities in this source category had an estimated HQ greater than 1. The maximum HQ based on an AEGL–1 is 0.5, based on the AEGL–1 for formaldehyde. As described earlier in this preamble, the acute assessment includes some conservative assumptions and some uncertainties. Considering the improbable assumption that worst-case meteorological conditions are present at the same time that maximum hourly emissions of formaldehyde exceed the average hourly emission rate by a factor of 10 at most emission points simultaneously, coincident with individuals being in the location of maximum impact, and considering the low acute HQ values based on the AEGL–1 collectively with the REL value, we believe that it is unlikely that HAP emissions from this source category would result in adverse acute health effects. Further discussion on these assumptions can be found in the *Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category,* which is available in the docket for this action.

Our screening level evaluation of the potential health risks associated with emissions of PB–HAP indicates low potential for adverse multipathway impacts due to emissions of the PB–HAP associated with the source category. The *Draft Residual Risk Assessment for the Amino/Phenolic Resins Production Source Category* in the docket also discusses the screening level evaluation.

Our additional analysis of facility-wide risks showed that the maximum facility-wide cancer risk is 9-in-1 million. The maximum chronic non-cancer TOSHI is estimated to be 0.2.

The EPA has weighed the various health risk measures and health factors, including risk estimation uncertainty, discussed above and in section III.A.8 of this preamble, and we are proposing to determine that the risks from the APR source category are acceptable.

2. Ample Margin of Safety Analysis

Although we are proposing to determine that the risks from the APR source category are acceptable, risk estimates for 6,300 individuals in the exposed population are above 1-in-1 million. Consequently, we considered whether the APR MACT standards provide an ample margin of safety to protect public health. In this analysis, we investigated available emissions control options that might reduce the risk associated with emissions from the source category and considered this

information along with all of the health risks and other health information considered in the risk acceptability determination.

For the APR source category, we did not identify any further control options for equipment leaks, storage vessels, continuous process vents, batch process vents or heat exchange systems beyond what is currently required in the rule or what we considered for proposal in this action (see section V.A of this preamble for our proposed actions related to storage vessels and continuous process vents).

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our ample margin of safety determination. Considering all of these factors, the EPA is proposing to determine that the current MACT standards in 40 CFR part 63, subpart OOO for the APR source category provide an ample margin of safety to protect public health.

3. Adverse Environmental Effects

Based on the results of our environmental risk screening assessment, we do not expect there to be an adverse environmental effect as a result of HAP emissions from the APR source category. We are proposing to determine that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

*D. What are the results and proposed decisions based on our technology review?*

In the period of time since the APR MACT standards were promulgated, the EPA has developed air toxics regulations for numerous source categories that emit organic HAP from the same type of emissions sources that are present in the APR source category. We reviewed the regulatory requirements and technical analyses for these regulations for new practices, processes, and control techniques. We also conducted a search of the BACT/RACT/LAER clearinghouse for controls for VOC- and HAP-emitting processes in the Polymers and Resins and the SOCMI categories with permits dating back to 1997.

For storage vessels located at new sources, we identified two potential developments in existing practices and control techniques not currently required by the APR MACT standards. The current requirements for storage vessels at a new source are to maintain and operate either an internal or an external floating roof, or use a fixed roof tank with emissions vented through a closed vent system to any combination of control devices that achieve a 95 percent emissions reduction or reduce emissions to specified control device outlet concentrations. These requirements apply to storage vessels having a capacity of 50,000 gallons or greater and a vapor pressure of 2.45 psia or greater, or a capacity of 90,000 gallons or greater and a vapor pressure of 0.15 psia or greater. As in the identified beyond-the-floor options for existing storage vessels in the APR source category, we evaluated revising the applicability of the APR new source MACT requirements to include smaller capacity storage vessels and/or storage vessels containing liquids with lower vapor pressures (Option 1), and under Option 2 we considered the impacts of requiring a 98 percent emissions reduction for storage vessels meeting the capacity and vapor pressure thresholds of Option 1. Under Options 1 and 2, we evaluated the impacts of changing the thresholds at which emissions controls are required to be consistent with other storage vessel standards already required for the chemical industry regulated by the HON. Specifically, as shown in Table 13, under this option, we evaluated requiring the new source level of emissions control for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, and for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater. Control would still be required for storage vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, as currently required for storage vessels at new sources in the APR source category, but which is not a requirement of the HON. Since available data for the source category indicates most APR storage vessels have fixed-roofs, under Option 2, we considered the impacts of requiring a 98 percent emissions reduction for storage vessels meeting the capacity and vapor pressure thresholds under Option 1, assuming a RTO would be used to attain this increased level of control.

Table 14 presents the impacts of the options considered for storage vessels at a new source in the APR source category under the technology review. Since there are currently no new sources in the APR source category, this analysis was conducted based on a single model APR facility. As seen by the incremental cost effectiveness column in Table 14 of this preamble, for Option 1, we estimated the capital costs to be approximately $11,000, and the total annualized costs are estimated to be approximately $2,500. The estimated HAP emissions reduction is approximately 1.1 tpy, and the cost effectiveness is approximately $2,400/ton. For Option 2, we estimated the capital costs to be approximately $590,000, and the total annualized costs are estimated to be approximately $170,000. The estimated HAP emissions reduction is approximately 1.2 tpy, and the incremental cost effectiveness between Option 1 and Option 2 is approximately $1.43 million/ton.

TABLE 13—STORAGE TANK SIZE AND VAPOR PRESSURE THRESHOLDS CONSIDERED UNDER THE TECHNOLOGY REVIEW FOR NEW SOURCES

| Regulatory alternatives | Size and vapor pressure thresholds for control | |
|---|---|---|
| | Size (gallons) | Vapor pressure (psia) |
| Current MACT Requirements | 50,000 ≤ capacity | ≥2.45 |
| | 90,000 ≤ capacity | ≥0.15 |
| Options 1 and 2 | 20,000 ≤ capacity <40,000 | ≥1.9 |
| | 40,000 ≤ capacity <90,000 | ≥0.75 |
| | 90,000 ≤ capacity | ≥0.15 |

TABLE 14—FACILITY EMISSIONS REDUCTION AND COST IMPACTS OF CONTROL OPTIONS FOR STORAGE VESSELS AT A MODEL NEW APR FACILITY

| Regulatory alternatives | HAP emissions reduction (tpy) | Capital cost ($) | Annual cost ($/yr) | Cost effectiveness ($/ton HAP removed) | Incremental cost effectiveness ($/ton HAP removed) |
|---|---|---|---|---|---|
| Option 1 | 1.05 | 11,200 | 2,500 | 2,370 | |
| Option 2 | 1.17 | 590,000 | 171,000 | 146,000 | 1,430,000 |

Based on this analysis, we believe the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with these control options. We believe that the costs of Option 2 are not reasonable, given the level of HAP emission reduction they would achieve. Therefore, we are proposing to revise the APR MACT standards to require the current level of control for storage vessels at new sources with the specified capacities and vapor pressures for Option 1.

For equipment leaks, continuous process vents, batch process vents and heat exchange systems, beyond what is currently required in the rule or is being proposed in this action, we did not identify: any add-on control technology or other equipment that was not identified and considered during MACT development; any improvements in add-on control technology or other equipment (that was identified and considered during MACT development) that could result in significant additional HAP emission reduction; any work practice or operational procedure that was not identified and considered during MACT development; any process change or pollution prevention alternative that could be broadly applied that was not identified and considered during MACT development; or any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during MACT development).

For more detailed information on the results of the EPA's technology review, see the memorandum, *Developments in Practices, Processes, and Control Technologies for the Amino/Phenolic Resins Production Source Category* available in the docket for this action (EPA–HQ–OAR–2012–0133).

## VI. Analytical Results and Proposed Decisions for the PC Source Category

### *A. What are the results of the risk assessment and analyses?*

1. Inhalation Risk Assessment Results

Table 15 provides an overall summary of the inhalation risk assessment results for the source category.

TABLE 15—PC INHALATION RISK ASSESSMENT RESULTS

| Number of facilities [1] | Maximum individual cancer risk (in 1 million) [2] | | Population at risk ≥ 1-in-1 million | Annual cancer incidence (cases per year) | Maximum chronic non-cancer TOSHI [3] | | Maximum off-site acute non-cancer HQ [4] |
|---|---|---|---|---|---|---|---|
| | Actual emissions level | Allowable emissions level | | | Actual emissions level | Allowable emissions level | |
| 4 | 0.3 | 0.3 | 0 | 0.00008 | 0.04 | 0.04 | $HQ_{REL}$ = 2 triethylamine. |

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk.
[3] Maximum TOSHI. The target organ with the highest TOSHI for the PC source category is the respiratory system.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When HQ values exceed 1, we also show HQ values using the next lowest available acute dose-response value. See section III.A.3 of this preamble for explanation of acute dose-response values.

The inhalation risk modeling was performed using actual emissions level data. As shown in Table 15, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 0.3-in-1 million, the estimated maximum chronic non-cancer TOSHI value is 0.04 and the estimated maximum off-facility site acute HQ value is 2, based on the actual emissions level and the REL value for triethylamine. The total estimated national cancer incidence from these facilities based on actual emission levels is 0.00008 excess cancer cases per year or one case in every 13,000 years.

Based on our analysis, we estimate that the MACT-allowable emissions level for organic HAP emissions from certain storage vessels could be up to 2.5 times the actual emissions from this source category. However, as we estimate that storage vessel emissions contribute only 5 percent to the total organic HAP emissions for the source category, the application of the factor of 2.5 to the organic HAP emissions from these sources resulted in essentially no increase in cancer risks, as the risk increase is so small that when the risk value is rounded to one significant digit, there is no change. Therefore, the cancer risk results for MACT-allowable emissions are approximately equal to those for actual emissions. For more detail about this estimate of the ratio of actual to MACT-allowable emissions and the estimation of MACT-allowable emission levels (and associated risks and impacts), see the memorandum, *MACT Allowable Emissions and Risks for the Acrylic and Modacrylic Fibers, Amino/Phenolic Resins, and Polycarbonate Production Source Categories,* in the docket for this action.

2. Acute Risk Results

We estimate that the maximum off-facility site acute HQ value is 2, based on the actual emissions level and the REL value for triethylamine.

3. Multipathway Risk Screening Results

There were no reported emissions of PB–HAP, indicating low potential for human health multipathway risks as a

result of PB–HAP emissions from this source category.

4. Environmental Risk Screening Results

The emissions data for the PC source category indicate that sources within this source category do not emit any of the seven pollutants that we identified as ''environmental HAP,'' as discussed earlier in this preamble. Based on the processes and materials used in the source category, we do not expect any of the seven environmental HAP to be emitted. Also, we are unaware of any adverse environmental effect caused by emissions of HAP that are emitted by this source category. Therefore, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

5. Facility-Wide Risk Results

Table 16 displays the results of the facility-wide risk assessment for the PC source category. This assessment was conducted based on actual emission levels. For detailed facility-specific results, see Appendix 4 of the *Draft Residual Risk Assessment for the Polycarbonate Production Source Category* in the docket for this action.

TABLE 16—PC FACILITY-WIDE RISK ASSESSMENT RESULTS

| | |
|---|---|
| Number of facilities analyzed | 4 |
| Cancer Risk: | |
| Estimated maximum facility-wide individual cancer risk (in 1 million) | 20 |
| Number of facilities with estimated facility-wide individual cancer risk of 100-in-1 million or more | 0 |
| Number of facilities at which the PC source category contributes 50 percent or more to the facility-wide individual cancer risks of 100-in-1 million or more | 0 |
| Number of facilities at which the PC source category contributes 50 percent or more to the facility-wide individual cancer risk of 1-in-1 million or more | 0 |
| Chronic Non-cancer Risk: | |
| Maximum facility-wide chronic non-cancer TOSHI | 2 |
| Number of facilities with facility-wide maximum non-cancer TOSHI greater than 1 | 1 |
| Number of facilities at which the PC source category contributes 50 percent or more to the facility-wide maximum non-cancer TOSHI of 1 or more | 0 |

The facility-wide MIR from all HAP emissions at a facility that contains sources subject to the PC MACT standards is estimated to be 20-in-1 million, based on actual emissions. Of the 4 facilities included in this analysis, none have a facility-wide MIR of 100-in-1 million. There are 2 facilities with facility-wide MIR of 1-in-1 million or greater. Neither of these facilities have PC production operations that contribute greater than 50 percent to the facility-wide risks.

The facility-wide maximum individual chronic non-cancer TOSHI is estimated to be 2 based on actual emissions. Of the 4 facilities included in this analysis, one has facility-wide maximum chronic non-cancer TOSHI values greater than or equal to 1.

6. What demographic groups might benefit from this regulation?

To determine whether or not to conduct a demographics analysis, we look at a combination of factors including the MIR, non-cancer TOSHI, population around the facilities in the source category, and other relevant factors. For the PC source category, our analyses show that actual emissions from the PC source category result in no individuals being exposed to cancer risk greater than 1-in-1 million or a non-cancer TOSHI greater than 1. Therefore, we did not conduct an assessment of risks to individual demographic groups for this rulemaking. However, we did conduct a proximity analysis, which identifies any overrepresentation of minority, low income or indigenous populations near facilities in the source category. The results of this analysis are presented in the section of this preamble entitled ''Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.''

*B. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?*

1. Risk Acceptability

As noted in section III.B of this preamble, we weigh all health risk factors in our risk acceptability determination, including the MIR; the number of persons in various risk ranges; cancer incidence; the maximum non-cancer HI; the maximum acute non-cancer HQ; the extent of non-cancer risks; the potential for adverse environmental effects; distribution of risks in the exposed population; and risk estimation uncertainty (54 FR 38044, September 14, 1989). For the PC source category, the risk analysis we performed indicates that the cancer risks to the individual most exposed could be up to 0.3-in-1 million due to both actual and allowable emissions. This value is considerably less than 100-in-1 million, which is the presumptive level of acceptability. The risk analysis also shows low cancer incidence (1 in every 13,000 years), low potential for human health multipathway effects because no PB–HAP are emitted from this source category, and that chronic non-cancer health impacts are unlikely.

We estimate that the worst-case acute HQ could exceed 1 for one HAP, triethylamine, with a potential maximum HQ up to 2 based on the acute REL for triethylamine. One of the 4 facilities in this source category had an estimated HQ greater than 1. As described earlier in this preamble, the acute assessment includes some conservative assumptions and some uncertainties. Considering the improbable assumption that worst-case meteorological conditions are present at the same time that maximum hourly emissions formaldehyde exceed the average hourly emission rate by a factor of 10 at most emission points simultaneously, and coincident with individuals being in the location of maximum impact, we believe that it is unlikely that HAP emissions from this source category would result in adverse acute health effects. Further discussion on these assumptions can be found in the *Draft Residual Risk Assessment for the Polycarbonate Production Source Category,* which is available in the docket for this action.

Our additional analysis of facility-wide risks showed that the maximum facility-wide cancer risk is 20-in-1 million and the maximum chronic non-cancer TOSHI is estimated to be 2. The source category contributes less than 1 percent to the maximum facility-wide cancer risk and less than 1 percent to the maximum facility-wide TOSHI.

The EPA has weighed the various health risk measures and health factors, including risk estimation uncertainty, discussed above and in section III.A.8 of

this preamble, and we are proposing to determine that the risks from the PC source category are acceptable.

2. Ample Margin of Safety Analysis

The PC source category emits HAP which are known, probable or possible carcinogens. The EPA evaluated the emissions of these HAP and estimates that the cancer risks to the individual most exposed are less than 1-in-1 million, based on actual and MACT-allowable emissions. Our analysis also indicates that chronic non-cancer risks are low, based on actual and MACT-allowable emissions. We estimate that emissions from the PC source category would result in a maximum chronic non-cancer TOSHI less than 1 for the individual most exposed. While the assessment for acute impacts suggests that short-term triethylamine concentrations at one facility could exceed the REL, we believe it unlikely that acute impacts would occur due to the conservative assumptions and uncertainties associated with the acute analysis. These assumptions include having worst-case meteorological conditions present at the same time that maximum hourly emissions of triethylamine exceed the average hourly emission rate by a factor of 10, coincident with individuals being in the location of maximum impact.

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our ample margin of safety determination. Considering all of these factors, the EPA is proposing to determine that the current MACT standards in 40 CFR part 63, subpart YY for the PC source category provide an ample margin of safety to protect public health.

3. Adverse Environmental Effects

We did not identify emissions of the seven environmental HAP included in our environmental risk screening, and are unaware of any adverse environmental effects caused by other HAP emitted by this source category. Therefore, we do not expect there to be an adverse environmental effect as a result of HAP emissions from this source category, and we are proposing to determine that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

*C. What are the results and proposed decisions based on our technology review?*

In the period of time since the PC MACT standards were promulgated, the EPA has developed air toxics regulations for numerous source categories that emit organic HAP from the same type of emissions sources that are present in the PC source category. We reviewed the regulatory requirements and technical analyses for these regulations for new practices, processes, and control techniques. We also conducted a search of the BACT/RACT/LAER clearinghouse for controls for VOC- and HAP-emitting processes in the Polymers and Resins and the SOCMI categories with permits dating back to 1997.

The PC MACT standards currently require compliance with either subpart TT or subpart UU of 40 CFR part 63 to control emissions from equipment leaks. While many of the provisions of these two rules are the same or similar, subpart UU requires the use of a lower leak definition for valves in gas and vapor service and in light liquid service, pumps in light liquid service, and connectors in gas and vapor service and in light liquid service. Specifically, subpart UU lowers the leak definition for valves from 10,000 ppm (in subpart TT) to 500 ppm, lowers the leak definition for pump seals from 10,000 ppm (in subpart TT) to 1,000 ppm, and requires instrument monitoring of connectors with a leak definition of 500 ppm, as opposed to sensory monitoring (in subpart TT). We identified the more stringent leak definitions of subpart UU as a development in practices, processes or control technologies for LDAR programs.

Assuming that each of the four PC sources currently comply with subpart TT, we analyzed the costs and emission reductions associated with switching from a subpart TT LDAR program to a subpart UU LDAR program, both including and not including the subpart UU connector monitoring requirements, which can be an expensive component of an LDAR program. The estimated costs and emissions reductions associated with these options are shown in Table 17. For Option 1 (subpart UU without connector monitoring), we estimated the capital costs to be approximately $16,000, and the total annualized costs are estimated to be approximately $2,200. The estimated HAP emissions reduction is approximately 2.1 tpy, and the cost effectiveness is approximately $1,000/ton. For Option 2 (subpart UU with connector monitoring), we estimated the capital costs to be approximately $93,000, and the total annualized costs are estimated to be approximately $32,000. The estimated HAP emissions reduction is approximately 4.4 tpy, and the cost effectiveness is approximately $7,400/ton. The incremental cost effectiveness between Option 1 and Option 2 is approximately $13,000.

While, as discussed in section VI.B above, the equipment leaks control options are not needed to support the EPA's finding under CAA section 112(f) that the PC MACT standards already protect public health with an ample margin of safety, and while we do not factor quantified risk reductions into CAA section 112(d)(6) technology review analyses, for informational purposes we note that neither Option 1 nor Option 2 for equipment leaks would reduce the MIR for the source category because the MIR is not caused by emissions from equipment leaks. However, the maximum chronic non-cancer TOSHI is due to emissions from equipment leaks. At the MACT-allowable emissions level, under Option 1, the TOSHI would be reduced from 0.04 to 0.03, and under Option 2, the TOSHI would be reduced to 0.02.

TABLE 17—PC EQUIPMENT LEAK OPTIONS IMPACTS

| Regulatory alternatives | HAP emissions reduction (tpy) | Capital cost ($) | Annual cost ($/yr) | Cost effectiveness ($/ton HAP removed) | Incremental cost effectiveness ($/ton HAP removed) |
|---|---|---|---|---|---|
| Option 1: Subpart UU, no connector monitoring ..... | 2.1 | 16,000 | 2,200 | 1,000 | |
| Option 2: Subpart UU with connector monitoring ..... | 4.4 | 93,000 | 32,000 | 7,400 | 13,000 |

Based on this analysis, we believe the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. We believe the costs of Option 2 are not reasonable, given the level of HAP emission reduction that control option would achieve. Therefore, we are proposing to revise the PC MACT standards to require facilities to comply with subpart UU rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We are proposing to retain the option to comply with either subpart TT or subpart UU for these components.

For storage vessels, process vents and wastewater treatment systems, beyond what is currently required in the rule or is being proposed in this action, we did not identify: Any add-on control technology or other equipment that was not identified and considered during MACT development; any improvements in add-on control technology or other equipment (that was identified and considered during MACT development) that could result in significant additional HAP emission reduction; any work practice or operational procedure that was not identified and considered during MACT development; any process change or pollution prevention alternative that could be broadly applied that was not identified and considered during MACT development; or any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during MACT development).

For more detailed information on the results of the EPA's technology review, see the memorandum, *Developments in Practices, Processes, and Control Technologies for the Polycarbonate Production Source Category,* available in the docket for this action (EPA–HQ–OAR–2012–0133).

## VII. What other actions are we proposing?

In addition to the proposed changes to the standards described above, we reviewed the MACT standards to determine whether we should make additional amendments. From this review we have identified four additional revisions. First, we are proposing revisions to the SSM provisions of the MACT rule in order to ensure that they are consistent with the court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable section 112(d) emission standards during periods of SSM. As part of these SSM revisions, we are proposing to require monitoring of PRD in organic HAP service that release to the atmosphere. Second, we are proposing revisions to require electronic reporting of emissions test results. Third, we are proposing to add a definition of ''seal'' to all three rules. Finally, we are seeking comments on the performance of flares in these source categories. We present details and the rationale for the proposed changes related to these issues in the following sections.

### *A. Startup, Shutdown and Malfunction*

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), *cert. denied,* 130 S. Ct. 1735 (U.S. 2010), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously.

We are proposing the elimination of the SSM exemption in the rules regulating each of the three source categories addressed by this rule. Consistent with *Sierra Club* v. *EPA,* we are proposing that the standards in these rules apply at all times. We are also proposing several revisions to Subpart YY and Table 1 to Subpart OOO (the General Provisions applicability table), as is explained in more detail below. For example, we are proposing to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are proposing to eliminate and revise certain recordkeeping and reporting requirements related to the SSM exemption, as further described below.

The EPA has attempted to ensure that the provisions we are proposing to eliminate are inappropriate, unnecessary or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether we have successfully done so.

In proposing the standards in these rules, the EPA has taken into account startup and shutdown periods and has not proposed alternate standards for those periods because facilities in these source categories have not indicated that they will be unable to comply with the standards during these times. Emission reductions for process vents and transfer operations are typically achieved by routing vapors to a control device such as a thermal oxidizer or carbon adsorber. It is common practice to start a control device prior to startup of the emissions source it is controlling, so the control device would be operating before emissions are routed to it. We expect control devices would be operating during startup and shutdown events in a manner consistent with normal operating periods, and that these control devices will be operated to maintain and meet the monitoring parameter operating limits set during the performance test. We do not expect startup and shutdown events to affect emissions from equipment leaks, wastewater sources (e.g., surface impoundments, oil-water separators, organic-water separators) or storage tanks. Leak detection programs associated with equipment leaks are in place to detect leaks, and therefore, it is inconsequential whether the process is operating under normal operating conditions or is in startup or shutdown. Wastewater emissions are also not expected to be significantly affected by startup or shutdown events. Working and breathing losses from storage tanks are the same regardless of whether the process is operating under normal operating conditions or if it is in a startup or shutdown event.

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunction is defined as a ''sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment or a process to operate in a normal or usual manner * * *'' (40 CFR 63.2). The EPA has determined that CAA section 112 does not require that emissions that occur during periods of malfunction be factored into development of CAA section 112 standards. Under section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best-controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the agency to consider malfunctions in determining the level ''achieved'' by the best-performing or best-controlled sources when setting emission standards. Moreover, while the EPA accounts for variability in setting emissions standards consistent with the section 112 case law, nothing in that case law requires the agency to consider malfunctions as part of that analysis.

Section 112 of the CAA uses the concept of ''best-controlled'' and ''best-performing'' unit in defining the level of stringency that section 112 performance standards must meet. Applying the concept of ''best-controlled'' or ''best-performing'' to a unit that is malfunctioning presents significant difficulties, as malfunctions are sudden and unexpected events.

Further, accounting for malfunctions would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. *See,* e.g., *Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to ''invest the resources to conduct the perfect study.''). *See also, Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, the goal of a best controlled or best performing source is to operate in such a way as to avoid malfunctions of the source, and accounting for malfunctions could lead to standards that are significantly less stringent than levels that are achieved by a well-performing non-malfunctioning source. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' See 40 CFR 63.2, definition of malfunction.

Finally, the EPA recognizes that even equipment that is properly designed and maintained can sometimes fail and that such failure can sometimes cause a violation of an emission standard. *See,* e.g., *State Implementation Plans: Response to Petition for Rulemaking; Findings of Excess Emissions During Periods of Startup, Shutdown, and Malfunction;* Proposed rule, 78 FR 12460 (Feb. 22, 2013); *State Implementation Plans: Policy Regarding Excessive Emissions During Malfunctions, Startup, and Shutdown* (September 20, 1999); *Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions* (February 15, 1983). The EPA is therefore proposing to add an affirmative defense to civil penalties for violations of emission standards in these rules that are caused by malfunctions. (See proposed 40 CFR 63.1100(h) and 40 CFR 63.1400(l) defining ''affirmative defense'' to mean, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding).

We also are proposing other regulatory provisions to specify the elements that are necessary to establish this affirmative defense; the source must prove by a preponderance of evidence that it has met all of the elements set forth in proposed 40 CFR 63.1100(h) and 40 CFR 63.1400(l). (See 40 CFR 22.24). The proposed criteria are designed in part to ensure that the affirmative defense is available only where the event that causes a violation of the emission standard meets the narrow definition of malfunction in 40 CFR 63.2 (sudden, infrequent, not reasonably preventable and not caused by poor maintenance and/or careless operation). For example, to successfully assert the proposed affirmative defense, the source must prove by a preponderance of the evidence that the violation ''[w]as caused by a sudden, infrequent, and unavoidable failure of air pollution control, process equipment, or a process to operate in a normal or usual manner . . . .'' The proposed criteria also are designed to ensure that steps are taken to correct the malfunction, to minimize emissions in accordance with proposed 40 CFR 63.1108(a)(4)(ii) and 40 CFR 63.1400(k)(4) and to prevent future malfunctions. For example, under the proposed criteria, the source must prove by a preponderance of the evidence that ''[r]epairs were made as expeditiously as possible when a violation occurred…'' and that ''[a]ll possible steps were taken to minimize the impact of the violation on ambient air quality, the environment and human health . . . .'' Under the proposal, in any judicial or administrative proceeding, the Administrator may challenge the assertion of the affirmative defense and, if the respondent has not met its burden of proving all of the requirements in the affirmative defense, appropriate penalties may be assessed in accordance with section 113 of the CAA (see also 40 CFR 22.27).

The EPA is proposing to include an affirmative defense in an attempt to balance a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances beyond the control of the source. The EPA must establish emission standards that ''limit the quantity, rate, or concentration of emissions of air pollutants on a continuous basis.'' CAA section 302(k), 42 U.S.C. 7602(k) (defining ''emission limitation'' and ''emission standard''). *See, generally, Sierra Club* v. *EPA,* 551 F.3d 1019, 1021 (D.C. Cir. 2008). Thus, the EPA is required to ensure that emissions standards are continuous. The affirmative defense for malfunction events meets this requirement by ensuring that even where there is a malfunction, the emission standard is still enforceable through injunctive relief. The United States Court of Appeals for the Fifth Circuit recently upheld the EPA's view that an affirmative defense provision is consistent with section 113(e) of the CAA. *Luminant Generation Co. LLC* v. *United States EPA,* 714 F.3d 841 (5th Cir. Mar. 25, 2013) (upholding the EPA's approval of affirmative defense provisions in a CAA State Implementation Plan). While ''continuous'' standards are required, there is also case law indicating that in many situations it is appropriate for the EPA to account for the practical realities of technology. For example, in *Essex Chemical* v. *Ruckelshaus,* 486 F.2d 427, 433 (D.C. Cir. 1973), the D.C. Circuit acknowledged that in setting standards under CAA section 111 ''variant

provisions'' such as provisions allowing for upsets during startup, shutdown and equipment malfunction ''appear necessary to preserve the reasonableness of the standards as a whole and that the record does not support the 'never to be exceeded' standard currently in force.'' See also, *Portland Cement Association* v. *Ruckelshaus,* 486 F.2d 375 (D.C. Cir. 1973). Though these earlier cases may no longer represent binding precedent in light of the CAA 1977 amendments and intervening case law such as *Sierra Club* v. *EPA,* they nevertheless support the EPA's view that a system that incorporates some level of flexibility is reasonable and appropriate.

The affirmative defense simply provides for a defense to civil penalties for violations that are proven to be beyond the control of the source. Through the proposed incorporation of an affirmative defense, the EPA is proposing to formalize its approach to malfunctions. In a Clean Water Act setting, the Ninth Circuit required this type of formalized approach when regulating ''upsets beyond the control of the permit holder.'' *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977). *See also, Mont. Sulphur & Chem. Co.* v. *EPA,* 666 F.3d 1174 (9th Cir. 2012) (rejecting industry argument that reliance on the affirmative defense was not adequate). *But see, Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal approach is adequate). The proposed affirmative defense provisions would give the EPA the flexibility to both ensure that its emission standards are ''continuous,'' as required by 42 U.S.C. 7602(k), and account for unplanned upsets and, thus, support the reasonableness of the standard as a whole.

The EPA is proposing the affirmative defense applicable to malfunctions under the delegation of general regulatory authority set out in section 301(a)(1) of the CAA, 42 U.S.C. 7601(a)(1), in order to balance this tension between provisions of the CAA and the practical reality, as case law recognizes, that technology sometimes fails. *See generally, Citizens to Save Spencer County* v. *U.S. Environmental Protection Agency,* 600 F.2d 844, 873 (D.C. Cir. 1979) (using section 301(a) authority to harmonize inconsistent guidelines related to the implementation of federal preconstruction review requirements).

1. General Duty

For the APR MACT standards, we are proposing to revise the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(1)(i) by changing the explanation in column 3. 40 CFR 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. Similarly, for the AMF and PC source categories, we are also proposing to remove this requirement at 40 CFR 63.1108(a)(5). For the AMF, APR and PC MACT standards, we are proposing instead to add general duty regulatory text at 40 CFR 63.1108(a)(4)(ii) and 63.1400(k)(4) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore the language the EPA is proposing for 40 CFR 63.1108(a)(4)(ii) and 63.1400(k)(4) does not include that language from 40 CFR 63.6(e)(1).

For the APR MACT standards, we are also proposing to revise the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(1)(ii) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.1400(k)(4).

2. SSM Plan

For the APR MACT standards, we are proposing to revise the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(3) by changing the ''yes'' in the second column to a ''no.'' Similarly, for the AMF and PC source categories, we are also proposing to remove this requirement at 40 CFR 63.1111(a). Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

3. Compliance With Standards

For the APR MACT standards, we are proposing to revise the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in the second column to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some section 112 standard apply continuously. Consistent with *Sierra Club,* the EPA is proposing to revise standards in this rule to apply at all times.

4. Performance Testing

For the APR MACT standards, we are proposing to revise the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.7(e)(1) describes performance testing requirements. Similarly, for the AMF and PC source categories, we are also proposing to revise this requirement at 40 CFR 63.1108(b)(4)(ii).

For the AMF, APR and PC MACT standards, the EPA is instead proposing to add a performance testing requirement at 40 CFR 1108(b)(4)(ii) and 63.1413(a)(2). The performance testing requirements we are proposing to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The proposed performance testing provisions do not allow performance testing during periods of startup or shutdown. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are not representative of normal operating conditions. The EPA is proposing to add language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Currently, 40 CFR 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' available to the Administrator upon request, but does not specifically require the information to be recorded. The regulatory text the EPA is proposing to add to this

provision builds on that requirement and makes explicit the requirement to record the information.

5. Monitoring

For the APR MACT standards, we are proposing to revise the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in the second column to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

6. Recordkeeping

For the AMF, APR and PC MACT standards, the EPA is proposing to add recordkeeping requirements during a malfunction to 40 CFR 63.1111(c)(1) and 63.1416(b). The EPA is proposing that this requirement apply to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also proposing to add to 40 CFR 63.1111(c)(1) and 63.1416(b) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the volume of each regulated pollutant emitted over the standard for which the source failed to meet the standard and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

7. Reporting

For the APR MACT standards, we are proposing to revise the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in the second column to a ''no.'' Section 63.10(d)(5) describes the reporting requirements for startups, shutdowns, and malfunctions. Similarly, for the AMF and PC source categories, we are also proposing to remove this requirement at 40 CFR 63.1111(b).

For the AMF, APR and PC MACT standards, to replace the General Provisions reporting requirement, the EPA is proposing to add reporting requirements to 40 CFR 63.1111(c)(2) and 63.1417(g). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual periodic report already required under this rule. We are proposing that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments therefore eliminate the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

We note that reporting a failure to meet an applicable standard could include malfunction events for which a source may choose to submit documentation to support an assertion of affirmative defense, consistent with the affirmative defense provisions we are proposing today. If a source provides all the material proposed in 40 CFR 63.1100(h) and 63.1400(l) to support an affirmative defense, the source need not submit the same information two times in the same report. While assertion of an affirmative defense is not mandatory and would occur only if a source chooses to take advantage of the affirmative defense, the proposed affirmative defense also requires additional reporting that goes beyond these routine requirements related to a failure to meet an applicable standard for a reason other than a malfunction.

For the APR MACT standards, we are proposing to revise the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.10(d)(5)(ii) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.10(d)(5)(ii) describes an immediate report for startups, shutdown, and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners or operators to report when actions taken during a startup, shutdown, or malfunction were not consistent with an SSM plan, because plans would no longer be required.

8. Pressure Relief Devices

For the AMF, PC and APR MACT standards, we are proposing, as part of our revisions to address periods of SSM in response to the 2008 *Sierra Club* ruling, to specify that PRD in organic HAP service may not release to the atmosphere. To ensure compliance with this requirement, we are further proposing to require facility owners or operators in these three source categories to employ monitoring capable of (1) immediately alerting an operator when there is an atmospheric release from a PRD in organic HAP service and (2) recording the time and duration of each pressure release. Owners or operators would be required to report any pressure release and an estimate of the amount of organic HAP released to the atmosphere with the next periodic report.

We believe that PRD releases that are vented directly to the atmosphere are caused by malfunctions. Emissions vented to the atmosphere by PRDs may contain HAP that are otherwise regulated under the MACT standards. In *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the court determined that standards under CAA section 112(d) must provide for compliance at all times. Therefore, the proposed rule revisions provide that a pressure release from a PRD in organic HAP service, unless routed to a control device or process, is a violation of the emission standard. As with any malfunction event, an owner or operator may assert an affirmative defense against civil penalties for a malfunction causing a

pressure release from a PRD in organic HAP service to the atmosphere.

Pressure release events from PRDs in organic HAP service to the atmosphere have the potential to emit large quantities of HAP. Where a release occurs, it is important to identify and mitigate it as quickly as possible. Therefore, we are proposing to require that sources monitor PRDs in organic HAP service using a device or system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators that a release has occurred. For purposes of estimating the costs of this requirement, we assumed that operators would install electronic indicators on each PRD in organic HAP service that vents to the atmosphere to identify and record the time and duration of each pressure release. However, owners or operators could use a range of methods to satisfy these requirements, including the use of a parameter monitoring system that may already have been in place on the process operating pressure that is sufficient to notify operators immediately that a pressure release is occurring, as well as recording the time and duration of that release.

Based on our cost assumptions that the most expensive approach would be used, the nationwide capital cost of installing these monitors is $37,000, $400,000 and $51,000 for the AMF, APR and PC source categories, respectively. The total annualized cost of installing and operating these monitors is $5,300, $56,000 and $7,200 per year for the AMF, APR and PC source categories, respectively.

*B. Electronic Reporting*

In this proposal, the EPA is describing a process to increase the ease and efficiency of performance test data submittal while improving data accessibility. Specifically, the EPA is proposing that owners or operators of AMF, APR and PC facilities submit electronic copies of required performance test and performance evaluation reports by direct computer-to-computer electronic transfer using EPA-provided software. These provisions are being proposed in 40 CFR 63.1110(a)(9) (for the AMF and PC MACT standards) and 40 CFR 63.1417(h)(9) (for the APR MACT standards). The direct computer-to-computer electronic transfer is accomplished through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The Central Data Exchange is EPA's portal for submittal of electronic data. The EPA-provided software is called the Electronic Reporting Tool (ERT) which is used to generate electronic reports of performance tests and evaluations. The ERT generates an electronic report package which will be submitted using CEDRI. The submitted report package will be stored in the CDX archive (the official copy of record) and the EPA's public database called WebFIRE. All stakeholders will have access to all reports and data in WebFIRE and accessing these reports and data will be very straightforward and easy (see the WebFIRE Report Search and Retrieval link at *http://cfpub.epa.gov/webfire/index.cfm?action=fire.searchERTSubmission*). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site (*www.epa.gov/cdx*). A description of the WebFIRE database is available at: *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main*.

The proposal to submit performance test data electronically to the EPA applies only to those performance tests (and/or performance evaluations) conducted using test methods that are supported by the ERT. The ERT supports most of the commonly used EPA reference methods. A listing of the pollutants and test methods supported by the ERT is available at: *http://www.epa.gov/ttn/chief/ert/index.html*.

We believe that industry would benefit from this proposed approach to electronic data submittal. Specifically, by using this approach, industry will save time in the performance test submittal process. Additionally, the standardized format that the ERT uses allows sources to create a more complete test report resulting in less time spent on data backfilling if a source failed to include all data elements required to be submitted. Also, through this proposal, industry may only need to submit a report once to meet the requirements of the applicable subpart because stakeholders can readily access these reports from the WebFIRE database. This also benefits industry by cutting back on recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be retained in hard copy, thereby reducing staff time needed to coordinate these records.

Since the EPA will already have performance test data in hand, another benefit to industry is that fewer or less substantial data collection requests in conjunction with prospective required residual risk assessments or technology reviews will be needed. This would result in a decrease in staff time needed to respond to data collection requests.

State, local and tribal air pollution control agencies (S/L/Ts) may also benefit from having electronic versions of the reports they are now receiving. For example, S/L/Ts may be able to conduct a more streamlined and accurate review of electronic data submitted to them. For example, the ERT would allow for an electronic review process, rather than a manual data assessment, therefore, making review and evaluation of the source provided data and calculations easier and more efficient. In addition, the public stands to benefit from electronic reporting of emissions data because the electronic data will be easier for the public to access. How the air emissions data are collected, accessed and reviewed will be more transparent for all stakeholders.

One major advantage of the proposed submittal of performance test data through the ERT is a standardized method to compile and store much of the documentation required to be reported by this rule. The ERT clearly states what testing information would be required by the test method and has the ability to house additional data elements that might be required by a delegated authority.

In addition, the EPA must have performance test data to conduct effective reviews of CAA sections 112 standards, as well as for many other purposes, including compliance determinations, emission factor development and annual emission rate determinations. In conducting these required reviews, the EPA has found it ineffective and time consuming, not only for us, but also for regulatory agencies and source owners or operators, to locate, collect and submit performance test data. In recent years, stack testing firms have typically collected performance test data in electronic format, making it possible to move to an electronic data submittal system that would increase the ease and efficiency of data submittal and improve data accessibility.

A common complaint heard from industry and regulators is that emission factors are outdated or not representative of a particular source category. With timely receipt and incorporation of data from most performance tests, the EPA would be able to ensure that emission factors, when updated, represent the most current range of operational practices. Finally, another benefit of the proposed data submittal to WebFIRE electronically is that these data would greatly improve the overall quality of

existing and new emissions factors by supplementing the pool of emissions test data for establishing emissions factors.

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data would save industry, state, local, and tribal agencies and the EPA significant time, money and effort while also improving the quality of emission inventories and air quality regulations.

*C. Open-Ended Valves and Lines*

The AMF MACT standards at 40 CFR 63.1103(b)(3) and the PC MACT standards at 40 CFR 63.1103(d)(3) require an owner or operator to control emissions from equipment leaks according to the requirements of either 40 CFR part 63, subpart TT or subpart UU. The APR MACT standards at 40 CFR 63.1410 require that equipment leaks be controlled according to subpart UU and do not provide an option to comply with subpart TT. For open-ended valves and lines, both subpart TT and subpart UU require that the open end be equipped with a cap, blind flange, plug or second valve that ''shall seal the open end at all times.'' However, neither subpart (nor the AMF, APR or PC MACT standards) define ''seal'' or explain in practical and enforceable terms what constitutes a sealed open-ended valve or line. This has led to uncertainty on the part of the owner or operator as to whether compliance is being achieved. Inspections under the EPA's Air Toxics LDAR initiative have provided evidence that while certain open-ended lines may be equipped with a cap, blind flange, plug or second valve, they are not operating in a ''sealed'' manner as the EPA interprets that term.

In response to this uncertainty, we are proposing to amend 40 CFR 63.1103(b)(2) (for the AMF MACT standards), 40 CFR 63.1402(b) (for the APR MACT standards) and 40 CFR 63.1103(d)(2) (for the PC MACT standards) to add a definition of ''seal.'' This proposed definition clarifies that, for the purpose of complying with the requirements of 40 CFR 63.1033(b) of subpart UU, open-ended valves and lines are ''sealed'' by the cap, blind flange, plug, or second valve when there are no detectable emissions from the open-ended valve or line at or above an instrument reading of 500 ppm. We solicit comments on this approach to reducing the compliance uncertainty associated with open-ended valves and lines and our proposed definition of ''seal.''

*D. Flare Performance*

In addition to our proposed actions under CAA sections 112(d) and (f) for the AMF, PC and APR source categories, we are seeking comments on the performance of flares to control HAP emissions in these source categories, as governed by the EPA's General Provisions at 40 CFR 63.11(b). This is an issue that the EPA has recently begun studying. In April 2012, the EPA conducted an external peer review of a draft technical report, ''Parameters for Properly Designed and Operated Flares'' (*http://www.epa.gov/ttn/atw/flare/2012flaretechreport.pdf*) (''draft flare technical report''). In this report, the EPA evaluated test data and identified a variety of parameters that may affect flare performance and that could be monitored to help assure good combustion efficiency. Based on feedback received from the external ad-hoc peer review panel, the EPA has since undertaken an initiative to go back and re-evaluate parameters that may affect overall flare performance at source categories known to use flares for controlling HAP emissions (e.g., petroleum refining).

Currently, AMF, PC and APR sources may choose to use a flare to reduce emissions from storage vessels and process vents to comply with the MACT standards, but are not required to do so. Our records indicate the use of flares in only the APR and PC source categories. However, we do not have specific flare performance data for the AMF, PC and APR source categories. Therefore, we are not at this time prepared to propose any changes to the currently applicable regulations pertaining to the performance of flares in the AMF, PC and APR source categories, but we may revisit the issue in future notices. We solicit comments and additional information on flare performance specifically for the AMF, PC and APR source categories. Examples of information requested for these source categories include: Prevalence of flaring; number and types of flares used; waste gas characteristics such as flow rate, composition and heat content; assist gas characteristics such as target assist gas to waste gas ratios and minimum assist gas flow rates; use of flare gas recovery and other flare minimization practices; and existing flare monitoring systems.

## VIII. What compliance dates are we proposing?

Under CAA section 112(d), for the three source categories being addressed in this action, the proposed compliance date for new and existing sources for the revised SSM requirements (other than PRD monitoring for existing sources) and electronic reporting requirements is the effective date of the final amendments. We are proposing these compliance dates because these requirements should be immediately implementable by the facilities upon the next occurrence of a malfunction or the performance of a performance test that is required to be submitted to the ERT. Available information suggests that the facilities should already be able to comply with the existing standards during periods of startup and shutdown.

Under CAA section 112(i)(3), for existing sources subject to the AMF, APR and PC MACT standards, the proposed compliance date for PRD monitoring is 3 years from the effective date of the final amendments. This time is needed regardless of whether an owner or operator of a facility chooses to comply with the PRD monitoring provisions by installing PRD release indicator systems and alarms, employing parameter monitoring, or by routing releases to a control device. This time period will allow facilities to research equipment and vendors, purchase, install, test and properly operate any necessary equipment by the compliance date. For new sources subject to the AMF, APR and PC MACT standards, the proposed compliance date for PRD monitoring, along with the other SSM-related revisions, is the effective date of the final amendments.

For both new and existing sources subject to the AMF, APR and PC MACT standards, the proposed compliance date for the operating and pressure release management requirements for PRDs, along with the other SSM-related revisions, is the effective date of the final amendments. We are proposing these compliance dates because these requirements are the same as those contained in 40 CFR part 63, subpart UU, with which facilities are already complying as part of the existing MACT standards.

For the one existing source subject to the AMF MACT standards, the proposed compliance date for the new solution polymerization spinning line requirements is the effective date of the final amendments. We believe this facility is already complying with these requirements and no additional time to come into compliance is warranted.

Under CAA section 112(i)(3), for existing sources subject to the APR MACT standards, the proposed compliance date for the new MACT standards applicable to continuous process vents is 3 years from the effective date of the final amendments. This time period will allow facilities to purchase, install and test any necessary

equipment. For existing APR sources subject to the new MACT standards applicable to storage vessels, the proposed compliance date is the effective date of the final amendments. As we stated previously, our analysis indicates that all storage vessels are currently controlled to the proposed level of control and no additional time to come into compliance is warranted. For new sources subject to the APR MACT standards, the proposed compliance date for the revised storage vessel requirements is the effective date of the final amendments.

Under CAA section 112(i)(3), for existing sources subject to the AMF and PC MACT standards, the proposed compliance date for the revised equipment leak standards is 1 year from the effective date of the final amendments. Our data indicate that the one AMF facility and some of the PC facilities are currently complying with subpart TT requirements and will need time to purchase, install and test any necessary equipment and modify their existing LDAR programs. For new sources subject to AMF and PC MACT standards, the proposed compliance date for the revised equipment leak standards is the effective date of the final amendments.

## IX. Summary of Cost, Environmental and Economic Impacts

### *A. What are the affected sources?*

We anticipate that each facility in these three source categories will be affected by these proposed amendments. We estimate there is one existing facility subject to the AMF MACT standards, 18 existing facilities subject to the APR MACT standards and 4 existing facilities subject to the PC MACT standards. We do not know of any new facilities that are expected to be constructed in the foreseeable future in any of these source categories. Therefore, our impact analysis is focused on the existing sources affected by the MACT standards for these three source categories.

### *B. What are the air quality impacts?*

#### 1. AMF Source Category

For equipment leaks, we are proposing to eliminate the option of complying with subpart TT and allow facilities to comply with only subpart UU, except for connectors in gas and vapor service and in light liquid service. We are proposing to retain the option to comply with subpart TT or subpart UU for these components. We estimate the HAP emission reductions for the one facility in the AMF source category to be 0.2 tpy.

We are proposing an emission rate for spinning lines that use spin dope produced from a solution polymerization process equal to the MACT floor for this facility, which will not result in any quantifiable emission reductions.

For the proposed revisions to the MACT standards regarding SSM, including monitoring of PRDs in organic HAP service, while these changes may result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the proposed standards for the AMF source category are 0.2 tpy.

#### 2. APR Source Category

Two facilities in the APR source category have uncontrolled continuous process vents. We are proposing standards that will require 85 percent control of HAP emissions from these process vents. The estimated HAP emission reductions for these two facilities are 20.1 tpy.

We are proposing to implement emission standards for storage vessels at existing facilities. However, our data indicate that all storage vessels subject to the proposed standards are already in compliance, and no quantifiable emission reductions are expected.

For the proposed revisions to the MACT standards regarding SSM, including monitoring of PRDs in organic HAP service, while these changes may result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the proposed standards for the APR source category are 20.1 tpy.

#### 3. PC Source Category

For equipment leaks, we are proposing to eliminate the option of complying with subpart TT and allow facilities to comply with only subpart UU, except for connectors in gas and vapor service and in light liquid service. We are proposing to retain the option to comply with subpart TT or subpart UU for these components. We estimated the HAP emission reductions for the four facilities in the PC source category to be 2.1 tpy.

For the proposed revisions to the MACT standards regarding SSM, including installation and operation of monitors on PRDs, while these changes may result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the proposed standards for the PC source category are 2.1 tpy.

### *C. What are the cost impacts?*

#### 1. AMF Source Category

For equipment leaks, we are proposing to eliminate the option of complying with subpart TT and allow facilities to comply with only subpart UU, except for connectors in gas and vapor service and in light liquid service. We are proposing to retain the option to comply with subpart TT or subpart UU for these components. We estimated the capital costs for the one facility in the AMF source category to be $1,400 and the annualized costs to be $220.

We are proposing an emission rate for spinning lines that use spin dope produced from a solution polymerization process equal to the MACT floor for this facility. Thus, we do not expect any quantifiable capital or annual costs for this proposed standard.

For the proposed requirements to install and operate monitors on PRDs, we estimate the capital costs to be $37,000 and the annualized costs to be $5,300.

Therefore, the total capital costs for the AMF source category are approximately $38,000, and the total annualized costs are approximately $6,000.

#### 2. APR Source Category

Two facilities in the APR source category have uncontrolled continuous process vents. We are proposing standards that will require 85 percent control of HAP emissions from these process vents. The estimated capital costs for these two facilities are $1.1 million and the annualized costs are $340,000.

We are proposing to implement emission standards for storage vessels at existing facilities. However, our data indicate that all storage vessels subject to the proposed standards are already in compliance, and no capital or annual costs are expected.

For the proposed requirements to install and operate monitors on PRDs, we estimate the capital costs to be $400,000 and the annualized costs to be $56,000.

Therefore, the total capital costs for the APR source category are

approximately $1.5 million, and the total annualized costs are approximately $400,000.

3. PC Source Category

For equipment leaks, we are proposing to eliminate the option of complying with subpart TT and allow facilities to comply with only subpart UU, except for connectors in gas and vapor service and in light liquid service. We are proposing to retain the option to comply with subpart TT or subpart UU for these components. We estimated the capital costs to be $16,000 and the annualized costs to be $2,200.

For the proposed requirements to install and operate monitors on PRDs, we estimate the capital costs to be $51,000 and the annualized costs to be $7,200.

Therefore, the total capital costs for the PC source category are approximately $67,000, and the total annualized costs are approximately $9,400.

*D. What are the economic impacts?*

We estimate that there will be no more than a 0.5 percent price change and a similar reduction in output associated with the proposal. This is based on the costs of the rule and responsiveness of producers and consumers based on supply and demand elasticities for the industries affected by this proposal. The impacts to affected firms will be low because the annual compliance costs are quite small when compared to the annual revenues for the affected parent firms (much less than 1 percent for each). The impacts to affected consumers should also be quite small. Thus, there will not be any significant impacts on affected firms and their consumers as a result of this proposal.

*E. What are the benefits?*

Because this rulemaking is not likely to have an annual effect on the economy of $100 million or more, we have not conducted a regulatory impact analysis or a benefits analysis. However, the estimated reductions in HAP emissions that will be achieved by this proposed rule will provide benefits to public health. The proposed standards will result in significant reductions in the actual and allowable emissions of HAP and will reduce the actual and potential cancer risks and non-cancer health effects due to emissions of HAP from these source categories. We have not quantified the monetary benefits associated with these reductions.

## X. Request for Comments

We solicit comments on all aspects of this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section XI of this preamble provides more information on submitting data.

## XI. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available on the RTR Web page at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR page, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (i.e., commenter name, commenter organization, commenter email address, commenter phone number and revision comments).

3. Gather documentation for any suggested emissions revisions (e.g., performance test reports, material balance calculations, etc.).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID Number EPA–HQ–OAR–2012–0133 (through one of the methods described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility. We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR Web page at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.*

## XII. Statutory and Executive Order Reviews

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

*B. Paperwork Reduction Act*

The information collection requirements in this rule have been submitted for approval to OMB under the *Paperwork Reduction Act,* 44 U.S.C. 3501, *et seq.* The Information Collection Request (ICR) documents prepared by the EPA for these rules have been assigned EPA ICR number 1871.07 (AMF and PC MACT standards) and 1869.08 (APR MACT standards).

The information requirements are based on notification, recordkeeping and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emissions standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

To provide the public with an estimate of the relative magnitude of the burden associated with an assertion of the affirmative defense position adopted by a source, the EPA has provided administrative adjustments to this ICR to show what the notification, recordkeeping and reporting requirements associated with the assertion of the affirmative defense might entail. The EPA's estimate for the required notification, reports and records for any individual incident, including the root cause analysis, totals $2,375 annually per MACT standard and is based on the time and effort required of a source to review relevant data, interview plant employees and document the events surrounding a malfunction that has caused a violation

of an emissions limit. The estimate also includes time to produce and retain the record and reports for submission to the EPA. The EPA provides this illustrative estimate of this burden because these costs are only incurred if there has been a violation and a source chooses to take advantage of the affirmative defense.

Given the variety of circumstances under which malfunctions could occur, as well as differences among sources' operation and maintenance practices, we cannot reliably predict the severity and frequency of malfunction-related excess emissions events for a particular source. It is important to note that the EPA has no basis currently for estimating the number of malfunctions that would qualify for an affirmative defense. Current historical records would be an inappropriate basis, as source owners or operators previously operated their facilities in recognition that they were exempt from the requirement to comply with emissions standards during malfunctions. Of the number of excess emissions events reported by source operators, only a small number would be expected to result from a malfunction (based on the definition above), and only a subset of excess emissions caused by malfunctions would result in the source choosing to assert the affirmative defense. Thus, we believe the number of instances in which source operators might be expected to avail themselves of the affirmative defense will be extremely small. We expect to gather information on such events in the future and will revise this estimate as better information becomes available.

1. Acrylic and Modacrylic Fibers Production MACT Standards

The ICR document prepared by the EPA for the amendments to the AMF MACT standards we are proposing today has been assigned EPA ICR number 1871.07. Burden changes associated with these proposed amendments would result from new recordkeeping and reporting requirements associated with requirements for spinning lines that use spin dope produced from a solution polymerization process, the PRD monitoring requirements and affirmative defense provisions for all facilities subject to the AMF MACT standards.

We estimate 1 regulated facility is currently subject to the AMF requirements in subpart YY. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart YY is estimated to be 54 labor hours at a cost of $3,000 per year. There is no estimated change in annual burden to the federal government for these amendments.

2. Amino/Phenolic Resins Production MACT Standards

The ICR document prepared by the EPA for the amendments to the APR MACT standards we are proposing today has been assigned EPA ICR number 1869.08. Burden changes associated with these proposed amendments would result from new recordkeeping and reporting requirements associated with the PRD monitoring requirements and affirmative defense provisions for all facilities subject to the APR MACT standards. In addition, we estimate that two facilities will be subject to recordkeeping, reporting and monitoring requirements associated with the control of certain continuous process vents.

We estimate 18 regulated facilities are currently subject to subpart OOO. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart OOO is estimated to be 1,178 labor hours at a cost of $66,500 per year. There is no estimated change in annual burden to the federal government for these amendments.

3. Polycarbonate Production MACT Standards

The ICR document prepared by the EPA for the amendments to the PC MACT standards we are proposing today has been assigned EPA ICR number 1871.07. Burden changes associated with these proposed amendments would result from new recordkeeping and reporting requirements associated with the PRD monitoring requirements and affirmative defense provisions for all facilities subject to the MACT standards.

We estimate 4 regulated facilities are currently subject to the PC requirements in subpart YY. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart YY is estimated to be 216 labor hours at a cost of $12,000 per year. There is no estimated change in annual burden to the federal government for these amendments.

Burden is defined at 5 CFR 1320.3(b). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, the EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OAR–2012–0133. Submit any comments related to the ICR to the EPA and OMB. See the **ADDRESSES** section at the beginning of this proposed rule for where to submit comments to the EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after January 9, 2014, a comment to OMB is best assured of having its full effect if OMB receives it by February 10, 2014. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this 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 that is independently owned and operated and is not dominant in its field. According to the SBA small business standards definitions, for the APR source category, which has the NAICS code of 325211 (i.e., Plastics Material and Resin Manufacturing), the SBA small business size standard is 750 employees. For the PC source category, which has the NAICS code of 325211 (i.e., Plastics Material and Resin Manufacturing), the SBA small business size standard is 750 employees. For the AMF source category, which has the

NAICS code of 325222 (i.e., Noncellulosic Organic Fiber Manufacturing), the SBA small business size standard is 1,000 employees.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. There are no affected small businesses in the APR, AMF and PC source categories. All of the companies affected by this rule are generally large integrated corporations that are not considered to be small entities per the definitions provided in this section.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

*D. Unfunded Mandates Reform Act*

This rule does not contain a federal mandate that may result in expenditures of $100 million or more for state, local and tribal governments, in aggregate, or the private sector in any one year. The total annualized cost of this rule is estimated to be no more than $420,000 in any one year. Thus, this proposed rule is not subject to the requirements of sections 202 or 205 of the UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments nor does it impose obligations upon them.

*E. Executive Order 13132: Federalism*

This proposed rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action will not impose substantial direct compliance costs on state or local governments, nor will it preempt state law, and none of the facilities subject to this action are owned or operated by state or local governments. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, the EPA specifically solicits comment on this proposed rule from state and local officials.

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

This proposed rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). There are no AMF, PC or APR facilities owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

The EPA specifically solicits additional comment on this proposed action from tribal officials.

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action increases the level of environmental protection for all affected populations and would not cause increases in emissions or emissions-related health risks. The EPA's risk assessments (included in the docket for this proposed rule) demonstrate that the existing regulations are associated with an acceptable level of risk and provide an ample margin of safety to protect public health and prevent adverse environmental effects.

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to HAP emitted by AMF, PC or APR production facilities.

*H. Executive Order 13211: Actions Concerning Regulations 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, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This proposed rulemaking does not involve new technical standards. Therefore the EPA did not consider the use of any VCS.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority, low income or indigenous populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income or indigenous populations.

To gain a better understanding of the source categories and near source populations, the EPA conducted a proximity analysis of the facilities in the APR and PC source categories to identify any overrepresentation of minority, low income or indigenous populations. This analysis only gives some indication of the prevalence of sub-populations that may be exposed to air pollution from the sources; it does not identify the demographic characteristics of the most highly affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. More information on the source categories' risk can be found in sections V and VI of this preamble. The complete demographic analysis results and the details concerning their development are presented in the memorandum entitled *Environmental Justice Review: Amino/Phenolic Resins, Acrylic and Modacrylic Fibers Production, and Polycarbonate Production,* available in the docket for

this action (Docket ID No. EPA–HQ–OAR–2012–0133).

For the APR source category, the proximity analysis revealed that ''African American'' and ''Below the Poverty Line'' demographic categories are above 20 percent of their corresponding national averages. The ratio of African Americans living within 3 miles of any source affected by this rule is 62 percent higher than the national average (21 percent versus 13 percent) and the ratio of people living below the poverty line living within 3 miles of any source affected by this rule is 43 percent higher than the national average (20 percent versus 14 percent). However, as noted previously, risks from this source category were found to be acceptable for all populations.

For the PC source category, the proximity analysis revealed that several demographic categories are above 20 percent of their corresponding national averages, including ''Other or Multiracial,'' ''Hispanic,'' ''Age 0–4,'' ''Age 0–17,'' and ''No High School Diploma.'' Within 3 miles of any source affected by this rule, the ratio of Other or Multiracial people living is 21 percent higher than the national average (17 percent versus 14 percent), the ratio of Hispanic people is 135 percent higher than the national average (40 percent versus 17 percent), the ratio of people aged 0–4 is 29 percent higher than the national average (9 percent versus 7 percent), the ratio of people aged 0–17 is 25 percent higher than the national average (30 percent versus 24 percent), and the ratio of people with no high school diploma is 40 percent higher than the national average (14 percent versus 10 percent). However, as noted previously, risks from this source category were found to be acceptable for all populations. Additionally, the proposed changes to the standard increase the level of environmental protection for all affected populations by reducing emissions from equipment leaks.

**List of Subjects for 40 CFR Part 63**

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 11, 2013.

**Gina McCarthy,**

*Administrator.*

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) proposes to amend Title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

## PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

### Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

■ 2. Section 63.1100 is amended by:

■ a. Revising the last sentence of paragraph (d) introductory text; and

■ b. Adding paragraph (h).

The revisions and additions read as follows:

**§ 63.1100 Applicability.**

* * * * *

(d) * * * Paragraphs (d)(3), (4), and (5) of this section discuss compliance for those process units operated as flexible operation units.

* * * * *

(h) *Affirmative defense for violation of emission standards during malfunction.* In response to an action to enforce the standards set forth in this subpart, the owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined at 40 CFR 63.2. Appropriate penalties may be assessed if the owner or operator fails to meet their burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(1) *Assertion of affirmative defense.* To establish the affirmative defense in any action to enforce such a standard, the owner or operator must timely meet the reporting requirements in paragraph (h)(2) of this section, and must prove by a preponderance of evidence that:

(i) The violation:

(A) Was caused by a sudden, infrequent, and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Was not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(ii) Repairs were made as expeditiously as possible when a violation occurred; and

(iii) The frequency, amount, and duration of the violation (including any bypass) were minimized to the maximum extent practicable; and

(iv) If the violation resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(v) All possible steps were taken to minimize the impact of the violation on ambient air quality, the environment, and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(vii) All of the actions in response to the violation were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the violation resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of any emissions that were the result of the malfunction.

(2) *Report.* The owner or operator seeking to assert an affirmative defense shall submit a written report to the Administrator, with all necessary supporting documentation, that explains how it has met the requirements set forth in paragraph (h)(1) of this section. This affirmative defense report shall be included in the first periodic compliance report, deviation report, or excess emission report otherwise required after the initial occurrence of the violation of the relevant standard (which may be the end of any applicable averaging period). If such compliance report, deviation report, or excess emission report is due less than 45 days after the initial occurrence of the violation, the affirmative defense report may be included in the second compliance report, deviation report, or excess emission report due after the initial occurrence of the violation of the relevant standard.

■ 3. Section 63.1101 is amended by adding in alphabetical order the terms ''Affirmative defense,'' ''Pressure

release,'' and ''Pressure relief device or valve'' to read as follows:

**§ 63.1101 Definitions.**

*Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

* * * * *

*Pressure release* means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period due to a malfunction in the process.

*Pressure relief device or valve* means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

* * * * *

■ 4. Section 63.1102 is amended by:
■ a. Revising the first sentence of paragraph (a) introductory text; and
■ b. Adding paragraph (b).

The revisions and additions read as follows:

**§ 63.1102 Compliance schedule.**

(a) * * * Affected sources, as defined in § 63.1103(a)(1)(i) for acetyl resins production, § 63.1103(b)(1)(i) for acrylic and modacrylic fiber production, § 63.1103(c)(1)(i) for hydrogen fluoride production, § 63.1103(d)(1)(i) for polycarbonate production, § 63.1103(e)(1)(i) for ethylene production, § 63.1103(f)(1)(i) for carbon black production, § 63.1103(g)(1)(i) for cyanide chemicals manufacturing, or § 63.1103(h)(1)(i) for spandex production shall comply with the appropriate provisions of this subpart and the subparts referenced by this subpart according to the schedule in paragraph (a)(1) or (2) of this section, as appropriate, except as provided in paragraph (b) of this section. * * *

* * * * *

(b) All acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources that commenced construction or reconstruction on or before January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1107(e)(3) upon initial startup or 3 years after the effective date of the final amendments, whichever is later, and the equipment leaks requirements of 40 CFR part 63, subpart UU upon initial startup or 1 year after the effective date of the final amendments, whichever is later. New acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources that commence construction or reconstruction after January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1107(e)(3) upon initial startup or by the effective date of the final amendments, whichever is later.

* * * * *

■ 5. Section 63.1103 is amended by:
■ a. Revising paragraph (b)(1)(ii);
■ b. In paragraph (b)(2), adding in alphabetical order the term ''Seal'';
■ c. In paragraph (b)(3)(i), under Table 2, revising entries 4, 5, 6, and 7 and adding entry 11;
■ d. In paragraph (b)(3)(ii), under Table 3, revising entry 3 and adding entry 4;
■ e. Revising paragraph (d)(1)(ii);
■ f. In paragraph (d)(2), adding in alphabetical order the term ''Seal''; and
■ g. In paragraph (d)(3), under Table 5, revising entry 6 and adding entry 10, and under Table 6, revising entry 5 and adding entry 6.

The revisions and additions read as follows:

**§ 63.1103 Source category-specific applicability, definitions, and requirements.**

* * * * *

(b) * * *

(1) * * *

(ii) Compliance schedule. The compliance schedule, for affected sources as defined in paragraph (b)(1)(i) of this section, is specified in § 63.1102.

(2) *Definitions.*

* * * * *

*Seal* means, for the purpose of complying with the requirements of § 63.1033(b), that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), indicates no readings of 500 parts per million or greater.

* * * * *

(3) * * *

(i) * * *

TABLE 2 TO § 63.1103(B)(3)(I)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (B)(3)(I) OF THIS SECTION?

| If you own or operate . . . | And if . . . | Then you must . . . |
|---|---|---|
| * | * | * |
| 4. A fiber spinning line that is a new or reconstructed source. | The lines use a spin dope produced from either a suspension polymerization process or solution polymerization process. | a. Reduce acrylonitrile emissions by 85 weight-percent or more. (For example, you may enclose the spinning and washing areas of the spinning line (as specified in paragraph (b)(4) of this section) and vent through a closed vent system and use any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a), of this part.); or<br>b. Reduce acrylonitrile emissions from the spinning line to less than or equal to 0.25 kilograms of acrylonitrile per megagram (0.5 pounds of acrylonitrile per ton) of acrylic and modacrylic fiber produced; or<br>c. Reduce the acrylonitrile concentration of the spin dope to less than 100 ppmw. |
| 5. A fiber spinning line that is an existing source. | The spinning line uses a spin dope produced from a solution polymerization process. | Reduce organic HAP emissions from the spinning line to less than or equal to 20 kilograms of organic HAP per megagram (40 pounds of organic HAP per ton) of acrylic and modacrylic fiber produced. |
| 6. A fiber spinning line that is an existing source. | The spinning line uses a spin dope produced from a suspension polymerization process. | a. Reduce the acrylonitrile concentration of the spin dope to less than 100 ppmw [b]; or |

TABLE 2 TO § 63.1103(B)(3)(I)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (B)(3)(I) OF THIS SECTION?—Continued

| If you own or operate . . . | And if . . . | Then you must . . . |
|---|---|---|
| | | b. Reduce acrylonitrile emissions from the spinning line to less than or equal to 0.25 kilograms of acrylonitrile per megagram of acrylic and modacrylic fiber produced. |
| 7. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 11 below). | It contains or contacts ≥10 weight-percent acrylonitrile,[c] and operates ≥300 hours per year. | For connectors in gas and vapor service and in light liquid service, comply with either § 63.1008 of subpart TT (national emission standards for equipment leaks (control level 1)) of this part, or § 63.1027 of subpart UU (national emission standards for equipment leaks (control level 2)) of this part. For all other applicable equipment, comply with the requirements of subpart UU of this part, except § 63.1030. |
| * * * | * * * | * * * |
| 11. Pressure relief devices .. | The pressure relief device is in organic HAP service. | Comply with § 63.1107(e). |

* * * * * (ii) * * *

TABLE 3 TO § 63.1103(B)(3)(II)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (B)(3)(II) OF THIS SECTION?

| If you own or operate . . . | Then you must control total organic HAP emissions from the affected source by . . . |
|---|---|
| * * * * | * * * |
| 3. Equipment as defined under § 63.1101 and it contains or contacts >10 weight-percent acrylonitrile,[a] and operates >300 hours per year (with the differences for pressure relief devices described in item 4 below). | For connectors in gas and vapor service and in light liquid service, comply with either § 63.1008 of subpart TT (national emission standards for equipment leaks (control level 1)) of this part, or § 63.1027 of subpart UU (national emission standards for equipment leaks (control level 2)) of this part. For all other applicable equipment, comply with subpart UU of this part, except § 63.1030. |
| 4. A pressure relief device in organic HAP service ..... | Complying with § 63.1107(e). |

* * * * *

(d) * * *

(1) * * *

(ii) Compliance schedule. The compliance schedule, for affected sources as defined in paragraph (d)(1)(i) of this section, is specified in § 63.1102.

(2) * * *

*Seal* means, for the purpose of complying with the requirements of § 63.1033(b), that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), indicates no readings of 500 parts per million or greater.

* * * * *

TABLE 5 TO § 63.1103(D)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?

| If you own or operate . . . | And if . . . | Then you must . . . |
|---|---|---|
| * * * | * * * | * * * |
| 6. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 10 below). | The equipment contains or contacts ≥5 weight-percent total organic HAP,[e] and operates ≥300 hours per year. | For connectors in gas and vapor service and in light liquid service, comply with either § 63.1008 of subpart TT (national emission standards for equipment leaks (control level 1)) of this part, or § 63.1027 of subpart UU (national emission standards for equipment leaks (control level 2)) of this part. For all other applicable equipment, comply with the requirements of subpart UU of this part, except § 63.1030. |
| * * * | * * * | * * * |
| 10. Pressure relief devices .. | The pressure relief device is in organic HAP service. | Comply with § 63.1107(e). |

* * * * *

TABLE 6 TO § 63.1103(D)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?

| If you own or operate . . . | And if . . . | Then you must . . . |
|---|---|---|
| * | * | * |
| 5. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 6 below). | The equipment contains or contacts ≥5 weight-percent total organic HAP,[e] and operates ≥300 hours per year. | For connectors in gas and vapor service and in light liquid service, comply with either § 63.1008 of subpart TT (national emission standards for equipment leaks (control level 1)) of this part, or § 63.1027 of subpart UU ((national emission standards for equipment leaks (control level 2)) of this part. For all other applicable equipment, comply with the requirements of subpart UU of this part, except § 63.1030. |
| 6. Pressure relief devices .... | The pressure relief device is in organic HAP service. | Comply with § 63.1107(e). |

* * * * *

■ 6. Section 63.1104 is amended by revising paragraph (c) to read as follows:

**§ 63.1104 Process vents from continuous unit operations: applicability assessment procedures and methods.**

* * * * *

(c) *Applicability assessment requirement.* The TOC or organic HAP concentrations, process vent volumetric flow rates, process vent heating values, process vent TOC or organic HAP emission rates, halogenated process vent determinations, process vent TRE index values, and engineering assessments for process vent control applicability assessment requirements are to be determined during maximum representative operating conditions for the process, except as provided in paragraph (d) of this section, or unless the Administrator specifies or approves alternate operating conditions. For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, operations during periods of malfunction shall not constitute representative conditions for the purpose of an applicability test. For all other affected sources, operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of an applicability test.

* * * * *

■ 7. Section 63.1107 is amended by:
■ a. Revising the section heading; and
■ b. Adding paragraphs (e), (f) and (g).

The revisions and additions read as follows:

**§ 63.1107 Equipment leaks.**

* * * * *

(e) *Requirements for pressure relief devices.* For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, except as specified in paragraph (e)(4) of this section, the owner or operator must comply with the requirements specified in paragraphs (e)(1) and (2) of this section for pressure relief devices in organic HAP gas or vapor service. Except as specified in paragraph (e)(4) of this section, the owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source must also comply with the requirements specified in paragraph (e)(3) of this section for all pressure relief devices in organic HAP service.

(1) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as detected by Method 21 of 40 CFR part 60, appendix A.

(2) *Pressure release requirements.* For pressure relief devices in organic HAP gas or vapor service, comply with paragraph (e)(2)(i) or (ii) of this section, as applicable.

(i) If the pressure relief device does not consist of or include a rupture disk, conduct instrument monitoring, as detected by Method 21 of 40 CFR part 60, appendix A, no later than 5 calendar days after the pressure relief device returns to organic HAP service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm above background. After 5 calendar days, an instrument reading of 500 ppm above background or greater is a violation.

(ii) If the pressure relief device consists of or includes a rupture disk, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release. The owner or operator must also conduct instrument monitoring, as detected by Method 21 of 40 CFR part 60, appendix A, no later than 5 calendar days after the pressure relief device returns to organic HAP service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm above background. After 5 calendar days, an instrument reading of 500 ppm above background or greater is a violation.

(3) *Pressure release management.* Except as specified in paragraph (e)(4) of this section, the owner or operator must comply with the requirements specified in paragraphs (e)(3)(i) and (ii) of this section for all pressure relief devices in organic HAP service. Any pressure release from such a pressure relief device is a violation.

(i) The owner or operator must equip each pressure relief device in organic HAP service with a device(s) or parameter monitoring system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators immediately that a pressure release is occurring. Examples of these types of devices and systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, or pressure monitor. Regardless of the methodology chosen, when the device or monitoring system indicates that a pressure release has occurred, it shall be directly enforceable as a release from the pressure relief device. If this instrument is capable of measuring the concentration of leaks through the pressure relief device, then the owner or operator may use this instrument to meet the requirements of paragraph (e)(2) of this section.

(ii) If any pressure relief device in organic HAP service releases to atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of organic HAP released during each pressure release event and report this quantity as required in paragraph (g) of this section. Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(4) *Pressure relief devices routed to a control device or process.* If a pressure

relief device in organic HAP service is designed and operated to route all pressure releases through a closed vent system to a control device or process, the owner or operator is not required to comply with paragraphs (e)(1), (2), or (3) (if applicable) of this section. Both the closed vent system and control device (if applicable) must meet the requirements of § 63.1034 of this part.

(f) *Recordkeeping requirements.* For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, for pressure relief devices in organic HAP service, keep records of the information specified in paragraphs (f)(1) through (5) of this section, as applicable.

(1) A list of identification numbers for pressure relief devices that the owner or operator elects to equip with a closed-vent system and control device, under the provisions in paragraph (e)(4) of this section.

(2) A list of identification numbers for pressure relief devices subject to the provisions in paragraph (e)(1) of this section.

(3) A list of identification numbers for pressure relief devices equipped with rupture disks, under the provisions in paragraph (e)(2)(ii) of this section.

(4) The dates and results of the monitoring following a pressure release for each pressure relief device subject to the provisions in paragraph (e)(1) and (2) of this section. The results shall include:

(i) The background level measured during each compliance test.

(ii) The maximum instrument reading measured at each piece of equipment during each compliance test.

(5) For pressure relief devices in organic HAP service subject to paragraph (e)(3) of this section, keep records of each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of total HAP emitted during the pressure release and the calculations used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

(g) *Periodic reports.* For owners or operators of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source subject to paragraph (e) of this section, Periodic Reports must include the information specified in paragraphs (g)(1) through (3) of this section for pressure relief devices in organic HAP service.

(1) For pressure relief devices in organic HAP service subject to paragraph (e) of this section, report confirmation that all monitoring to show compliance was conducted within the reporting period.

(2) For pressure relief devices in organic HAP gas or vapor service subject to paragraph (e)(2) of this section, report any instrument reading of 500 ppm above background or greater, more than 5 days after the relief device returns to organic HAP gas or vapor service after a pressure release.

(3) For pressure relief devices in organic HAP service subject to paragraph (e)(3) of this section, report each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of total HAP emitted during the pressure release and the method used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

■ 8. Section 63.1108 is amended by:

■ a. Adding paragraph (a) introductory text;

■ b. Adding paragraph (a)(4);

■ c. Revising the first sentence of paragraph (a)(5);

■ d. Revising the first sentence of paragraph (b)(2) introductory text; and

■ e. Revising paragraph (b)(4)(ii).

The revisions and additions read as follows:

**§ 63.1108 Compliance with standards and operation and maintenance requirements.**

(a) *Requirements.* The requirements of paragraphs (a)(1), (2), and (5) of this section apply to all affected sources except acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. The requirements of paragraph (a)(4) of this section apply only to acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. The requirements of paragraphs (a)(3), (6), and (7) of this section apply to all affected sources.

* * * * *

(4)(i) For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, the emission limitations and established parameter ranges of this part shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. Equipment leak requirements shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which the equipment leak requirements apply.

(ii) *General duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(5) During startups, shutdowns, and malfunctions when the emission standards of this subpart and the subparts referenced by this subpart do not apply pursuant to paragraphs (a)(1) through (3) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions.

* * *

* * * * *

(b) * * *

(2) *Parameter monitoring: Excursions.* An excursion is not a violation in cases where continuous monitoring is required and the excursion does not count toward the number of excused excursions (as described in § 63.998(b)(6)(ii)), if the conditions of paragraph (b)(2)(i) or (ii) of this section are met, except that the conditions of paragraph (b)(2)(i) of this section do not apply for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. * * *

* * * * *

(4) * * *

(ii) *Performance test.* The Administrator may determine compliance with emission limitations of this subpart based on, but not limited to, the results of performance tests conducted according to the procedures

specified in § 63.997, unless otherwise specified in this subpart or a subpart referenced by this subpart. For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner/operator may not conduct performance tests during periods of malfunction. The owner operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 9. Section 63.1110 is amended by:
■ a. Adding a sentence to the end of paragraph (a) introductory text;
■ b. Revising paragraph (a)(7);
■ c. Adding paragraph (a)(9);
■ d. Adding a sentence to the end of paragraph (d)(1) introductory text; and
■ e. Adding paragraph (d)(1)(iii).

The revisions and additions read as follows:

**§ 63.1110 Reporting requirements.**

(a) * * * Each owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source subject to this subpart shall submit the reports listed in paragraph (a)(9) of this section, as applicable.

* * * * *

(7) Startup, Shutdown, and Malfunction Reports described in § 63.1111 (except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources).

* * * * *

(9) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by this subpart according to the methods specified in paragraph (a)(9)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA-provided software, the owner or operator shall submit the results of the performance test to the EPA by direct computer-to-computer electronic transfer via EPA-provided software, unless otherwise approved by the Administrator. Owners or operators, who claim that some of the information being submitted for performance tests is confidential business information (CBI), must submit a complete file using EPA-provided software that includes information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA by direct computer-to-computer electronic transfer via EPA-provided software.

(ii) For any performance test conducted using test methods that are not compatible with the EPA-provided software, the owner or operator shall submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

* * * * *

(d) * * *

(1) * * * For pressure relief devices subject to the requirements of § 63.1107(e)(3), the owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source shall submit the information listed in paragraph (d)(1)(iii) of this section in the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.

* * * * *

(iii) For pressure relief devices in organic HAP service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), and a description of the alarms or other methods by which operators will be notified of a pressure release.

* * * * *

■ 10. Section 63.1111 is amended by:
■ a. Adding paragraph (a) introductory text;
■ b. Adding paragraph (b) introductory text;
■ c. Removing reserved paragraph (b)(3); and
■ d. Adding paragraph (c).

The revisions and additions read as follows:

**§ 63.1111 Startup, shutdown, and malfunction.**

(a) *Startup, shutdown, and malfunction plan.* The requirements of this paragraph (a) apply to all affected sources except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

* * * * *

(b) *Startup, shutdown, and malfunction reporting requirements.* The requirements of the paragraph (b) apply to all affected sources except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

* * * * *

(c) *Malfunction recordkeeping and reporting.* The requirements of this paragraph (c) apply only to acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

(1) *Records of malfunctions.* The owner or operator shall keep the records specified in paragraphs (c)(1)(i) through (iii) of this section.

(i) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, and duration of each failure.

(ii) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(iii) Record actions taken to minimize emissions in accordance with § 63.1108(a)(4)(ii), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(2) *Reports of malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

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■ 11. Section 63.1400 is amended by:
■ a. Revising paragraph (k); and
■ b. Adding paragraph (l).

The revisions and additions read as follows:

**§ 63.1400 Applicability and designation of affected sources.**

* * * * *

(k) *Applicability of this subpart.* (1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

(2) The emission limitations set forth in 40 CFR part 63, subpart UU, as referred to in § 63.1410, shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which § 63.1410 applies.

(3) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with this subpart during times when emissions are being routed to such items of equipment if the shutdown would contravene requirements of this subpart applicable to such items of equipment.

(4) *General duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(l) *Affirmative defense for violation of emission standards during malfunction.* In response to an action to enforce the standards set forth in this subpart, the owner or operator may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined at 40 CFR 63.2. Appropriate penalties may be assessed if the owner or operator fails to meet their burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(1) *Assertion of affirmative defense.* To establish the affirmative defense in any action to enforce such a standard, the owner or operator must timely meet the reporting requirements in paragraph (l)(2) of this section, and must prove by a preponderance of evidence that:

(i) The violation:

(A) Was caused by a sudden, infrequent, and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Was not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(ii) Repairs were made as expeditiously as possible when a violation occurred; and

(iii) The frequency, amount, and duration of the violation (including any bypass) were minimized to the maximum extent practicable; and

(iv) If the violation resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(v) All possible steps were taken to minimize the impact of the violation on ambient air quality, the environment, and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(vii) All of the actions in response to the violation were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the violation resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of any emissions that were the result of the malfunction.

(2) *Report.* The owner or operator seeking to assert an affirmative defense shall submit a written report to the Administrator, with all necessary supporting documentation, that explains how it has met the requirements set forth in paragraph (l)(1) of this section. This affirmative defense report shall be included in the first periodic compliance report, deviation report, or excess emission report otherwise required after the initial occurrence of the violation of the relevant standard (which may be the end of any applicable averaging period). If such compliance report, deviation report, or excess emission report is due less than 45 days after the initial occurrence of the violation, the affirmative defense report may be included in the second compliance report, deviation report, or excess emission report due after the initial occurrence of the violation of the relevant standard.

■ 12. Section 63.1401 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 63.1401 Compliance schedule.**

(a) New affected sources that commence construction or reconstruction after December 14, 1998, shall be in compliance with this subpart (except § 63.1411(c)) upon initial start-up or January 20, 2000, whichever is later. New affected sources that commenced construction or reconstruction after December 14, 1998, but on or before January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1411(c) by 3 years after the effective date of the final amendments. New affected sources that commence construction or reconstruction after January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1411(c) upon initial startup or by the effective date of the final amendments, whichever is later.

(b) Existing affected sources shall be in compliance with this subpart (except §§ 63.1404, 63.1405, and 63.1411(c)) no later than 3 years after January 20, 2000. Existing affected sources shall be in compliance with the storage vessel requirements of § 63.1404 by the effective date of the final amendments. Existing affected sources shall be in compliance with the continuous process vent requirements of § 63.1405 and the pressure relief device monitoring requirements of § 63.1411(c) by 3 years after the effective date of the final amendments.

* * * * *

■ 13. Section 63.1402 is amended by:

■ a. In paragraph (a), adding in alphabetical order the terms ''Pressure release (§ 63.161)'' and ''Pressure relief device or valve (§ 63.161)'' and

removing the term ''Start-up, shutdown, and malfunction plan (§ 63.101)'';
■ b. In paragraph (b), adding in alphabetical order the terms ''Affirmative defense'' and ''Seal''.

The revisions and additions read as follows:

**§ 63.1402 Definitions.**

* * * * *

(b) * * *

*Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

* * * * *

*Seal* means, for the purpose of complying with the requirements of § 63.1033(b), that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), indicates no readings of 500 parts per million or greater.

* * * * *

■ 14. Section 63.1404 is amended by revising the first sentence of paragraph (a) introductory text to read as follows:

**§ 63.1404 Storage vessel provisions.**

(a) *Emission standards.* For each storage vessel located at a new or existing affected source that has a capacity of greater than or equal to 20,000 gallons, but less than 40,000 gallons, and vapor pressure of 1.9 pounds per square inch absolute (psia) or greater; has a capacity of greater than or equal to 40,000 gallons, but less than 90,000 gallons, and vapor pressure of 0.75 psia or greater; or has a capacity of 90,000 gallons or greater and vapor pressure of 0.15 psia or greater, the owner or operator shall comply with either paragraph (a)(1) or (2) of this section. * * *

* * * * *

■ 15. Section 63.1405 is amended by revising the first sentence of paragraph (a) introductory text to read as follows:

**§ 63.1405 Continuous process vent provisions.**

(a) *Emission standards.* For each continuous process vent located at a new or existing affected source with a Total Resource Effectiveness (TRE) index value, as determined following the procedures specified in § 63.1412(j), less than or equal to 1.2, the owner or operator shall comply with either paragraph (a)(1) or (2) of this section. * * *

* * * * *

■ 16. Section 63.1410 is amended by revising the first sentence of the introductory text to read as follows:

**§ 63.1410 Equipment leak provisions.**

The owner or operator of each affected source shall comply with the requirements of 40 CFR part 63, subpart UU (national emission standards for equipment leaks (control level 2)) for all equipment, as defined under § 63.1402, that contains or contacts 5 weight-percent HAP or greater and operates 300 hours per year or more, except § 63.1030. * * *

■ 17. Add § 63.1411 to read as follows:

**§ 63.1411 Requirements for pressure relief devices.**

Except as specified in paragraph (d) of this section, the owner or operator must comply with the requirements specified in paragraphs (a) and (b) of this section for pressure relief devices in organic HAP gas or vapor service. Except as specified in paragraph (d) of this section, the owner or operator must also comply with the requirements specified in paragraph (c) of this section for all pressure relief devices in organic HAP service.

(a) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as detected by Method 21 of 40 CFR part 60, appendix A.

(b) *Pressure release requirements.* For pressure relief devices in organic HAP gas or vapor service, comply with paragraph (b)(1) or (2) of this section, as applicable.

(1) If the pressure relief device does not consist of or include a rupture disk, conduct instrument monitoring, as detected by Method 21 of 40 CFR part 60, appendix A, no later than 5 calendar days after the pressure relief device returns to organic HAP service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm above background. After 5 calendar days, an instrument reading of 500 ppm above background or greater is a violation.

(2) If the pressure relief device consists of or includes a rupture disk, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release. The owner or operator must also conduct instrument monitoring, as detected by Method 21 of 40 CFR part 60, appendix A, no later than 5 calendar days after the pressure relief device returns to organic HAP service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm above background. After 5 calendar days, an instrument reading of 500 ppm above background or greater is a violation.

(c) *Pressure release management.* Except as specified in paragraph (d) of this section, the owner or operator must comply with the requirements specified in paragraphs (c)(1) and (2) of this section for all pressure relief devices in organic HAP service. Any pressure release from such a pressure relief device is a violation.

(1) The owner or operator must equip each pressure relief device in organic HAP service with a device(s) or parameter monitoring system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators immediately that a pressure release is occurring. The device or monitoring system may be either specific to the pressure relief device itself or on an associated process system or piping sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices and systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, or pressure monitor. Regardless of the methodology chosen, when the device or monitoring system indicates that a pressure release has occurred, it shall be directly enforceable as a release from the pressure relief device. If this instrument is capable of measuring the concentration of leaks through the pressure relief device, then the owner or operator may use this instrument to meet the requirements of paragraph (b) of this section.

(2) If any pressure relief device in organic HAP service releases to atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of organic HAP released during each pressure release event and report this quantity as required in § 63.1417(f)(13)(iii). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(d) *Pressure relief devices routed to a control device or process.* If a pressure relief device in organic HAP service is designed and operated to route all pressure releases through a closed vent system to a control device or process, the owner or operator is not required to comply with paragraphs (a), (b), or (c) (if applicable) of this section. Both the closed vent system and control device

(if applicable) must meet the requirements of § 63.1034 of this part.

■ 18. Section 63.1412 is amended by revising the last sentence of paragraph (c) to read as follows:

**§ 63.1412 Continuous process vent applicability assessment procedures and methods.**

* * * * *

(c) *Applicability assessment requirement.* * * * Operations during periods of malfunction shall not constitute representative conditions for the purpose of an applicability test.

* * * * *

■ 19. Section 63.1413 is amended by:

■ a. Revising paragraph (a)(2) introductory text;

■ b. Revising paragraph (h)(4) introductory text; and

■ c. Revising paragraphs (h)(5) and (h)(6).

The revisions and additions read as follows:

**§ 63.1413 Compliance demonstration procedures.**

(a) * * *

(2) *Performance tests.* Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested and in accordance with the General Provisions at § 63.7(a)(1), (a)(3), (d), (e)(2), (e)(4), (g), and (h), with the exceptions specified in paragraph (a)(1) of this section. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner/operator may not conduct performance tests during periods of malfunction. The owner operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests. Data shall be reduced in accordance with the EPA approved methods specified in this subpart or, if other test methods are used, the data and methods shall be validated according to the protocol in Method 301 of appendix A of this part.

* * * * *

(h) * * *

(4) *Deviation from the emission standard.* If monitoring data are insufficient, as described in paragraphs (h)(4)(i) through (iii) of this section, there has been a deviation from the emission standard.

* * * * *

(5) *Situations that are not deviations.* If any of the situations listed in paragraphs (h)(5)(i) or (ii) of this section occur, such situations shall not be considered to be deviations.

(i) Monitoring data cannot be collected during monitoring device calibration check or monitoring device malfunction; or

(ii) Monitoring data are not collected during periods of nonoperation of the affected source or portion thereof (resulting in cessation of the emissions to which the monitoring applies).

(6) *Periods not considered to be part of the period of control or recovery device operation.* The periods listed in paragraphs (h)(6)(i) and (ii) of this section are not considered to be part of the period of control or recovery device operation for purposes of determining averages or periods of control device or control technology operation.

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; or

(ii) Periods of nonoperation of the affected source (or portion thereof), resulting in cessation of the emissions to which the monitoring applies.

■ 20. Section 63.1415 is amended by revising the second sentence of paragraph (b)(1)(ii)(C) to read as follows:

**§ 63.1415 Monitoring requirements.**

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(C) * * * The plan shall require determination of gas stream flow by a method which will at least provide a value for either a representative or the highest gas stream flow anticipated in the scrubber during representative operating conditions other than malfunctions. * * *

■ 21. Section 63.1416 is amended by:

■ a. Revising paragraphs (b) and (c)(4);

■ b. Adding paragraph (g)(5);

■ c. Revising the first sentence of paragraph (h)(1)(i);

■ d. Revising paragraph (h)(1)(ii);

■ e. Revising the first sentence of paragraph (h)(1)(iii);

■ f. Revising the last sentence of paragraph (h)(2)(iii); and

■ g. Revising paragraph (h)(2)(iv).

The revisions and additions read as follows:

**§ 63.1416 Recordkeeping requirements.**

* * * * *

(b) *Malfunction records.* Records shall be kept as specified in paragraphs (b)(1) and (2) of this section.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, and duration of each failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.1420(h)(4), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(c) * * *

(4) Monitoring data recorded during periods identified in paragraphs (c)(4)(i) and (ii) of this section shall not be included in any average computed under this subpart. Records shall be kept of the times and durations of all such periods and any other periods during process or control device or recovery device or control technology operation when monitors are not operating:

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; and

(ii) Periods of non-operation of the affected source (or portion thereof) resulting in cessation of the emissions to which the monitoring applies.

* * * * *

(g) * * *

(5) For pressure relief devices in organic HAP service, keep records of the information specified in paragraphs (g)(5)(i) through (v) of this section, as applicable.

(i) A list of identification numbers for pressure relief devices that the owner or operator elects to equip with a closed-vent system and control device, under the provisions in § 63.1411(d).

(ii) A list of identification numbers for pressure relief devices subject to the provisions in § 63.1411(a).

(iii) A list of identification numbers for pressure relief devices equipped with rupture disks, under the provisions in § 63.1411(b)(2).

(iv) The dates and results of the monitoring following a pressure release for each pressure relief device subject to the provisions in § 63.1411(a) and (b). The results shall include:

(A) The background level measured during each compliance test.

(B) The maximum instrument reading measured at each piece of equipment during each compliance test.

(v) For pressure relief devices in organic HAP service subject to

§ 63.1411(c), keep records of each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of total HAP emitted during the pressure release and the calculations used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(h) * * *

(1) * * *

(i) The monitoring system is capable of detecting unrealistic or impossible data during periods of operation (e.g., a temperature reading of −200 °C on a boiler) and will alert the operator by alarm or other means. * * *

(ii) The monitoring system generates, updated at least hourly throughout each operating day, a running average of the parameter values that have been obtained during that operating day or block, and the capability to observe this running average is readily available on-site to the Administrator during the operating day. The owner or operator shall record the occurrence of any period meeting the criteria in paragraphs (h)(1)(ii)(A) and (B) of this section. All instances in an operating day or block constitute a single occurrence:

(A) The running average is above the maximum or below the minimum established limits; and

(B) The running average is based on at least six 1-hour average values.

(iii) The monitoring system is capable of detecting unchanging data during periods of operation, except in circumstances where the presence of unchanging data is the expected operating condition based on past experience (e.g., pH in some scrubbers) and will alert the operator by alarm or other means. * * *

* * * * *

(2) * * *

(iii) * * * For any calendar week, if compliance with paragraphs (h)(1)(i) through (iv) of this section does not result in retention of a record of at least one occurrence or measured parameter value, the owner or operator shall record and retain at least one value during a period of operation.

(iv) For purposes of paragraph (h)(2) of this section, a deviation means that the daily average, batch cycle daily average, or block average value of monitoring data for a parameter is greater than the maximum, or less than the minimum established value.

■ 22. Section 63.1417 is amended by:

■ a. Revising the first sentence of paragraph (d);

■ b. Removing and reserving paragraph (d)(9);

■ c. Revising paragraph (d)(11)(ii);

■ d. Revising paragraph (e) introductory text;

■ e. Adding paragraph (e)(10);

■ f. Revising the first sentence of paragraph (f)(1);

■ g. Adding paragraph (f)(13);

■ h. Revising paragraph (g);

■ i. Revising paragraph (h) introductory text; and

■ j. Adding paragraph (h)(8).

The revisions and additions read as follows:

**§ 63.1417 Reporting requirements.**

* * * * *

(d) *Precompliance Report.* Owners or operators of affected sources requesting an extension for compliance; requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; requesting approval to use engineering assessment to estimate organic HAP emissions from a batch emissions episode as described in § 63.1414(d)(6)(i)(C); wishing to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii); establishing parameter monitoring levels based on a design evaluation as specified in § 63.1413(a)(3); or following the procedures in § 63.1413(e)(2), shall submit a Precompliance Report according to the schedule described in paragraph (d)(1) of this section. * * *

* * * * *

(11) * * *

(ii) Supplements to the Precompliance Report may be submitted to request approval to use alternative monitoring parameters, as specified in paragraph (j) of this section; to use alternative continuous monitoring and recordkeeping, as specified in paragraph (k) of this section; to use alternative controls, as specified in paragraph (d)(5) of this section; to use engineering assessment to estimate organic HAP emissions from a batch emissions episode, as specified in paragraph (d)(6) of this section; or to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii) or (a)(3), as specified in paragraph (d)(7) of this section.

(e) *Notification of Compliance Status.* For existing and new affected sources, a Notification of Compliance Status shall be submitted within 150 days after the compliance dates specified in § 63.1401. For equipment leaks, the Notification of Compliance Status shall contain the information specified in 40 CFR part 63, subpart UU. For storage vessels, continuous process vents, batch process vents, and aggregate batch vent streams, the Notification of Compliance Status shall contain the information listed in paragraphs (e)(1) through (9) of this section. For pressure relief devices subject to the requirements of § 63.1411(c), the owner or operator shall submit the information listed in paragraph (e)(10) of this section in the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.

* * * * *

(10) For pressure relief devices in organic HAP service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), and a description of the alarms or other methods by which operators will be notified of a pressure release.

(f) * * *

(1) Except as specified in paragraph (f)(12) of this section, a report containing the information in paragraph (f)(2) of this section or containing the information in paragraphs (f)(3) through (11) and (13) of this section, as appropriate, shall be submitted semiannually no later than 60 days after the end of each 180 day period. * * *

* * * * *

(13) For pressure relief devices, Periodic Reports must include the information specified in paragraphs (f)(13)(i) through (iii) of this section.

(i) For pressure relief devices in organic HAP service subject to § 63.1411, report confirmation that all monitoring to show compliance was conducted within the reporting period.

(ii) For pressure relief devices in organic HAP gas or vapor service subject to § 63.1411(b), report any instrument reading of 500 ppm above background or greater, more than 5 days after the relief device returns to organic HAP gas or vapor service after a pressure release.

(iii) For pressure relief devices in organic HAP service subject to § 63.1411(c), report each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of total HAP emitted during the pressure release and the method used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(g) *Reports of malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(h) *Other reports.* Other reports shall be submitted as specified in paragraphs (h)(1) through (8) of this section.

* * * * *

(8) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by this subpart according to the methods specified in paragraph (h)(8)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA-provided software, the owner or operator shall submit the results of the performance test to the EPA by direct computer-to-computer electronic transfer via EPA-provided software, unless otherwise approved by the Administrator. Owners or operators, who claim that some of the information being submitted for performance tests is confidential business information (CBI), must submit a complete file using EPA-provided software that includes information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA by direct computer-to-computer electronic transfer via EPA-provided software.

(ii) For any performance test conducted using test methods that are not compatible with the EPA-provided software, the owner or operator shall submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

* * * * *

■ 23. Table 1 to subpart OOO is amended by:

■ a. Removing entries 63.1(a)(6)–63.1(a)(8) and 63.1(a)(9);

■ b. Adding entries 63.1(a)(6) and 63.1(a)(7)–63.1(a)(9);

■ c. Revising entries 63.1(c)(4), 63.6(e), 63.6(e)(1)(i), and 63.6(e)(1)(ii);

■ d. Adding entry 63.6(e)(3);

■ e. Removing entries 63.6(e)(3)(i), 63.6(e)(3)(i)(A), 63.6(e)(3)(i)(B), 63.6(e)(3)(i)(C), 63.6(e)(3)(ii), 63.6(e)(3)(iii), 63.6(e)(3)(iv), 63.6(e)(3)(v), 63.6(e)(3)(vi), 63.6(e)(3)(vii), 63.6(e)(3)(vii)(A), 63.6(e)(3)(vii)(B), 63.6(e)(3)(vii)(C), 63.6(e)(3)(viii), and 63.6(e)(3)(ix);

■ f. Revising entries 63.6(f)(1), 63.7(e)(1), 63.8(c)(1)(i), 63.8(c)(1)(ii), 63.8(c)(1)(iii), and 63.10(d)(5); and

■ g. Removing footnote (a).

The revisions and additions read as follows:

TABLE 1 TO SUBPART OOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOO AFFECTED SOURCES

| Reference | Applies to subpart OOO | Explanation |
|---|---|---|
| * * | * | * * * * * |
| 63.1(a)(6) | Yes | |
| 63.1(a)(7)–63.1(a)(9) | No | [Reserved]. |
| * * | * | * * * * * |
| 63.1(c)(4) | No | [Reserved]. |
| * * | * | * * * * * |
| 63.6(e) | Yes | Except as otherwise specified in this table. |
| 63.6(e)(1)(i) | No | See § 63.1400(k)(4) for general duty requirement. |
| 63.6(e)(1)(ii) | No | |
| * * | * | * * * * * |
| 63.6(e)(3) | No | |
| 63.6(f)(1) | No | |
| * * | * | * * * * * |
| 63.7(e)(1) | No | See § 63.1413(a)(2). |
| * * | * | * * * * * |
| 63.8(c)(1)(i) | No | |
| 63.8(c)(1)(ii) | No | |
| 63.8(c)(1)(iii) | No | |
| * * | * | * * * * * |
| 63.10(d)(5) | No | See § 63.1417(g) for malfunction reporting requirements. |
| * * | * | * * * * * |

■ 24. Table 5 to subpart OOO is amended by:

■ a. Removing entry 63.1417(g); and

■ b. Adding entry 63.1417(h)(8).

The revisions and additions read as follows:

TABLE 5 TO SUBPART OOO OF PART 63—REPORTS REQUIRED BY THIS SUBPART

| Reference | Description of report | Due date |
|---|---|---|
| * * * * * * * | | |
| 63.1417(h)(8) | Electronic reporting | Within 60 days after completing performance test. |

* * * * *

[FR Doc. 2013–30132 Filed 1–8–14; 8:45 am]

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Thursday, January 9, 2014

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