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# Contents

**Federal Register**

Vol. 79, No. 213

Tuesday, November 4, 2014

**Agriculture Department**
*See* Office of Advocacy and Outreach

**Antitrust Division**
NOTICES
Changes under the National Cooperative Research and Production Act:
National Spectrum Consortium, 65424–65425
OpenDaylight Project, Inc., 65425

**Antitrust**
*See* Antitrust Division

**Centers for Disease Control and Prevention**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65398–65400
Meetings:
Advisory Committee on Breast Cancer in Young Women, 65400
Board of Scientific Counselors, Office of Infectious Diseases; Teleconference, 65400

**Centers for Medicare & Medicaid Services**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual Eligibility Redetermination, Product Discontinuation and Renewal Notices, 65400–65401
Executive Summary Form for Research Identifiable Data, 65401–65402

**Children and Families Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65402–65403

**Civil Rights Commission**
NOTICES
Meetings:
Kansas Advisory Committee, 65372–65373
Missouri Advisory Committee, 65373–65374
Oklahoma Advisory Committee, 65373

**Coast Guard**
RULES
Drawbridge Operations:
Housatonic River, Stratford, CT, 65339–65340
Safety Zones:
Pier Removal, WI Central Railroad Bridge, Fox River, Green Bay, WI, 65340–65342
PROPOSED RULES
Anchorage Regulations:
Special Anchorage Areas, Marina del Rey Harbor, CA, 65361
NOTICES
Meetings:
Preparation for the Twenty-third Session of the Assembly of the International Mobile Satellite Organization, 65419

**Commerce Department**
*See* Economic Analysis Bureau
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration

**Defense Acquisition Regulations System**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65386–65387

**Defense Department**
*See* Defense Acquisition Regulations System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Acquisition Regulation; Presolicitation Notice and Response, 65397

**Department of Transportation**
*See* Pipeline and Hazardous Materials Safety Administration

**Economic Analysis Bureau**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Direct Investment Surveys: BE–605, Quarterly Survey of Foreign Direct Investment in the United States, 65374–65375

**Employment and Training Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Migrant and Seasonal Farmworkers Monitoring Report and Complaint/Referral Records, 65425–65426
Meetings:
Workforce Investment Act Native American Employment and Training Council, 65426

**Energy Department**
*See* Energy Efficiency and Renewable Energy Office
*See* Federal Energy Regulatory Commission
PROPOSED RULES
Energy Conservation Program:
Test Procedures for External Power Supplies; Public Meeting, 65351–65353
NOTICES
Proposed Subsequent Arrangements, 65387

**Energy Efficiency and Renewable Energy Office**
NOTICES
Request for Proposals:
Collegiate Wind Competition, 65387–65388

**Environmental Protection Agency**
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Missouri; Controlling Emissions During Episodes of High Air Pollution Potential, 65346–65348
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Alaska; Nonattainment New Source Review, 65366–65369

Missouri; Controlling Emissions During Episodes of High Air Pollution Potential, 65362
Wyoming; Revisions to Wyoming Air Quality Standards and Regulations; Nonattainment Permitting Requirements and Chapter 3, General Emission Standards; Partial Approval and Partial Disapproval, 65362–65366
Carbon Pollution Emission Guidelines:
Existing Stationary Sources in Indian Country and U.S. Territories; Multi-jurisdictional Partnerships, 65482–65505
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Cross-Media Electronic Reporting Rule, 65391–65392
Ambient Air Monitoring Reference and Equivalent Methods:
Designation of Two New Reference Methods and Two New Equivalent Methods, 65392–65393
Privacy Act; Systems of Records, 65393–65395

**Federal Aviation Administration**
RULES
Airplane and Engine Certification Requirements:
Supercooled Large Drop, Mixed Phase, and Ice Crystal Icing Conditions, 65508–65540
PROPOSED RULES
Advisory Circular for Aviation Safety Action Program (ASAP), 65360
NOTICES
Meetings:
Radio Technical Commission for Aeronautics Special Committee 227, Standards of Navigation Performance, 65475

**Federal Communications Commission**
RULES
Improving 9–1–1 Reliability:
Reliability and Continuity of Communications Networks, Including Broadband Technologies, 65348–65350
Suspension of Expiration Dates:
New Digital Low Power Television and TV Translator Stations, 65350
PROPOSED RULES
Petitions for Reconsideration of Action in a Rulemaking Proceeding; Correction, 65371
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65395–65397

**Federal Energy Regulatory Commission**
NOTICES
Combined Filings, 65388–65391

**Federal Highway Administration**
NOTICES
Final Federal Agency Actions:
Highway in Georgia, 65475–65476

**Federal Retirement Thrift Investment Board**
NOTICES
Meetings; Sunshine Act, 65397

**Federal Transit Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65476–65477

**Fiscal Service**
NOTICES
Federal Debt Collection, Discount and Rebate Evaluation Rates, 65479

**Food and Drug Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Extralabel Drug Use in Animals, 65408–65409
Food Safety Survey, 65406–65408
Guidance for Industry on Updating Labeling for Susceptibility Test Information in Systemic Antibacterial Drug Products and Antimicrobial Susceptibility Testing Devices, 65403–65405
Substantiation for Dietary Supplement Claims Made Under the Federal Food, Drug, and Cosmetic Act, 65409–65410
Testing Communications on Food and Drug Administration-Regulated Products Used in Animals, 65405–65406
Guidance:
Patient Participation in Medical Product Discussions, 65410–65411

**General Services Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Acquisition Regulation; Presolicitation Notice and Response, 65397

**Health and Human Services Department**
*See* Centers for Disease Control and Prevention
*See* Centers for Medicare & Medicaid Services
*See* Children and Families Administration
*See* Food and Drug Administration
*See* Substance Abuse and Mental Health Services Administration
PROPOSED RULES
World Trade Center Health Program:
Petition 005–Acoustic Neuroma; Finding of Insufficient Evidence, 65369–65371

**Homeland Security Department**
*See* Coast Guard
NOTICES
Meetings:
President's National Security Telecommunications Advisory Committee, 65413–65414
Privacy Act; Systems of Records, 65414–65419

**Housing and Urban Development Department**
NOTICES
Manufactured Home Construction and Safety Standards:
Request for Recommended Changes, 65419–65420

**Indian Affairs Bureau**
PROPOSED RULES
Rights-of-Way on Indian Land, 65360

**Interior Department**
*See* Indian Affairs Bureau

**International Trade Administration**
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China, 65376
Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, 65377–65378
Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China, 65375–65376

**International Trade Commission**
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Frozen Fish Fillets from Vietnam, 65423
Diamond Sawblades and Parts Thereof from China, 65420–65423
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Set-Top Boxes, Gateways, Bridges, and Adapters and Components Thereof, 65423–65424

**Justice Department**
*See* Antitrust Division
NOTICES
Proposed Consent Decrees under CERCLA, 65424

**Labor Department**
*See* Employment and Training Administration

**National Aeronautics and Space Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Acquisition Regulation; Presolicitation Notice and Response, 65397

**National Credit Union Administration**
PROPOSED RULES
Corporate Credit Unions, 65353–65360

**National Endowment for the Humanities**
NOTICES
Meetings:
National Council on the Humantities, 65426

**National Foundation on the Arts and the Humanities**
*See* National Endowment for the Humanities

**National Oceanic and Atmospheric Administration**
RULES
Marine Mammals:
Subsistence Taking of Northern Fur Seals, St. George Island, AK, 65327–65339
NOTICES
Exclusive Licenses, 65378
Takes of Marine Mammals Incidental to Specified Activities:
Pier Replacement Project; Incidental Harassment Authorization, 65378–65386

**Nuclear Regulatory Commission**
NOTICES
Facility Operating Licenses:
Catawba Nuclear Station, Units 1 and 2; R.E. Ginna Nuclear Power Plant; and St. Lucie Plant, Units 1 and 2, 65427–65434

**Office of Advocacy and Outreach**
NOTICES
Charter Renewals:
Minority Farmer Advisory Committee, 65372

**Pipeline and Hazardous Materials Safety Administration**
NOTICES
Special Permits; Renewals:
Pipeline Safety, 65477–65478

**Postal Regulatory Commission**
NOTICES
New Postal Products, 65434–65435

**Postal Service**
RULES
Purchasing of Property and Services:
Supplier Debarment, Suspension, and Ineligibility, 65342–65346

**Public Debt Bureau**
*See* Fiscal Service

**Securities and Exchange Commission**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65435–65436
Consolidated Tape Association Plan:
Twentieth and Fourteenth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan, 65436–65437
Meetings; Sunshine Act, 65437
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., 65447–65450
BATS Y-Exchange, Inc., 65468–65471
Chicago Board Options Exchange, Inc., 65464–65468
Chicago Mercantile Exchange Inc., 65463–65464
EDGX Exchange, Inc., 65450–65463
ICE Clear Europe Limited, 65443–65445
Miami International Securities Exchange LLC, 65445–65447
NYSE Arca, Inc., 65437–65443
Trading Suspension Orders:
Hall Tees, Inc., et al., 65471

**Small Business Administration**
NOTICES
Disaster Declarations:
California, 65471–65472
Nevada, 65472
New Mexico; Amendment 1, 65472

**Social Security Administration**
NOTICES
Cost-of-Living Increases and Other Determinations for 2015; Corrections, 65472–65473
Privacy Act; Systems of Records, 65473

**State Department**
NOTICES
Designations as Foreign Terrorist Organizations:
Basque Fatherland and Liberty, a.k.a. ETA, et al., 65474
National Liberation Army, a.k.a. ELN, et al., 65474

**Substance Abuse and Mental Health Services Administration**

NOTICES

Laboratories and Instrumented Initial Testing Facilities: Urine Drug Testing for Federal Agencies, 65411–65413

**Tennessee Valley Authority**

NOTICES

Meetings; Sunshine Act, 65474

**Transportation Department**

*See* Federal Aviation Administration

*See* Federal Highway Administration

*See* Federal Transit Administration

*See* Pipeline and Hazardous Materials Safety Administration

NOTICES

Applications for Commuter Air Carrier Authority: Gem Air, LLC, 65474–65475

**Treasury Department**

*See* Fiscal Service

**Veterans Affairs Department**

NOTICES

Cost-Based and Inter-Agency Billing Rates for Medical Care or Services, 65479–65480

---

**Separate Parts In This Issue**

**Part II**

Environmental Protection Agency, 65482–65505

**Part III**

Transportation Department, Federal Aviation Administration, 65508–65540

---

**Reader Aids**

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

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## CFR PARTS AFFECTED IN THIS ISSUE

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


**10 CFR**

**Proposed Rules:**

429 ..... 65351
430 ..... 65351

**12 CFR**

**Proposed Rules:**

704 ..... 65353

**14 CFR**

25 ..... 65508
33 ..... 65508

**Proposed Rules:**

121 ..... 65360
145 ..... 65360

**15 CFR**

902 ..... 65327

**25 CFR**

**Proposed Rules:**

169 ..... 65360

**33 CFR**

117 ..... 65339
165 ..... 65340

**Proposed Rules:**

110 ..... 65361

**39 CFR**

601 ..... 65342

**40 CFR**

52 ..... 65346

**Proposed Rules:**

52 (3 documents) ..... 65362, 65366
60 ..... 65482

**42 CFR**

**Proposed Rules:**

88 ..... 65369

**47 CFR**

4 ..... 65348
74 ..... 65350

**Proposed Rules:**

0 ..... 65371
1 ..... 65371
2 ..... 65371
15 ..... 65371
27 ..... 65371
73 ..... 65371
74 ..... 65371

**50 CFR**

216 ..... 65327

# Rules and Regulations

Federal Register
Vol. 79, No. 213
Tuesday, November 4, 2014

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 15 CFR Part 902

### 50 CFR Part 216

**[Docket No. 130404331–4881–02]**

**RIN 0648–BD12**

## Marine Mammals; Subsistence Taking of Northern Fur Seals; St. George Island, Alaska

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

**ACTION:** Final rule.

**SUMMARY:** This final rule modifies the subsistence harvest regulations for the Eastern Pacific stock of northern fur seals (*Callorhinus ursinus*) based on a petition from the Pribilof Island Aleut Community of St. George Island, Traditional Council (Council). The final rule authorizes Pribilovians of St. George Island to harvest up to 150 male young of the year fur seals annually during a new autumn harvest season from all breeding and hauling grounds, consistent with traditional practices, to meet the community's nutritional and cultural needs. Harvests of sub-adult male fur seals will continue to be authorized during the summer season as under existing regulations, and will be allowed at additional locations. The total number of fur seals harvested annually will remain within the range of 300–500 male animals that has been in place since 1997. Harvests will be coordinated between NMFS and the Council under an existing co-management agreement.

**DATES:** Effective October 30, 2014.

**ADDRESSES:** Electronic copies of the Final Supplemental Environmental Impact Statement (SEIS), scoping report, St. George Tribal Resolution, proposed rule, and other related documents are available at: *http://alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

**FOR FURTHER INFORMATION CONTACT:** Michael Williams, NMFS Alaska Region, 907–271–5117, *Michael.Williams@noaa.gov;* or Shannon Bettridge, NMFS Office of Protected Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

NMFS published a proposed rule on July 24, 2014 (79 FR 43007) to modify the subsistence harvest regulations for northern fur seals on the Pribilof Islands based on the petition from the Council (75 FR 21233; April 23, 2010). The proposed rule included several modifications to the existing regulations for the sub-adult harvest, in addition to proposing new regulations to authorize a separate young of the year harvest. This final rule implements the regulations for the young of the year harvest, and implements only a portion of the proposed modifications that would affect the sub-adult harvest. Specifically, this action removes restrictions on the locations available for the sub-adult harvest, adds a measure to suspend harvests if two females are killed, adds a measure to terminate harvests if three females are killed, and makes non-substantive organizational changes to other regulatory provisions governing the sub-adult harvest. This regulatory action affects Pribilovians on St. George Island and reorganizes existing regulatory text to separate provisions applicable only to St. George Island from those applicable only to St. Paul Island.

St. George Island is a remote island located in the Bering Sea whose residents rely upon marine mammals as a major food source and cornerstone of their culture, and the harvest of sub-adult male northern fur seals has occurred there for well over 200 years. Food security for the residents of St. George is an ever present concern as a result of regular delays in barge and air traffic. The residents of St. George conduct an annual controlled subsistence harvest from the Northern fur seal stock under the authority of the Fur Seal Act (FSA) (16 U.S.C. 1155, 1161) and the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(b)). Pursuant to section 119 of the MMPA, NMFS entered into a co-management agreement with the Pribilof Islands Aleut Community of St. George Island in 2001 (16 U.S.C. 1388). NMFS is guided by this co-management agreement as it works with St. George to cooperatively implement subsistence harvest activities and monitoring programs. Regulations governing subsistence harvest of fur seals appear at 50 CFR part 216, subpart F.

The United States (U.S.) government began regulating the harvest of northern fur seals by the people of St. George Island in 1867 after the purchase of Alaska. From 1870 through 1890 the U.S. managed the commercial harvest of fur seals under a 20-year lease arrangement with private companies that were responsible for harvesting fur seals and selling the pelts on the world market. During this period, at least 501,324 fur seals (mean annual harvest = 23,872) were harvested for their pelts from St. George Island during the summer. The lease arrangement also stipulated that the Pribilovians were provided a subsistence food harvest in the autumn, and this subsistence harvest was directed at male young of the year. The subsistence food harvest of young of the year was 28,064 (mean annual harvest = 1,477) for this 20-year period, and the Pribilovians were allowed to keep the pelts from the food harvest for trade and barter. A second 20-year lease arrangement, between the North American Commercial Company and the U.S., required the Pribilovians to collect fresh meat from the commercial harvest during the summer, and did not allow them to obtain their preferred fresh fur seal meat in the autumn from young of the year prior to the fur seals' winter migration from the islands. Consequently, the summer commercial land harvest of sub-adult males became the primary means for

Pribilovians to obtain fresh meat for subsistence. The prohibition on harvesting young of the year has been retained to the present day.

In 1910, after the expiration of the second 20-year lease, the U.S. no longer delegated the management of the commercial harvests on the Pribilof Islands to the lessees. The U.S. managed and implemented the commercial harvest of fur seals on the Pribilof Islands until 1984. The subsistence harvest of northern fur seals is the focus of this regulatory action, but NMFS's understanding of harvest effects on the fur seal population is based on over 100 years of commercial harvest management, population assessment, and behavioral research. The SEIS (NMFS, 2014) analyzes the available evidence of the effects of the subsistence harvest of male fur seals and concludes that the harvest of up to 350 sub-adult and 150 young of the year male fur seals would have an insignificant effect on the St. George population of about 72,828 fur seals. NMFS has not detected a relationship between the number of sub-adult male fur seals killed or harassed during harvests and the abundance and trend of the population.

NMFS commercially harvested an average of 8,152 sub-adult males annually from 1963–1972 on St. George Island. In 1972, the U.S. began the first large-scale investigation into the effects of commercial fur seal harvesting (Gentry, 1998). Since 1972, the St. George fur seal population decreased to its present size, showing no positive response to the reduction in the harvest of sub-adult male fur seals. From 1973 through 1975, the U.S. prohibited the St. George commercial harvest of sub-adult fur seals for their pelts in order to conduct research on the population dynamics and effects of harvesting. NMFS provided some excess fur seal meat to St. George residents from the St. Paul commercial harvest due to the harvest prohibition on St. George. Between 1976 and 1979, NMFS authorized subsistence harvests on St. George at Northwest and Staraya Artil hauling grounds. From 1980 to 1984, NMFS allowed subsistence harvests only at the Northeast hauling ground. In 1986 NMFS published fur seal subsistence harvest regulations (51 FR 24828; July 9, 1986) authorizing harvests on St. George Island at Northeast and Zapadni hauling grounds. These restrictions on St. George Island subsistence harvest locations were intended to preserve experimental and control sites for scientific investigations during the commercial harvest period (Gentry, 1998), which are no longer being pursued.

In 1984, the U.S. did not ratify the protocol to extend the Convention on the Conservation of Fur Seals, which had allowed commercial harvests of fur seals. This action resulted in the termination of the commercial harvest of fur seals on the Pribilof Islands, and inadvertently changed the way either community could obtain fresh fur seal meat. NMFS published an emergency interim rule (50 FR 27914; July 8, 1985) under the FSA and the MMPA to govern the subsistence harvest of northern fur seals on the Pribilof Islands for the 1985 season. NMFS acknowledged in the proposed rule (51 FR 17900; May 15, 1986) that the additional restrictions on St. George may not allow Pribilovians on St. George to satisfy their subsistence needs. On July 9, 1986, NMFS published a final rule that restricted the subsistence harvest of northern fur seals by sex, age, and season for herd management purposes to limit the take to a sustainable level while providing for the legitimate subsistence needs of the Pribilovians (51 FR 24828). NMFS subsequently designated the Pribilof northern fur seal population as depleted under the MMPA in 1988 (53 FR 17888; May 18, 1988). In the preamble to the proposed rule for the depleted designation, NMFS stated that it did not contemplate further rulemaking to restrict Alaska Native subsistence harvest of fur seals as a consequence of a depleted designation (51 FR 47156; December 30, 1986).

In 2001, NMFS and the Council entered into a co-management agreement pursuant to section 119 of the MMPA. The purpose of that agreement is to conserve northern fur seals and Steller sea lions through cooperative effort and consultation regarding subsistence harvests. The Council has sampled, managed, monitored, and reported the sub-adult male subsistence fur seal harvest independently since the late 1990s, consistent with current regulations.

**Population Status**

NMFS manages the northern fur seal population as two stocks in the U.S.: the Eastern Pacific and the San Miguel stocks. Neither stock is listed under the Endangered Species Act. The Eastern Pacific stock includes northern fur seals breeding on Sea Lion Rock and St. Paul, St. George, and Bogoslof islands. NMFS designated the Pribilof Islands northern fur seal population as depleted under the MMPA on May 18, 1988 (53 FR 17888) after it had declined to less than 50 percent of levels observed in the late 1950s (about 2.1 million fur seals). Loughlin *et al.* (1994) estimated approximately 1.3 million northern fur seals existed worldwide, and the Pribilof Islands represented about 982,000 (74 percent of the total) in 1992. The 2012 abundance of fur seals on the Pribilof Islands was about 44 percent lower (546,720 fur seals) than the 1992 estimate (Towell *et al.,* 2013). NMFS estimates an annual decline in pup production for the Pribilof Islands of about 4 percent since 1998, and the annual decline for St. Paul (4.84 percent) is higher than for St. George, where the most recent trend (2004–2012) is stable and not significantly different from zero (Towell *et al.,* 2013). The causes of the current fur seal decline on the Pribilof Islands are unknown.

Northern fur seals seasonally occupy specific breeding and non-breeding sites on St. George. The age and breeding status is the main determinant of where male fur seals are found during the breeding and non-breeding season. During the breeding season sub-adult males are excluded from the breeding sites (i.e., rookeries) by adult males and occupy resting sites known as hauling grounds (Figure 1 to part 216). Each of the six breeding sites has at least one distinct non-breeding hauling ground nearby (Figure 1). During the non-breeding season beginning about September 1, sub-adult males can be found on both rookeries and hauling grounds together with the remainder of the population.

**Petition for Rulemaking**

In September 2006, the Council submitted a tribal resolution to NMFS indicating the Federal government had previously allowed the community to harvest male fur seal young of the year in autumn for subsistence purposes. The Council requested that NMFS change the subsistence harvest regulations to allow residents of St. George the opportunity to return to their historic subsistence harvest patterns, including the harvesting of up to 350 sub-adult males in the summer and the harvesting of up to 150 male young of the year in the autumn each year. On April 23, 2010, NMFS published a notice of receipt of a petition (the tribal resolution) from the Council to revise the subsistence regulations for St. George Island to allow taking male northern fur seal young of the year during an autumn season (75 FR 21233). NMFS received no comments on the notice. Subsequently, NMFS worked with the Council to clarify the petition to define the second harvest season from September 16 to November 30, to discuss young of the year harvest methods and areas, and to outline the process to proceed with rulemaking. In

2011, NMFS held scoping meetings on St. George Island and in Anchorage, AK, and provided a 60-day public comment period to consider possible alternatives. NMFS received scoping input during the St. George Island community meeting, and no one commented during the Anchorage scoping meeting. NMFS received only two letters during the comment period and both supported the Council's petition in the cultural and historic context of traditional and customary uses of marine mammals by Aleuts (NMFS, 2012). NMFS supplemented the 2005 environmental impact statement, and considered four alternatives in the SEIS to evaluate the impacts of the proposed action on the human environment (79 FR 31110; May 30, 2014). NMFS received two comment letters on a draft of the SEIS and provided responses to those comments in the final SEIS (79 FR 49774; August 22, 2014).

**Changes to the St. George Northern Fur Seal Harvest Regulations**

This action revises the subsistence harvest regulations at 50 CFR part 216, subpart F, to allow the harvest of northern fur seals to meet the subsistence needs of Pribilovians on St. George Island. This action allows St. George residents to carry out subsistence harvests focused on male young of the year during a second season (September 16 through November 30), in addition to the longstanding practice for St. George residents to harvest sub-adult fur seals. The new regulatory measures also implement new conservation controls on the St. George subsistence harvest. These include: (1) suspension of the harvest if two female fur seals are killed and a review of harvest practices by NMFS before the harvest may resume; (2) termination of the harvest for the season if three female fur seals are killed; (3) prohibition of take of young of the year fur seals from any breeding or resting areas when the most recent pup production estimate has fallen below levels capable of sustaining a harvest; and (4) equal geographic distribution of the young of the year harvest, based on the most recent estimate of pups born at the various breeding areas. The final rule provides increased management flexibility in the seasonal and geographical aspects of the harvest, consistent with historical and cultural practices on St. George.

The final rule authorizes the subsistence harvests at a greater number of sites than under the current regulations governing the sub-adult harvest, such that the harvest effort would not be concentrated in time or space, thus minimizing effects on fur seals. The final rule also clarifies the Tribal and Federal responsibilities to co-manage the subsistence harvest of fur seals.

The final rule revises the following provisions of the existing (51 FR 24828; July 9, 1986) subsistence harvest regulations:

| 50 CFR part 216 | Revision |
|---|---|
| § 216.72(c) | Removed and reserved. |
| § 216.72(d) | Revised to create distinct provisions applicable to St. George Island for sub-adult harvests and for young of the year harvests. |
| § 216.72(d)(1) | Renumbered and retained provisions specifying the sub-adult seal size limit, harvest season, and harvest suspension if the lower end of the allowable range is reached. |
| § 216.72(d)(2) | Renumbered and retained provisions specifying the allowable sub-adult harvest locations and frequency of harvests. |
| § 216.72(d)(3) | Renumbered and retained provision that only NMFS scientists can direct sealers to take seals with tags and/or entangling debris. |
| § 216.72(d)(4) | Renumbered and retained provision for harvest scheduling, sealer experience requirements, and traditional harvest methods requirements. |
| § 216.72(d)(5) | Renumbered and retained prohibition on taking adult fur seals or the intentional taking of sub-adult female fur seals. |
| § 216.72(d)(6) | Added to define the young of the year harvest season from September 16 through November 30. Added the young of the year harvest limit of 150 males or up to the lower end of the harvest range established in paragraph (b). |
| § 216.72(d)(7) | Added to distribute the young of the year harvest equally according to population size by allowing up to 50 male young of the year from each of the three regional pairs of rookeries, and to describe the method of harvest as stunning and immediate exsanguination. |
| § 216.72(d)(8) | Added to define the scheduling and methods restrictions for the young of the year harvest. |
| § 216.72(d)(9) | Added to prohibit any harvest of sub adult or adult male fur seals or the intentional harvest of female fur seals. |
| § 216.72(d)(10) | Added to prohibit taking young of the year from any breeding areas when the most recent annual pup production estimate is below levels capable of sustaining harvest. |
| § 216.72(d)(11) | Added to require NMFS and the Council to review harvest practices no later than 120 days after the last harvest each year. |
| § 216.72(e)(1)—(e)(6) | Reorganized to retain for St. Paul Island the current sub-adult male fur seal subsistence harvest provisions. |
| § 216.72(f)(1)(i)—(f)(1)(iii) | Redesignated from paragraphs (e)(1)(i)—(e)(1)(iii). |
| § 216.72(f)(1)(iv) | Added to suspend the harvest if two female fur seals of any age are killed on St. George Island. |
| § 216.72(f)(2) and (f)(3) | Redesignated from paragraphs (e)(2) and (e)(3). |
| § 216.72(f)(4) | Added to review and lift suspensions issued under new paragraph (f)(1)(iv) for killing of two females if a remedy can be identified and implemented to prevent additional killings. |
| § 216.72(g) | Redesignated from paragraph (f). |
| § 216.72(g)(1) | Added to establish termination of the St. George young of the year harvest on November 30 and retain termination of the sub-adult male harvest on August 8. |
| § 216.72(g)(2) | Added to retain the termination of the harvest when subsistence needs have been satisfied or the upper end of the range has been reached. |
| § 216.72(g)(3) | Added to terminate the harvest on St. George when three female fur seals of any age have been killed during harvest on St. George. |

| 50 CFR part 216 | Revision |
|---|---|
| § 216.74 | Revised to create separate subsections for St. George and St. Paul, and to describe in the St. George subsection the co-management relationship between NMFS and the Council under section 119 of the MMPA and efforts by NMFS to partner with the tribal government to consider best harvest practices and facilitate scientific research. |

The current subsistence fur seal harvest range is 300–500 male fur seals annually on St. George Island (79 FR 45728; August 6, 2014). Of the total potential harvest limit of 500 male fur seals, this action authorizes the subsistence harvest of 150 young of the year males from September 16 through November 30 each year. Thus, if the Pribilovians on St. George intend to satisfy their subsistence needs in a given year by harvesting the full 150 young of the year during the autumn harvest season, they should harvest no more than 350 sub-adult male fur seals from June 24 through August 8. If the lower end of the subsistence harvest range for St. George is reached (currently set at 300; 79 FR 45728), and the Pribilovians have not satisfied their subsistence needs, the rule enables the Council on behalf of the Pribilovians to request that NMFS allow harvest up to the upper limit of the harvest range. At the point when the lower end of the harvest range is reached, the harvest is suspended for no more than 48 hours for NMFS and the Council to discuss and determine within the co-management structure the revised estimate of the number of seals required to satisfy the St. George residents' subsistence need and how many seals from each age class they intend to harvest.

*Taking Male Young of the Year*

The historical Aleut harvest of young of the year fur seals was discussed in the preamble to the proposed rule (79 FR 43007; July 24, 2014). The estimated annual total subsistence harvest level for St. George Island would remain consistent with the subsistence harvest range estimates of 300 to 500 male fur seals that NMFS evaluated in 2005 under the preferred alternative in the environmental impact statement for setting annual subsistence harvest levels (NMFS 2005) and again in the 2014 SEIS (NMFS 2014). The harvest level would also remain consistent with NMFS's most recent estimate of the annual subsistence needs of Pribilovians on St. George (79 FR 45728; August 6, 2014).

NMFS does not expect that the harvest of young of the year males will have adverse effects on the fur seal population. As described in the preamble to the proposed rule (79 FR 43007; July 24, 2014), direct evidence from Russian harvests of young of the year fur seals and population modeling conducted by NMFS both indicate that a male young of the year harvest with the control measures contained in this final rule will be sustainable. In summary, NMFS (2014) analyzed numerous lines of harvest evidence including the harvest of northern fur seal pups from their Russian breeding islands (Kuzin 2010, Ream and Burkanov pers. comm.), survival models (Towell 2007, Fowler *et al.,* 2009), and simplified direct additive losses (which assume all harvested males four years and younger would have survived to become reproductively active harem males) and concluded that no population level effects of the subsistence harvest of sub-adult and young of the year males are anticipated. Evidence provided in the SEIS and in the preamble to the proposed rule (79 FR 43007; July 24, 2014) indicates that efforts to protect female fur seals, whether or not they are sexually mature, are the most likely to have direct conservation value for the fur seal population. NMFS has included measures in the final rule, as summarized below, to keep the accidental mortality of females as close to zero as practical.

*Establishment of a Second Harvest Season*

The final rule establishes the second season, exclusively for male young of the year fur seals, from September 16 until November 30. Those dates ensure the young of the year harvest occurs after the breeding season, which ends in August, and thus provide protection for late-breeding young fur seals. The timing of the second season also allows for young of the year to begin using sites separate from those used by lactating adult female and sub-adult fur seals. Young of the year wander and spend time away from the rookeries and hauling grounds (Figure 1), thereby providing the opportunity for the harvest to reduce incidental harassment of older seals still using the rookeries and hauling grounds during the second harvest season. The end date of the second subsistence harvest season coincides with the time when the majority of the fur seal population migrates away from the Pribilof Islands, which typically occurs by early December.

The final rule does not alter the requirement to terminate the existing sub-adult male harvest by August 8 of each year. As discussed in the preamble to the proposed rule (79 FR 43007; July 24, 2014), ending the sub-adult harvest by August 8 minimizes the chance of accidentally taking young female fur seals.

*Distributing the Harvest*

The young of the year harvest will occur during the non-breeding season in locations that earlier in the year were both breeding and non-breeding areas. Young of the year harvests could occur in any areas occupied by young of the year. The final rule distributes the young of the year harvest into three regions (North, East, and South) of fur seal breeding to avoid concentrating harvest pressure on a subset of the population and to provide adequate opportunity for the community to satisfy its subsistence needs. Each region contains two breeding areas and at least two hauling grounds. The North region includes two separate and adjacent breeding areas (North and Staraya Artil rookeries) that make up 32.9 percent of the island population based on the most recent estimate of pups born. The East region includes East Reef and East Cliffs rookeries, which account for 33.3 percent, and the South region includes South and Zapadni rookeries which account for the remaining island pup production (33.7 percent). Under the final rule, up to 50 male pups could be harvested from each region (i.e., equal distribution based pup production), reducing the possibility for concentration of lethal or sub-lethal effects in particular areas.

*Prohibition on Taking From Small Breeding Areas*

Approximately 16,000 pups were born on St. George Island in 2012; however, the numbers born at each breeding area vary widely (Towell *et al.,* 2013). Northern fur seals exhibit strong site fidelity (i.e., repeatedly return to a site over years) and philopatry (i.e., return to the place of birth) (Gentry, 1998). These two behavioral tendencies have allowed humans to harvest and study fur seals for many decades and are summarized in the preamble to the

proposed rule (79 FR 43007; July 24, 2014) and described more fully in the SEIS (NMFS, 2014).

The final rule prohibits young of the year harvests at breeding locations determined to be at risk of reaching unsustainable population levels due to low pup production. As discussed in the preamble to the proposed rule (79 FR 43007; July 24, 2014), NMFS will use an annual minimum pup production threshold of 500 to indicate breeding areas and their associated hauling grounds at which young of the year harvest would not be allowed. NMFS's determination is based on modelling and empirical evidence. NMFS first evaluated models that consider the maintenance of genetic diversity in a population (effective population size, Ne) and the effects of demography and environmental variability on population persistence (minimum viable population size, MVP). Adapting model estimates from Olesiuk (2012), NMFS calculated minimum sustainable pup production levels for the breeding sites, and these ranged from 300 (Ne model) to 600 (MVP model) pups born (Johnson 2014). NMFS then evaluated historical pup production data from 1912–1922, when the population was recovering from its lowest levels in recorded history, to provide an empirical estimate of minimum viable pup production. NMFS identified only four rookeries that during the 1912–1922 period had declined to (or below) the range of 300 to 600 pups born; of these, three rookeries increased and remained above that range, and one went extinct. NMFS records show the lowest number of pups born during the period at Zapadni Reef, Ardiguen, and East Reef rookeries was 186, 417, and 469, respectively. Each of these rookeries fell within the modeled minimum viable population range of 300–600 and all recovered to the present. Lagoon rookery fell to 388 pups born, increased to 500 during the period, and subsequently went extinct in the early 1940s. As new fur seal data or models become available, NMFS may refine this threshold.

To evaluate whether the smallest breeding areas are susceptible to extinction, NMFS will project estimated biennial pup production at each breeding area 10 years into the future (see Johnson, 2014). If the projections indicate a greater than 5 percent probability that pup production at a breeding site will fall below 500 within the ten-year time horizon, no young of the year harvest will be allowed at that site. The ten-year time horizon allows for natural variability of pup production into the future. Pup production for each rookery is estimated separately every two years, and therefore rookery-specific young of the year harvests can be managed separately during this period. For example, using 2012 data the quasi-extinction analysis of pup production and trend for Staraya Artil rookery indicates that the population at that rookery has over a 65 percent probability of falling below 500 during the next 10 years, and none of the other breeding areas have greater than a 5 percent probability of reaching 500 (Johnson, 2014). NMFS adopted a 5 percent probability of reaching the quasi-extinction threshold within ten years based on analysis from Gerber and DeMaster (1999) and considers this threshold to be conservative. Based on the quasi-extinction analysis using methods from Johnson (2014), this action effectively prohibits all young of the year harvests at Staraya Artil rookery until pup production from that rookery increases to a level at which there is a 5 percent or lower probability of pup production being below 500 during the next 10 years.

The final rule distributes the young of the year harvest limit equally across the three regions of two rookeries each. Thus, while Staraya Artil rookery and its single hauling ground remains closed to young of the year harvests at this time, harvesters could take up to 50 male young of the year from the other rookery (North Rookery) in the North Region. This geographic dispersion of effort and prohibition on the taking from areas with small population size will allow NMFS and the Council to ensure that individual breeding locations do not reach population sizes low enough that recovery is highly uncertain. NMFS and the Council will review and update the statistical analysis as new data are available, and during annual co-management meetings will determine the locations where young of the year harvests can occur based on the updated analysis.

*Suspension or Termination of the Harvest*

Historically, the northern fur seal population has declined during periods when there were no prohibitions on intentional or un-intentional harvest of females. The northern fur seal population declined through 1979, well beyond expectations of the member nations to the Fur Seal Treaty of 1911 (York and Hartley, 1981), as a result of female harvests. Trites and Larkin (1989) estimated that an annual 2 to 5 percent reduction in adult female survival over the period of 1950 to 1987 was the most likely contributor to the lack of recovery by the Pribilof fur seal population. NMFS population modeling indicates female young of the year may have at least five to six times higher reproductive value than male young of the year (NMML unpublished data), primarily due to their reproductive ecology whereby one male inseminates many females.

The final rule maintains all prohibitions on taking during the sub-adult male harvest season. The final rule creates new prohibitions on the harvest of sub-adults, adults, or the intentional harvest of young of the year female fur seals during the male young of the year harvest season. From 1985 to 2013, five sub-adult females were harvested accidentally on St. George Island out of a total harvest of 4,994 seals (0.1 percent accidental sub-adult female harvest rate).

Under the final rule, NMFS would suspend the harvest in the event of two female mortalities and terminate the harvest in the event of a third female mortality in a given calendar year. These measures create a powerful incentive for St. George harvesters to spend adequate time to identify sex correctly and avoid killing females. NMFS's intent in defining the upper limit of female mortalities at three per year is to encourage harvesters to develop and improve best practices as part of the young of the year harvest to ensure that the accidental female harvest rate under the new regulations remains close to zero. Female mortalities that would trigger the suspension or termination of the harvest include direct harvest mortalities as well as indirect mortalities due to trampling or other disturbance associated with the harvest.

If two females are killed and NMFS suspends the harvest, NMFS could reverse the suspension upon review of the circumstances of the female mortalities and identification by St. George and NMFS of a remedy to minimize the risk of additional accidental mortality of any female fur seals. If the harvest is resumed and another female is killed, then the harvest will be terminated for the year.

*Cooperative Management of the Subsistence Harvest*

In 2000 and 2001, NMFS signed co-management agreements with Aleut Community of St. Paul Island, Tribal Government and the Aleut Community of St. George Island, Traditional Council. These agreements set in place a process for NMFS and the tribes to communicate, partner, and cooperate on issues related to the subsistence harvest of northern fur seals. This process has developed a collaborative relationship that has created both greater and more

cost effective opportunities for NMFS to collect information about fur seal disease, health, and age composition by training local tribal members and building that capacity within the tribal governments. In addition, tribal government staff has disentangled fur seals, recorded tag numbers, and collected information about the locations of seals captured in the harvest round-ups and reported this information annually in their harvest reports with minimal involvement by NMFS. Through co-management NMFS has also worked with both tribal governments to conduct research. The final rule aligns the purposes of the co-management agreement between NMFS and the Council with the subsistence harvest regulations with the subsistence harvest regulations for St. George, and retains the subsistence harvest regulations for St. Paul.

The collaborative relationship built under co-management will be strengthened by NMFS and the Council continuing to work jointly to develop best harvest practices, which balance conservation, sustainability, and cultural interests. NMFS and the Council will refine these harvest practices as young of the year harvest experience is gained, and will formalize those practices via the co-management council. NMFS will post the best harvest practices on the NMFS Alaska Region Web site.

The best harvest practices will include a description of jointly agreed-upon measures to consider before each young of the year harvest. Further description of the intent of the best harvest practices is provided in the preamble to the proposed rule (79 FR 43007; July 24, 2014).

The Council has expressed its intention during co-management meetings to utilize the same harvest methodology for the young of the year harvest as it uses for the existing sub-adult harvest, whereby a crew is organized in advance and assesses those locations most likely to be harvested. From those likely harvest locations the crew would consider the prevailing weather conditions, presence of harvestable young of the year, accessibility and space for harvest, presence of non-harvestable seals, and the impact those non-harvestable seals would have on the implementation of the harvest. Whether those methods defined as traditional in the emergency final rule (51 FR 24828; July 9, 1986) will be applicable to the harvest of young of the year is unknown because a young of the year harvest has not occurred for over 120 years. The final rule will ensure humane harvesting of young of the year via stunning and immediate exsanguination, but flexibility in some of the specific harvest methods is required to achieve the outcomes of reduced stress, injury, and disturbance to harvested and un-harvested seals and to minimize taking of female seals. NMFS's intent is to encourage innovation and improvements to the subsistence harvest methods for fur seals.

**Comments and Responses**

NMFS received comments on the proposed rule to change the subsistence harvest regulations (79 FR 43007; July 24, 2014) from the Humane Society of the United States, the Marine Mammal Commission (Commission), and one individual. A summary of the comments received and NMFS's responses follows.

*Comment 1:* One commenter objected to the fur seal harvest overall, and stated that the harvest is about money, not food or culture, and that the culture on St. George has changed tremendously such that the harvest is not justified as a cultural need.

*Response:* NMFS disagrees. The existing subsistence harvest of northern fur seals on St. George is set at a maximum of 500 sub-adult males and represents less than 1 percent of the entire population of fur seals residing on St. George Island. The Fur Seal Act and MMPA both provide for the subsistence harvest of northern fur seals to meet the dietary and cultural needs of the Pribilof Island Alaska Native residents (Pribilovians). The subsistence harvest remains very important to the culture of the Pribilovians, even with changes that have taken place on the Pribilof Islands in modern times. The final rule includes new harvest control measures that will further ensure the sustainability of the subsistence harvest.

*Comment 2:* A commenter stated that the announcement of the availability of the draft SEIS should have been published in the **Federal Register** rather than simply being sent to a small universe of previously interested commenters.

*Response:* As NMFS noted in the response to comment section in the SEIS, and as is standard practice, NMFS worked with the Environmental Protection Agency (EPA) to publish the Notice of Availability for the draft SEIS in the **Federal Register** on May 30, 2014 (79 FR 31110). Likewise NMFS worked with EPA to publish a Notice of Availability for the final SEIS in the **Federal Register** on August 22, 2014 (79 FR 49774).

*Comment 3:* The proposed regulations adopt the ''proposed action'' alternative in the Draft Supplemental Environmental Impact Statement. Based on the short space of time between the close of the comment period on the DSEIS and the start of the comment period on the proposed rule, it is not clear that NMFS considered or addressed concerns raised during the comment period on the DSEIS.

*Response:* NMFS responded to all of the comments on the DSEIS in the response to comments section of the SEIS (79 FR 49774; August 22, 2014) as required by NEPA. NMFS considered those comments received on the DSEIS and addressed public comments on the proposed rule in the preamble to this final rule.

*Comment 4:* A commenter stated that for reasons that are poorly understood, during 1998–2010, pup production declined 5.46% per year on St. Paul Island and 2.09% per year on St. George Island with the estimated pup production in 2010 below the 1916 level on both St. Paul and St. George Islands. There is every indication that the decline has not stopped. NMFS's management decisions related to this stock emphasize the importance of protecting females and increasing pup survival. The 2005 EIS, which the SEIS supplements, states that harvest extensions beyond the first week of August in 1986 and 1987 resulted in an increased number of female fur seals taken. Expanding the harvest to the fall as proposed increases the risk that females will be killed unintentionally.

*Response:* NMFS agrees that protecting female fur seals and their future reproductive potential is important. NMFS disagrees with the commenter's assertion that the decline in pup production has not stopped on St. George. NMFS examined data for the period since the 2005 EIS and the pup production trend for St. George Island between 2004 and 2012 was stable (i.e., not increasing or declining, SE = 0.79, $P < 0.69$), as noted on page 33 of the final SEIS. By including new conservative harvest controls, this action will provide greater protection for female fur seals and promote future reproductive potential by increasing female survival.

NMFS agrees with the commenter that distinguishing between sub-adult male and female fur seals is difficult. This action creates separate young of the year harvest season that is distinct from the sub-adult harvest, and thus it should have no effect on sub-adult female mortality. The 1986 and 1987 fur seal harvest extensions noted in the 2005 EIS extended the harvest of sub-adult males, and this final rule does not authorize an extension to the August 8 end date for the sub-adult male harvest season. This

action authorizes a second season to allow for the exclusive harvest of young of the year fur seals, which, unlike sub-adult fur seals, can be safely handled to distinguish females from males prior to selection for harvest. As an additional measure to protect the population, the final rule includes a hard limit on female mortality: the subsistence harvest will be suspended if two female fur seals are killed and terminated if three females are killed. No such thresholds exist for accidental mortality of sub-adult females under current regulations.

The limits on accidental mortalities of female fur seals are precautionary measures. NMFS does not expect that these limits will be reached because female mortality has been very low during the sub-adult male harvest (the practices for which would not change under the final rule) and the young of the year male harvest would include practices to safely and effectively distinguish males from females. Therefore, NMFS believes that the final rule will reduce the risks of accidental female fur seal mortality and is more protective than the existing regulations.

*Comment 5:* Self-reporting of the sex of harvested fur seals by the tribal government would go against the self-interest of the hunters, since reporting dead females can terminate the hunt. Moreover, self-reporting generally results in under-reporting. Independent monitoring should occur to ensure accurate reporting, particularly during any fall hunt for young of the year animals, which may unintentionally result in the deaths of young females.

*Response:* NMFS disagrees that self-reporting generally results in under-reporting of accidental take of females or that the harvester's self-interest creates an incentive not to report. The Council has self-reported from 2003 to the present and during this time the annual rate of accidental female mortality in the sub-adult subsistence harvest is 0.36 female seals killed per year. The self-reported rate of 0.36 female seals killed per year is not different from the rate reported by NMFS observers (0.37 female seals killed per year) who were present at 100 percent of the subsistence harvests prior to 2003. This indicates that the sub-adult subsistence harvest monitoring process developed through co-management with the Council yields accurate data on accidental take of females during the sub-adult harvest.

Even with the addition of a hard cap that will terminate the harvest if three females are killed, NMFS has no indication that female mortalities will go undetected. As noted in the SEIS, male and female young of the year are not segregated within the breeding areas or hauling grounds, yet sealers can handle young of the year fur seals safely to accurately distinguish male from female fur seals. During the first three years of the autumn harvest season, NMFS will strive to have staff present during 100 percent of the young of the year harvests. NMFS and the Council will work in close coordination to ensure that harvesters accurately identify and release female young of the year fur seals prior to harvesting each animal. This close coordination will ensure that NMFS and the Council's efforts are consistently aligned with the harvest regulations and conservation of northern fur seals, that accidental mortality of females will not likely approach the limit of three, and that the number of female animals killed during the fall harvest season is reported accurately. NMFS also notes that, as co-managers of the harvest, the Pribilovians on St. George Island have a strong interest in avoiding mortality of female fur seals because they want the harvest to continue sustainably into the future. Further, in a continuation of its longstanding collaboration with NMFS on scientific research related to fur seals, the Council plans to collect canine teeth from 100 percent of the harvested young of the year seals for aging and sex determination by NMFS. NMFS intends to use the canine teeth to independently sex harvested seals, which will deter the Council from falsely reporting the sex of harvested seals.

*Comment 6:* It is not clear how the harvest on St. George will be conducted. As the proposed regulations are currently written, harvests could be conducted simultaneously on more than one rookery or by multiple sealing crews. NMFS should address possible simultaneous harvests more explicitly in the final rule and how monitoring will occur to ascertain whether female fur seals are being killed. If the St. George community will not conduct simultaneous harvests, this should be specified in the rule and appropriate changes made to the regulatory language.

*Response:* During the past 30 years of sub-adult male harvests under the subsistence regulations, simultaneous harvests were never proposed by the sealers, tribe, or community. NMFS does not expect simultaneous harvests to occur, and even if they do, the planned methods for ascertaining and reporting female fur seal mortality during single harvests would be equally effective for simultaneous harvests. Therefore, NMFS does not agree that the regulations need to include any special monitoring provisions to address simultaneous harvests by multiple sealing crews.

*Comment 7:* It is not clear what fur seal harvest monitoring will be carried out. Section 216.74 of the proposed rule recognizes that NMFS representatives are responsible for compiling information related to sources of human-caused mortality and serious injury of marine mammals, and that the Pribilovians are responsible for reporting on the ''actual level of subsistence take.'' This provision of the proposed rule is vague on how these tasks will be accomplished and in what timeframe. It is unclear whether efforts to avoid taking female pups will be successful or whether the suspension and termination thresholds will be reached quickly. Sufficient monitoring is needed to ascertain on a near real-time basis whether female seals are being killed and that those responsible for managing the harvest are notified promptly when the female fur seal threshold is reached. NMFS should provide more detail in the preamble on what monitoring will be conducted. NMFS should specify the applicable monitoring and reporting requirements in regulations more precisely to ensure that those requirements are sufficient to provide timely information to decision makers whenever female seals are killed.

*Response:* As explained in response to Comment 5, based on nearly 30 years of sub-adult male harvests on St. George Island, NMFS expects that the young of the year harvest practices will effectively limit mortality of females. Every young of the year fur seal will be handled and sexed prior to harvest. NMFS will strive to be present during all young of the year harvests during the first three years and will then reassess what degree of NMFS monitoring is needed over the longer term. The measures specified in the final rule provide adequate assurance that female mortality will be very limited and that any accidental harvest of females will be reported.

*Comment 8:* It appears that NMFS and the Pribilovians intend to apply harvest methods similar to those used for sub-adult male harvests to the harvest of young of the year to determine whether they are effective or whether changes need to be made. The preamble to the final rule should provide additional detail about how the proposed changes to the harvest protocol, if any, would be identified, considered, and approved.

*Response:* NMFS appreciates this comment, and has included additional information regarding young of the year

harvest methods in the preamble to this final rule. The Council will work with NMFS via co-management to evaluate how the specific methods that have been used effectively for the sub-adult harvest should be adapted to provide for an effective young of the year harvest. These methods will be documented and refined over time through a written set of best harvest practices, as described in the preamble to the proposed rule (79 FR 43007; July 24, 2014).

*Comment 9:* Two comments expressed general support for the new conservation measure that would prohibit the harvest of young of the year fur seals from any breeding area where the recent analysis projects that pup production has greater than a 5 percent probability of falling below a level capable of sustaining a harvest in 10 years. One commenter expressed support for including conservatism in this metric.

*Response:* NMFS acknowledges the supportive comments and agrees that conservative controls are appropriate.

*Comment 10:* NMFS intends to use 500 as the pup-production lower threshold for evaluating quasi-extinction or minimum sustainable pup-production size. Lagoon Rookery reached a low of 388 pup births, and although it later returned to 500 births, it eventually went extinct. NMFS needs to consider establishing a higher pup-production threshold as the appropriate standard.

*Response:* NMFS identified four rookeries that had declined during the 1912–1922 period to (or below) the range of 300 to 600 pups born; of these, three rookeries increased and remained above that range, and one went extinct. NMFS records show the lowest number of pups born during the period at Zapadni Reef, Ardiguen, and East Reef rookeries was 186, 417, and 469, respectively, and all recovered and have remained above the minimum viable population size range of 300 to 600 to the present. The commenter is correct that Lagoon rookery fell to 388 pups born, increased to 500 during the period, and subsequently went extinct in the early 1940s. NMFS determined that 500 is an appropriate pup production threshold because three of the four rookeries for which records are available recovered from pup production numbers that dipped to or below that level, and because the final rule is coupling the pup production threshold of 500 with a prohibition on the harvest of young of the year fur seals from any breeding area where the analysis projects greater than a 5 percent probability that pup production will fall below that level within 10 years. NMFS is not certain that 500 is the optimal pup production threshold to select within the modeled minimum viable population size range of 300 to 600, but NMFS chose 500 based upon empirical evidence as a reasonable indicator of the level of pup production below which there would be concern about whether harvests may be sustainable. NMFS may identify a different threshold in the future, higher or lower than 500, if new modelling or empirical evidence emerges to suggest that 500 is not the appropriate threshold.

*Comment 11:* It is not clear why the proposed conservation measure to prohibit harvests at breeding areas that have low pup production and a low probability of sustaining harvest over a 10-year period should only be applicable to the harvest of the young of the year. The final rule should also prohibit sub-adult harvest in breeding areas that NMFS projects will have a greater than 5 percent probability of falling below a level capable of sustaining harvest in ten years.

*Response:* NMFS appreciates this suggestion and will consider whether to apply this conservation control to the sub-adult male harvest via a separate rulemaking.

*Comment 12:* Revising regulations at 50 CFR 216.74 by removing the requirement that subsistence harvesters cooperate with scientists engaged in fur seal research is concerning. Scientific sampling of whiskers, organs, and other tissues is needed to understand possible changes in the fur seal diet that may contribute to the stock's decline and to ascertain toxin exposure. It is unclear how reliance on voluntary cooperation between harvesters and scientists pursuant to a co-management agreement will assure proper sampling required for assessment of species and ecosystem health. If 50 CFR 216.74 is revised, the revised regulations should continue to provide a mandate that subsistence harvesters assist in scientific monitoring, managing, sampling, and reporting during the two harvest seasons while supporting the co-management process.

*Response:* Neither the Council nor NMFS intend to eliminate cooperation with scientific samplers during the harvest. NMFS has provided additional explanation in the preamble to this final rule to describe how the co-management process has developed an improved and more effective means for harvesters and tribal members to support and participate in fur seal sampling and research assessing fur seal health and human-caused mortality. The co-management agreement creates a partnership between the Council and NMFS, and the Council has asked NMFS to ensure that subsistence needs during the harvest are of equal priority and not secondary to data collection for scientific investigations. The revisions to 50 CFR 216.74 will better reflect this collaborative approach. To further clarify that data collection should continue, NMFS added the phrase ''and to facilitate scientific research'' at the end of § 216.74.

NMFS and the Council will continue to use co-management as a means to provide opportunities for scientists to collect samples from seals taken for subsistence purposes. The final rule does not include a mandate for cooperation with researchers, as suggested by the commenter, because NMFS's experience is that a co-management approach is more effective than a prescriptive mandate. For example, evidence of morbillivirus exposure of pinnipeds in the North Pacific represented an unknown risk to fur seals and other pinnipeds in 2010. In 2011, NMFS did not have resources to collect samples from fur seals to determine whether fur seals were exposed to morbillivirus. NMFS and the tribal governments on both islands agreed within the co-management process to support such sampling from the subsistence harvest. On St. George Island all of the samples were collected by harvesters or tribal council members in 2011, 2012, 2013, and 2014. The St. George Council staff labelled and stored the samples for transfer to NMFS for analysis. Similar examples of the success of the co-management partnership are evident in the reporting of entangled seals and the disentanglement of those seals when practical during the subsistence harvests on both islands. The subsistence harvest reports are available on the NMFS Alaska Region Web site to verify the actions taken by harvesters and tribal government staff from both islands which have contributed to NMFS understanding of sources of fur seal mortality and disease exposure.

*Comment 13:* Because the harvest of young of the year has not been authorized for more than 100 years, it is less clear who should be authorized to harvest the seals and by what method. The proposed rule tries to address this by eliminating the requirement that sealers on St. George be experienced and by specifying that harvest methods ultimately selected will be designed to ''reduce disturbance, injury, and accidental take of females.'' The proposed regulations indicate that those methods are expected to include organized drives from congregating areas to inland killing fields, followed

by stunning and immediate exsanguination, unless NMFS, in consultation with the Pribilovians conducting the harvest, determines that alternative methods will not result in increased stress to harvested and unharvested seals, increased disturbance or injury to resting seals, or the accidental take of females. Adopted harvest methods should be designed to achieve these goals. Making these determinations will require collection and analysis of fairly detailed information on the responses to seals of harvest practices and may benefit from review by veterinarians as well as biologists.

*Response:* NMFS acknowledges the comment. As noted above in this preamble, NMFS will work with the Council via the co-management process to develop and refine a set of best harvest practices to minimize disturbance and injury of fur seals and to minimize the possibility of accidental mortality of female fur seals.

*Comment 14:* Because it is unclear whether the harvesting methods employed for sub-adult males will be appropriate for harvesting young of the year, some degree of flexibility is needed. However, at the outset only ''experienced sealers'' (i.e., those with experience taking sub-adult males) should be allowed to participate in the harvest of young of the year.

*Response:* NMFS agrees that flexibility is needed to allow harvesters to be innovative in devising efficient ways to achieve conservation outcomes. Thus, the Council will work in partnership with NMFS to develop and refine a set of best harvest practices to minimize effects on harvested and non-harvested seals, incidental disturbance of seals, and mortality of females. NMFS is not requiring participating sealers to be experienced because experience harvesting sub-adults is not the best indicator of whether a given sealer will be able to carry out a young of the year harvest in a way that minimizes negative effects such as harassment of harvested and non-harvested seals and mortality of females. Residents of St. George are generally very familiar with fur seal behavior and harvests whether they have participated in the sub-adult harvest or not, and the community has a vested interest in conducting the young of the year harvest in an efficient and sustainable manner. NMFS therefore determined that implementing this final rule together with the planned development of best harvest practices via the co-management process provides sufficient safeguards for a sustainable harvest.

*Comment 15:* NMFS proposed to remove from the St. George regulations the requirement that sealers on St. George be ''experienced'' and proposed to remove ''traditional'' from the description of methods for sealing, yet the provisions would be retained for St. Paul. NMFS also proposed to remove from the St. George regulations the requirement that ''Seals with tags and/or entangling debris may only be taken if so directed by NMFS scientists'' yet the same provision would be retained for St. Paul. Furthermore, NMFS proposed to drop the maximum size restriction (124.5 cm) for harvesting sub-adult males on St. George, but did not provide an explanation.

*Response:* This final rule does not finalize the proposed regulations that would have rescinded the sub-adult harvest regulatory requirements that harvesters be ''experienced,'' that harvesters use ''traditional'' harvesting methods, that harvesters may ''only take seals with tags and/or entangled debris if so directed by NMFS scientists,'' or that imposed a size restriction that harvesters may only take sub-adult males of 124.5 cm or less. These provisions are retained in the final rule; NMFS may further revise the regulations for the sub-adult harvest at a later date.

*Comment 16:* Current regulations limit harvest at each haulout on St. George to no more than twice per week, but the proposed rule provided no indication regarding the frequency of harvests at a particular site during the season, possibly due to an oversight. NMFS should consider changing the frequency of harvests of any approved sites on St. George from twice per week to once per week.

*Response:* The commenter is correct that NMFS inadvertently omitted a limit on the frequency of harvests from the proposed rule. The final rule retains the regulatory requirement that no area may be harvested more than twice per week. NMFS may further revise this regulatory limit in a future rulemaking.

*Comment 17:* A commenter suggested that NMFS restructure the proposed regulatory text applicable to St. George into distinct sections that apply to the sub-adult harvest and to the young of the year harvest.

*Response:* NMFS agrees and has restructured the regulatory text accordingly to improve clarity.

*Comment 18:* A commenter suggested that the proposed changes to § 216.81, which would provide that authorized subsistence harvesters of fur seals are allowed on rookeries from September 16 to November 30, would create ambiguity regarding permissible access.

*Response:* NMFS agrees and is not implementing those proposed changes.

*Comment 19:* NMFS received comments identifying citation errors and inadvertent omissions.

*Response:* NMFS made appropriate revisions as described in the following subsection.

*Changes From the Proposed Rule to the Final Rule*

In addition to the changes discussed above in response to public comments, NMFS made the following changes in the final rule.

The renumbered § 216.72(d) now provides distinct regulatory provisions applicable to St. George sub-adult harvest and the St. George young of the year harvest to improve clarity as suggested by a commenter. NMFS added provisions retaining existing regulatory requirements applicable to the sub-adult harvest. Specifically, these provisions retain existing requirements concerning the 124.5 cm size limit for sub-adults, the authority to take seals with tags or entangling debris if so directed by NMFS scientists, the requirement for harvesters to be experienced, the requirement to use traditional harvest methods, and the prohibition on any taking of adult fur seals or pups, or the intentional taking of sub-adult female fur seals. As a result, the only changes to the sub-adult harvest as compared to the existing regulations are the availability to harvest at additional sites besides Northeast and Zapadni (per § 216.72(d)(2)), the suspension of the harvest if two female fur seals are killed (per § 216.72(f)(1)(iv)), and the termination of the harvest if three female fur seals are killed (per § 216.72(g)(3)).

NMFS added a provision at § 216.72(d)(9) applicable only to the young of the year harvest on St. George to clearly prohibit any harvest of adult or sub adult fur seals or intentional harvest of young of the year female fur seals.

NMFS clarified that the subparagraph now appearing at § 216.72(d)(10) applies to the hauling ground(s) associated with designated breeding areas, and not only to the designated breeding areas. Thus, no young of the year fur seals may be taken from any designated breeding area or its associated hauling ground(s) where the most recent NMFS analysis projects that pup production has greater than a 5 percent probability of falling below a level capable of sustaining a harvest in 10 years.

NMFS added scheduling provisions for the St. Paul harvest in § 216.72(e) to correct an inadvertent omission from

the proposed rule of language that is consistent with the existing regulations.

NMFS corrected an error in § 216.72(f) where the proposed rule incorrectly referenced section 215 and corrected text references in §§ 216.71 and 216.72.

NMFS clarified that § 216.72(g)(3) applies only to St. George Island.

NMFS inserted the phrase ''provided for in § 216.71'' into § 216.72(g)(3) to clarify that take provided for in § 216.71 shall terminate if a total of three female fur seals are killed during the harvest season.

NMFS added the correct statutory references to § 216.74. NMFS also split § 216.74 into two subsections, one for St. George Island and one for St. Paul Island, to clarify that the language for § 216.74 that NMFS included in the proposed rule was only intended to apply to St. George. Subsection (a) is established by this rulemaking to revise the description of how harvesters and Tribal and Federal officials cooperate on St. George, and subsection (b) is identical to the existing text for § 216.74 but will now apply only to St. Paul.

OMB Revisions to Paperwork Reduction Act (PRA) References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, Office of Management and Budget (OMB), for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule adds a data element for the reporting of the actual subsistence harvest within a collection-of-information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the section resulting from this final rule.

## Classification

NMFS has determined that this final rule is consistent with the Marine Mammal Protection Act, the Fur Seal Act, and other applicable laws. Pursuant to 5 U.S.C. 553(d) the NMFS Assistant Administrator finds good cause to waive the 30-day delay in the effective date of this rule because such a delay would be contrary to the public interest. A delay in effectiveness of the revised regulations would preclude St. George residents from meeting their subsistence needs by delaying the resumption of the traditional young of the year fur seal harvest for a full year until September 16, 2015, and would delay regulatory revisions that would implement more sustainable subsistence harvest practices in furtherance of the MMPA and the Fur Seal Act. In addition, the Assistant Administrator finds that the regulations would relieve some unnecessary subsistence harvest restrictions currently imposed on St. George residents by expanding the number of areas on the island where subsistence harvest activities may occur, by allowing for subsistence harvests during a second season, and by allowing for subsistence harvests of a younger age class of fur seals. The revised regulations would allow for a sustainable harvest practice that occurred historically but which the current regulations do not allow.

*National Environmental Policy Act*

NMFS prepared an SEIS evaluating the impacts on the human environment of the subsistence harvest of northern fur seals on St. George Island. A Notice of Availability for the final SEIS was published in the **Federal Register** on August 22, 2014 (79 FR 49774).

*Executive Order 12866 and Regulatory Flexibility Act*

This action has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

NMFS prepared an analysis under the Regulatory Flexibility Act that carefully examined the potential impacts, including possible economic benefits and costs, and potential adverse economic burdens, that may accrue uniquely to small entities, attributable to the action described above. NMFS certified at the proposed stage of this rule that it will not have a significant economic impact on a substantial number of small entities, and NMFS received no comments on that certification.

*Executive Order 13132—Federalism*

This action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132 because this action does 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. Nonetheless, NMFS worked closely with the city and tribal governments on St. George Island in response to a petition by the tribal government of St. George.

*Executive Order 13175—Native Consultation*

Executive Order 13175 of November 6, 2000, the executive Memorandum of April 29, 1994, the American Indian Native Policy of the U.S. Department of Commerce (March 30, 1995), and the Department of Commerce Tribal Consultation and Coordination Policy Statement (78 FR 33331; June 4, 2013) outline NMFS's responsibilities in matters affecting tribal interests. Section 161 of Public Law 108–100 (188 Stat. 452) as amended by section 518 of Public Law 108–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. NMFS contacted the tribal government of St. George Island and their local Native corporation (Tanaq) about revising the regulations regarding the subsistence harvest of northern fur seals on St. George Island and their input is incorporated herein.

*Collection of Information Requirements*

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0699. Public reporting burden for harvest reporting is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Estimated responses include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS Alaska Region (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

## References Cited

A list of all the references cited in this rule may be found on *www.alaskafisheries.noaa.gov/protectedresources/seals/fur.htm* (see **ADDRESSES**).

## List of Subjects

*15 CFR Part 902*

Reporting and recordkeeping requirements.

*50 CFR Part 216*

Alaska, Marine Mammals, Pribilof Islands, Reporting and recordkeeping requirements.

Dated: October 30, 2014.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 216 as follows:

## Title 15—Commerce and Foreign Trade

## PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', add an entry in alphanumeric order for ''216.74'' to read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

* * * * *

(b) * * *

| CFR part or section where the information collection requirement is located | Current OMB control No. (All numbers begin with 0648–) |
|---|---|
| * * * * * | |
| 50 CFR: | ..... |
| * * * * * | |
| 216.74 ..... | –0699 |
| * * * * * | |

## Title 50—Wildlife and Fisheries

## PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 3. The authority citation for 50 CFR part 216 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 4. In § 216.72:

■ A. Remove and reserve paragraph (c);

■ B. Revise the section heading and paragraphs (d), (e), and (f); and

■ C. Add paragraph (g) to read as follows:

**§ 216.72 Restrictions on subsistence fur seal harvests.**

* * * * *

(d) *St. George Island.* The subsistence fur seal harvest restrictions described in paragraphs (d)(1) through (d)(5) of this section apply exclusively to the harvest of sub-adult fur seals; restrictions that apply exclusively to the harvest of young of the year fur seals can be found in paragraphs (d)(6) through (d)(11) of this section.

(1) Pribilovians may only harvest sub-adult male fur seals 124.5 centimeters or less in length from June 23 through August 8 annually on St. George Island up to the lower end of the harvest range established in paragraph (b) of this section. When the lower end of the range has been reached paragraphs (f)(1)(iii) and (f)(3) of this section apply.

(2) Pribilovians may harvest sub-adult male fur seals at the hauling grounds shown in Figure 1 to part 216. No hauling ground may be harvested more than twice per week.

(3) Seals with tags and/or entangling debris may only be taken if so directed by NMFS scientists.

(4) The scheduling of the sub-adult male harvest is at the discretion of the Pribilovians, but must be such as to minimize stress to the harvested seals. The Pribilovians must give adequate advance notice of their harvest schedules to the NMFS representatives to allow for necessary monitoring activities. No fur seal may be taken except by experienced sealers using the traditional harvesting methods, including stunning followed immediately by exsanguination. The harvesting method shall include organized drives of sub-adult male fur seals to killing fields, unless the NMFS representatives determine, in consultation with the Pribilovians conducting the harvest, that alternative methods will not result in increased disturbance to the rookery or the increased accidental take of female seals.

(5) Any taking of adult fur seals or young of the year, or the intentional taking of sub-adult female fur seals is prohibited.

(6) Pribilovians may only harvest male young of the year from September 16 through November 30 annually on St. George Island. Pribilovians may harvest up to 150 male fur seal young of the year annually up to the lower end of the harvest range established for St. George in the notice published pursuant to paragraph (b) of this section. When the lower end of the harvest range has been reached paragraphs (f)(1)(iii) and (f)(3) of this section apply.

(7) No more than 50 male young of the year may be harvested from each of the following regions where fur seals congregate: East region includes the breeding areas known as East Reef and East Cliffs rookeries and the associated non-breeding hauling grounds; South region includes the breeding areas known as Zapadni and South rookeries and the associated non-breeding hauling grounds; and North region includes the breeding areas known as North and Staraya Artil rookeries and associated non-breeding hauling grounds, as shown in Figure 1 to part 216. No area may be harvested more than twice per week and must be in accordance with paragraph (d)(10) of this section.

(8) The scheduling of the young of the year harvest is at the discretion of the Pribilovians, but must be such as to minimize stress to the harvested and un-harvested fur seals and minimize the take of female fur seals. The Pribilovians must give adequate advance notice of their harvest schedules to the NMFS representatives to allow for necessary monitoring activities. No fur seal may be taken except by sealers using the harvesting methods implemented to reduce disturbance, injury, and accidental mortality of female fur seals. Pribilovians may use, but are not limited to, organized drives of young of the year fur seals from congregating areas to inland killing fields. Methods of harvest must include identification of male young of the year, followed by stunning and immediate exsanguination, unless the NMFS representatives, in consultation with the Pribilovians conducting the harvest, determine that alternative methods will not result in increased stress to harvested and un-harvested fur seals, increased disturbance or injury to resting fur seals, or the accidental mortality of female seals.

(9) Any harvest of sub adult or adult fur seals or intentional harvest of young of the year female fur seals is prohibited.

(10) No young of the year fur seals may be taken from any designated breeding area or its associated hauling ground(s) where the most recent NMFS analysis projects that pup production has greater than a 5 percent probability of falling below a level capable of sustaining a harvest in 10 years.

(11) No more than 120 days after the final subsistence harvest each calendar year, NMFS representatives and St. George Island community members must review the implementation of the harvest and consider best harvest practices and determine if implementation can be improved to better meet the subsistence needs of the St. George Island community or reduce negative effects on fur seals.

(e) *St. Paul Island.* Seals may only be harvested from the following haulout areas: Zapadni, English Bay, Northeast Point, Polovina, Lukanin, Kitovi, and

Reef. No haulout area may be harvested more than once per week.

(1) The scheduling of the harvest is at the discretion of the Pribilovians, but must be such as to minimize stress to the harvested fur seals. The Pribilovians must give adequate advance notice of their harvest schedules to the NMFS representatives to allow for necessary monitoring activities.

(2) No fur seal may be taken on the Pribilof Islands before June 23 of each year.

(3) No fur seal may be taken except by experienced sealers using the traditional harvesting methods, including stunning followed immediately by exsanguination. The harvesting method shall include organized drives of subadult males to killing fields unless it is determined by the NMFS representatives, in consultation with the Pribilovians conducting the harvest, that alternative methods will not result in increased disturbance to the rookery or the increased accidental take of female seals.

(4) Any taking of adult fur seals or pups, or the intentional taking of subadult female fur seals is prohibited.

(5) Only subadult male fur seals 124.5 centimeters or less in length may be taken.

(6) Seals with tags and/or entangling debris may only be taken if so directed by NMFS scientists.

(f) *Harvest suspension provisions.* (1) The Assistant Administrator is required to suspend the take provided for in §§ 216.71 and 216.72 when:

(i) (S)He determines, after reasonable notice by NMFS representatives to the Pribilovians on the island, that the subsistence needs of the Pribilovians on the island have been satisfied; or

(ii) (S)He determines that the harvest is otherwise being conducted in a wasteful manner; or

(iii) The lower end of the range of the estimated subsistence level provided in the notice issued under paragraph (b) of this section is reached; or

(iv) With regard to St. George Island, two female fur seals have been killed on St. George Island.

(2) A suspension based on a determination under paragraph (f)(1)(ii) of this section may be lifted by the Assistant Administrator if (s)he finds that the conditions that led to the determination that the harvest was being conducted in a wasteful manner have been remedied.

(3) A suspension issued in accordance with paragraph (f)(1)(iii) of this section may not exceed 48 hours in duration and shall be followed immediately by a review of the harvest data to determine if a finding under paragraph (f)(1)(i) of this section is warranted. If the harvest is not suspended under paragraph (f)(1)(i) of this section, the Assistant Administrator must provide a revised estimate of the number of seals required to satisfy the Pribilovians' subsistence needs.

(4) A suspension based on a determination under paragraph (f)(1)(iv) of this section may be lifted by the Assistant Administrator if (s)he finds that the conditions that led to the killing of two female fur seals have been remedied and additional or improved methods to detect female fur seals in the harvest are being implemented.

(g) *Harvest termination provisions.* (1) The Assistant Administrator shall terminate the annual take provided for in § 216.71 on August 8 for sub-adult males on St. Paul and St. George Islands and on November 30 for male young of the year on St. George Island.

(2) The Assistant Administrator shall terminate the take provided for in § 216.71 when (s)he determines under paragraph (f)(1)(i) or (f)(1)(iii) of this section that the subsistence needs of the Pribilovians on the island have been satisfied or the upper end of the harvest range has been reached, whichever occurs first.

(3) The Assistant Administrator shall terminate the take on St. George Island provided for in § 216.71 if a total of three female fur seals are killed during the season on St. George Island.

■ 5. Section 216.74 is revised to read as follows:

**§ 216.74 Cooperation between fur seal harvesters, Tribal and Federal Officials.**

(a) *St. George Island.* Federal scientists and Pribilovians cooperatively manage the subsistence harvest of northern fur seals under section 119 of the Marine Mammal Protection Act (16 U.S.C. 1388). The Federally recognized tribes on the Pribilof Islands have signed agreements describing a shared interest in the conservation and management of fur seals and the designation of co-management councils that meet and address the purposes of the co-management agreements for representatives from NMFS, St. George and St. Paul tribal governments. NMFS representatives are responsible for compiling information related to sources of human-caused mortality and serious injury of marine mammals. The Pribilovians are responsible for reporting their subsistence needs and actual level of subsistence take. This information is used to update stock assessment reports and make determinations under § 216.72. Pribilovians who take fur seals for subsistence uses collaborate with NMFS representatives and the respective Tribal representatives to consider best harvest practices under co-management and to facilitate scientific research.

(b) *St. Paul Island.* The Pribilovians who engage in the harvest of seals are required to cooperate with scientists engaged in fur seal research on the Pribilof Islands who may need assistance in recording tag or other data and collecting tissue or other fur seal samples for research purposes. In addition, Pribilovians who take fur seals for subsistence uses must, consistent with 5 CFR 1320.7(k)(3), cooperate with the NMFS representatives on the Pribilof Islands who are responsible for compiling the following information on a daily basis:

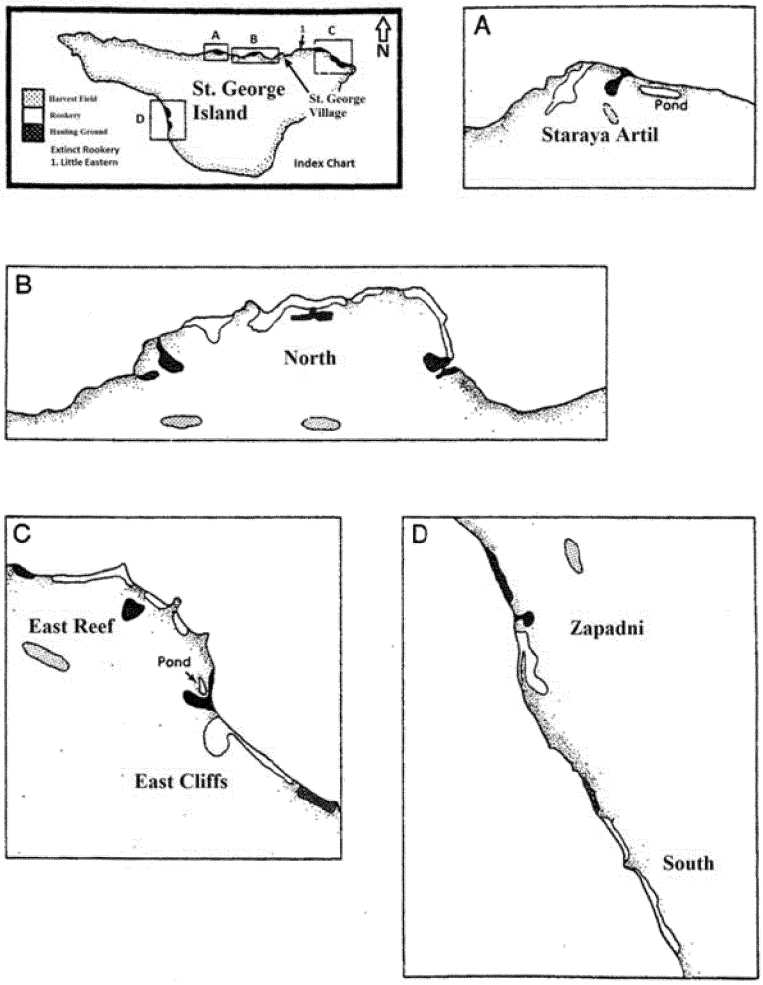
(1) The number of seals taken each day in the subsistence harvest,

(2) The extent of the utilization of fur seals taken, and

(3) Other information determined by the Assistant Administrator to be necessary for determining the subsistence needs of the Pribilovians or for making determinations under § 215.32(e) of this chapter.

■ 6. Add Figure 1 to part 216 as follows:

Figure 1 to Part 216-- Northern Fur Seal Breeding Areas (Rookeries) and Hauling Grounds on St. George Island, Alaska




[FR Doc. 2014–26177 Filed 10–30–14; 4:15 pm]

BILLING CODE 3510–22–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

**[Docket No. USCG–2014–0946]**

**Drawbridge Operation Regulations; Housatonic River, Stratford, CT**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Metro North (Devon) Bridge, across the Housatonic River, mile 3.9, at Stratford, Connecticut. This deviation is necessary to facilitate repairs to the miter plates and headlocks at the bridge. This deviation allows the bridge to remain in

the closed position for 45 days to facilitate the repairs.

**DATES:** This deviation is effective from November 5, 2014 through December 19, 2014.

**ADDRESSES:** The docket for this deviation, [USCG–2014–0946] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 668–7165, *judy.k.leung-yee@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:** The Metro North (Devon) Bridge across the Housatonic River, mile 3.9, has a vertical clearance in the closed position of 19 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.207(b).

The Housatonic River is transited by commercial barges and seasonal recreational vessel traffic.

The bridge owner, Metro North, requested a bridge closure for 45 days to facilitate repairs to the miter plates and headlocks at the bridge.

Under this temporary deviation, the Metro North (Devon) Bridge may remain in the closed position from 10 a.m. on November 5, 2014 through 2 p.m. on December 19, 2014; except that, the draw shall open on Fridays, Saturdays and Sundays during the repair period, after at least a 24 hour advance notice is given.

There are no alternate routes for vessel traffic; however, vessels that can pass under the closed draw during this closure may do so at any time. The bridge may be opened in the event of an emergency.

The Coast Guard will inform the users of the waterways through our Local and or Broadcast Notices to Mariners of the change in operating schedule for the bridges so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 24, 2014.

**C.J. Bisignano,**

*Supervisory Bridge Management Specialist, First Coast Guard District.*

[FR Doc. 2014–26093 Filed 11–3–14; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2014–0902]**

**RIN 1625–AA00**

## Safety Zone; Pier Removal, WI Central Railroad Bridge, Fox River, Green Bay, WI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Fox River in Green Bay, Wisconsin. This safety zone is intended to restrict vessels from a portion of the Fox River due to demolition work on a railroad bridge. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the demolition work on the railroad bridge.

**DATES:** This rule is effective from November 4, 2014 until 9 p.m. on November 30, 2014. This rule will be enforced with actual notice from 6 a.m. on October 25, 2014 until November 4, 2014.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG–2014–0902. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

### A. Regulatory History and Information

On September 11, 2014, in response to demolition work on the west pier of the WI Central Railroad Bridge for September 12 & 19, 2014, the Coast Guard issued a Temporary final rule (TFR) (USCG–2014–0835) entitled Safety Zone; Bridge Demolition, Fox River, Green Bay, WI and published it in the **Federal Register** on Friday, September 26, 2014 (79 FR 57799). On September 16, 2014 the Coast Guard was informed that the demolition work will continue in October on the same railroad bridge. The Coast Guard is issuing this TFR to establish a safety zone for the demolition scheduled for October.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Specifically, the Coast Guard was informed of this demolition project on September 16, 2014. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect persons and vessels from the hazards associated with the bridge demolition project, which are discussed further below.

Under 5 U.S.C. 553(d)(3), The Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the

**Federal Register** for the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

**B. Basis and Purpose**

The legal basis for this rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

On October 27 and 28, 2014, the Coast Guard anticipates that blasting will take place as part of a demolition project on the east and central piers of the Wisconsin Central Railroad Bridge at mile marker 2.61 on the Fox River in Green Bay, Wisconsin. The Captain of the Port Lake Michigan has determined that this demolition project involving blasting will pose a significant risk to public safety and property. Such hazards include loss of life and property in the proximity of explosives, and collisions among transiting vessels and contractors involved in the demolition project.

**C. Discussion of the Final Rule**

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to ensure the safety of persons and vessels during the demolition project in Green Bay, Wisconsin. This rule is effective from 6 a.m. on October 25, 2014 until 9 p.m. on November 30, 2014. This rule will be enforced intermittently with actual notice from 6 a.m. until 9 p.m. on each day of October 27, 2014 and October 28, 2014. If there is a rescheduling of the demolition project within this effective date range, the Captain of the Port Lake Michigan will establish an updated enforcement date with a Notice of Enforcement. The safety zone will encompass all waters of the Fox River near Green Bay, Wisconsin within a 1000-foot radius of the Wisconsin Central Railroad Bridge in approximate position 44°30′14″ N, 088°01′22″ W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or her designated on-scene representative. The Captain of the Port or her designated on-scene representative may be contacted via VHF Channel 16.

**D. Regulatory Analyses**

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

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will only impact a small area and will be enforced for a limited duration in October and November, 2014. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port or her designated on-scene representative.

*2. Impact on Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Fox River during the times that this zone is enforced in October and November of 2014.

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of the zone, we would issue local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

*3. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

*4. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*5. Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

*6. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

*7. Unfunded Mandates Reform Act*

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

*8. Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*9. Civil Justice Reform*

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

*10. Protection of Children*

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

*11. Indian Tribal Governments*

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

*12. Energy Effects*

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

*13. Technical Standards*

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

*14. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0902 to read as follows:

**§ 165.T09–0902 Safety Zone; Pier Removal, WI Central Railroad Bridge, Fox River, Green Bay, WI.**

(a) *Location.* All waters of the Fox River near Green Bay, Wisconsin within a 1000-foot radius of the Wisconsin Central Railroad Bridge in approximate position 44°30′14″ N, 088°01′22″ W (NAD 83).

(b) *Effective and enforcement period.* This rule is effective from 6 a.m. on October 25, 2014 until 9 p.m. on November 30, 2014. This rule will be enforced intermittently with actual notice from 6 a.m. until 9 p.m. on each day of October 27, 2014 and October 28, 2014. If there is a rescheduling of the demolition project within this effective date range, the Captain of the Port Lake Michigan will establish an updated enforcement date with a Notice of Enforcement.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or her designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or her designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or her on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or her on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or her on-scene representative.

Dated: October 14, 2014.

**A.B. Cocanour,**

*Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.*

[FR Doc. 2014–26094 Filed 11–3–14; 8:45 am]

**BILLING CODE 9110–04–P**

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## POSTAL SERVICE

## 39 CFR Part 601

## Purchasing of Property and Services; Supplier Debarment, Suspension, and Ineligibility

**AGENCY:** Postal Service.™

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is revising its regulations governing supplier debarment, suspension, and ineligibility to reflect that the Postal Service has eliminated its separate list of debarred, suspended, or ineligible suppliers, and now uses the list maintained by the General Services Administration (GSA) under its System for Award Management (SAM).

**DATES:** *Effective date:* December 4, 2014.

**FOR FURTHER INFORMATION CONTACT:** Paul McGinn, 202–268–4368.

**SUPPLEMENTARY INFORMATION:** The Postal Service (USPS®) is revising 39 CFR 601.113, governing supplier debarment, suspension, and ineligibility. The Postal Service has eliminated its own separate list of debarred, suspended, and ineligible suppliers, and now uses the GSA's System for Award Management (SAM) to determine whether a particular supplier is suspended, debarred, or ineligible, and to notify the public when the USPS suspends or debars a supplier. Necessary changes have been made to the language of § 601.113, including replacement of the term ''debarment, suspension, and ineligibility'' with ''suspension, debarment, and ineligibility'' to reflect the sequence of events followed in that

process. These changes are explained in more detail below.

Additionally, 39 CFR 601.108(c), concerning SDR Official disagreement resolution, has been revised to provide a new address for lodging supplier disagreements.

**Explanation of Changes**

*Section 601.108: SDR Official Disagreement Resolution*

Paragraph (c) of this section has been revised to provide a new address for a supplier to lodge a disagreement with the Supplier Disagreement Resolution Official (SDRO).

*Section 601.113: Debarment, Suspension, and Ineligibility*

Throughout this section, references to the Postal Service's List of Debarred, Suspended, and Ineligible Suppliers have been replaced by references to the General Services Administration's (GSA) System for Award Management (SAM).

The title of § 601.113 *Debarment, suspension, and ineligibility* has been changed to *Suspension, debarment, and ineligibility,* and throughout this section, the term ''debarred, suspended, and ineligible'' and variants thereof have been replaced by the term ''suspended, debarred, and ineligible.''

Paragraph (c)(1) states that the Postal Service uses SAM to determine whether a supplier has been suspended, debarred, or proposed for debarment.

Paragraph (c)(2) states that SAM maintains a consolidated database of all persons and entities suspended, debarred, proposed for debarment, or declared ineligible by Federal agencies or the Government Accountability Office (GAO), which is accessible to the public at *https://www.sam.gov.*

Paragraph (c)(3) states that, through a representative, the Postal Service's vice president, Supply Management, will use SAM to report Postal Service suspension, debarment, and proposed debarment decisions, including changes in the status of any suspended or debarred supplier or affiliate.

The title of paragraph (d)(1) has been changed to *Treatment of suppliers included in the SAM Exclusions database,* and this paragraph has been revised to delete the reference to the Postal Service list.

Old paragraph (d)(2) has been deleted because of the discontinuance of the Postal Service list, and paragraphs (d)(3), (d)(4), and (d)(5) have been renumbered. Earlier discussion and references in these paragraphs to the Postal Service list have been deleted. These paragraphs have all been revised to reference SAM rather than previous lists.

Paragraph (e) has been retitled *Causes for suspension.* No further changes have been made to this paragraph.

Paragraph (f) has been retitled *Period of suspension.* No further changes have been made to this paragraph.

Paragraph (g) has been retitled *Procedural requirements for suspension.* No further changes have been made to this paragraph.

Paragraph (h) has been retitled *Causes for debarment.* No further changes have been made to this paragraph.

Paragraph (i) has been retitled *Mitigating factors.* No further changes have been made to this paragraph.

Paragraph (j) has been retitled *Period of debarment.* No further changes have been made to this paragraph.

Paragraph (k) has been retitled *Procedural requirements for debarment.* In addition, language has been added to lay out in greater detail the procedural steps of the debarment process, including the requirement that the supplier may submit, in person or in writing, information and argument in opposition to the proposed debarment.

Old paragraph (k)(3) has been deleted and (k)(4) and (k)(5) have been renumbered.

**List of Subjects in 39 CFR Part 601**

Government procurement, Postal Service.

Accordingly, 39 CFR part 601 is amended as follows:

## PART 601—PURCHASING OF PROPERTY AND SERVICES

■ 1. The authority citation for 39 CFR part 601 continues to read as follows:

**Authority:** 39 U.S.C. 401, 404, 410, 411, 2008, 5001–5605.

■ 2. In § 601.108, revise paragraph (c) to read as follows:

**§ 601.108 SDR Official disagreement resolution.**

* * * * *

(c) *Lodging.* The disagreement under § 601.107 or contest of decision under § 601.105 must be lodged with the SDR Official in writing via facsimile, email, hand delivery, or U.S. Mail. The disagreement under § 601.107 or contest of decision under § 601.105 must state the factual circumstances relating to it and the remedy sought. A disagreement under § 601.107 must also state the scope and outcome of the initial disagreement resolution attempt with the contracting officer. The address of the SDR Official is: Supply Management, Room 1141 (Attn: SDR Official), United States Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, DC 20260–1141; email Address: *SDROfficial@usps.gov;* Fax Number: (202) 268–0075.

* * * * *

■ 3. Revise § 601.113 to read as follows:

**§ 601.113 Suspension, debarment, and ineligibility.**

(a) *General.* Except as provided otherwise in this part, contracting officers may not solicit proposals from, award contracts to, or, when a contract provides for such consent, consent to subcontracts with suspended, debarred, or ineligible suppliers.

(b) *Definitions.*—(1) *Affiliate.* A business, organization, person, or individual connected by the fact that one controls or has the power to control the other or by the fact that a third party controls or has the power to control both. Indications of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, contractual relationships, common use of employees, or a business entity organized following the suspension, debarment, or proposed debarment of a supplier which has the same or similar management, ownership, or principal employees as the supplier that was suspended, debarred, or proposed for debarment. Franchise agreements are not conclusive evidence of affiliation if the franchisee has a right to profit in proportion to its ownership and bears the risk of loss or failure.

(2) *Debarment.* An exclusion from contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance.

(3) *General Counsel.* This includes the General Counsel's authorized representative.

(4) *Indictment.* Indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense is given the same effect as an indictment.

(5) *Ineligible.* An exclusion from contracting and subcontracting by an entity other than the Postal Service under statutes, executive orders, or regulations, such as the Davis-Bacon Act, the Service Contract Act, the Equal Employment Opportunity Acts, the Walsh-Healy Public Contracts Act, or the Environmental Protection Acts and related regulations or executive orders, to which the Postal Service is subject or has adopted as a matter of policy.

(6) *Suspension.* An exclusion from contracting and subcontracting for a

reasonable period of time due to specified reasons or the pendency of a debarment proceeding.

(7) *Supplier.* For the purposes of this part, a supplier is any individual, person, or other legal entity that:

(i) Directly or indirectly (e.g., through an affiliate) submits offers for, is awarded, or reasonably may be expected to submit offers for or be awarded, a Postal Service contract, including a contract for carriage under Postal Service or commercial bills of lading, or a subcontract under a Postal Service contract; or

(ii) Conducts business or reasonably may be expected to conduct business with the Postal Service as a subcontractor, an agent, or as a representative of another supplier.

(c) *Suspension, debarment, and ineligible list.* (1) The Postal Service uses the General Services Administration's System for Award Management (SAM) to determine if suppliers are suspended, debarred, or proposed for debarment.

(2) SAM maintains a consolidated database of all persons and entities suspended, debarred, proposed for debarment, or declared ineligible by Federal agencies or the Government Accountability Office. SAM is accessible by the public on GSA's Web site at *https://www.sam.gov.*

(3) Through a representative, the vice president, Supply Management will use the SAM Exclusions database to report Postal Service suspensions, debarments and proposed debarment decisions; including changes in the status of suppliers and any of their affiliates. Inquiries concerning listed suppliers should be directed to the agency or other authority that took the action.

(d) *Treatment of suppliers included in the SAM Exclusions database.* (1) Contracting officers will review the SAM Exclusions database before making a contract award.

(2) Suppliers included in the SAM Exclusions database are excluded from receiving contracts and subcontracts, and contracting officers may not solicit proposals or quotations from, award contracts to, or, when a contract provides for such consent, consent to subcontracts with such suppliers, unless the vice president, Supply Management, or his or her designee, after consultation with the General Counsel, has approved such action.

(3) Suppliers included in the SAM Exclusions database may not provide goods or services to other persons or entities for resale, in whole or part, to the Postal Service and such other persons or entities are obligated to review the consolidated GSA list in order to exclude suppliers suspended or debarred by the Postal Service from performing any part of a Postal Service contract.

(4) The suspension, debarment, or ineligibility of a supplier does not, of itself, affect the rights and obligations of the parties to any valid, pre-existing contract. The Postal Service may terminate for default a contract with a supplier that is suspended, debarred, or determined to be ineligible. Contracting officers may not add new work to any contract with a supplier that is suspended, debarred, or determined to be ineligible by supplemental agreement, by exercise of an option, or otherwise (unless the work is classified as an insignificant or significant minor service change to a mail transportation contract), except with the approval of the vice president, Supply Management, or designee after consultation with the General Counsel.

(e) *Causes for suspension.* (1) The vice president, Supply Management, may suspend any supplier, including any of its affiliates, for causes such as the following:

(i) If the supplier commits, is indicted for, or is convicted of fraud or a criminal offense incidental to obtaining, attempting to obtain, or performing a government contract, violates a Federal antitrust statute arising out of the submission of bids and proposals, or commits or engages in embezzlement, theft, forgery, bribery, falsification or destruction of records, or receipt of stolen property, or any other offense indicating a lack of business integrity or business honesty;

(ii) For any other cause of such serious and compelling nature that suspension is warranted; or

(iii) If the Postal Service has notified a supplier of its proposed debarment under this part.

(f) *Period of suspension.* A suspension will not exceed one year in duration, except a suspension may be extended for reasonable periods of time beyond one year by the vice president, Supply Management. The termination of a suspension will not prejudice the Postal Service's position in any debarment proceeding. A suspension will be superseded by a decision rendered by the vice president, Supply Management, under paragraph (k)(5) of this section.

(g) *Procedural requirements for suspension.* (1) The vice president, Supply Management will notify a supplier of a suspension or an extension of a suspension and the reason(s) for the suspension or extension in writing sent to the supplier by Certified Mail, return receipt requested, within ten days after the effective date of the suspension or extension. A copy of the notice will be furnished to the Office of the Inspector General.

(2) The notice will state the cause(s) for the suspension or extension.

(3) Within thirty days of notice of suspension or an extension, a supplier may submit to the vice president, Supply Management, in writing, any information or reason(s) the supplier believes makes a suspension or an extension inappropriate, and the vice president, Supply Management, in consultation with the General Counsel, will consider the supplier's submission, and, in their discretion, may revoke a suspension or an extension of a suspension. If a suspension or extension is revoked, the revocation will be in writing and a copy of the revocation will be sent to the supplier by Certified Mail, return receipt requested. A copy of the revocation will be furnished to the Office of the Inspector General.

(h) *Causes for debarment.* (1) The vice president, Supply Management, with the concurrence of the General Counsel, may debar a supplier, including its affiliates, for cause such as the following:

(i) Conviction of a criminal offense incidental to obtaining or attempting to obtain contracts or subcontracts, or in the performance of a contract or subcontract.

(ii) Conviction under a Federal antitrust statute arising out of the submission of bids or proposals.

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property.

(iv) Violation of a Postal Service contract so serious as to justify debarment, such as willful failure to perform a Postal Service contract in accordance with the specifications or within the time limit(s) provided in the contract; a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Postal Service contracts occurring within a reasonable period of time preceding the determination to debar (except that failure to perform or unsatisfactory performance caused by acts beyond the control of the supplier may not be considered a basis for debarment); violation of a contractual provision against contingent fees; or acceptance of a contingent fee paid in violation of a contractual provision against contingent fees.

(v) Any other offense indicating a lack of business integrity or business honesty.

(vi) Any other cause of a serious and compelling nature that debarment is warranted.

(2) The existence of a conviction in paragraph (h)(1)(i) or (ii) of this section can be established by proof of a conviction in a court of competent jurisdiction. If an appeal taken from such conviction results in a reversal of the conviction, the debarment may be removed upon the request of the supplier, unless another cause or another basis for debarment exists.

(3) The existence of any of the other causes in paragraphs (h)(1)(iii), (iv), (v), or (vi) of this section can be established by a preponderance of the evidence, either direct or indirect, in the judgment of the vice president of Supply Management.

(4) The criminal, fraudulent, or improper conduct of an individual may be imputed to the firm with which he or she is or has been connected when an impropriety was committed. Likewise, when a firm is involved in criminal, fraudulent, or other improper conduct, any person who participated in, knew of, or had reason to know of the impropriety may be debarred.

(5) The criminal, fraudulent, or other improper conduct of one supplier participating in a joint venture or similar arrangement may be imputed to other participating suppliers if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of the supplier. Acceptance of the benefits derived from the conduct will be evidence of such knowledge, approval, or acquiescence.

(i) *Mitigating factors.* (1) The existence of any cause for debarment does not necessarily require that a supplier be debarred. The decision to debar is within the discretion of the vice president, Supply Management, with the concurrence of the General Counsel, and must be made in the best interest of the Postal Service. The following factors may be assessed in determining the seriousness of the offense, failure, or inadequacy of performance, and may be taken into account in deciding whether debarment is warranted:

(i) Whether the supplier had established written standards of conduct and had published internal control systems at the time of the activity that constitutes cause for debarment or had adopted such procedures prior to any Postal Service investigation of the activity cited as a cause for debarment.

(ii) Whether the supplier brought the activity cited as a cause for debarment to the attention of the Postal Service in a prompt, timely manner.

(iii) Whether the supplier promptly and fully investigated the circumstances involving debarment and, if so, made the full results of the investigation available to appropriate officials of the Postal Service.

(iv) Whether the supplier cooperated fully with the Postal Service during its investigation into the matter.

(v) Whether the supplier paid or agreed to pay all criminal, civil and administrative liability, and other costs arising out of the improper activity, including any investigative or administrative costs incurred by the Postal Service, and made or agreed to make full restitution.

(vi) Whether the supplier took appropriate disciplinary action against the individual(s) responsible for the activity that could cause debarment.

(vii) Whether the supplier implemented and/or agreed to implement remedial measures, including those identified by the Postal Service.

(viii) Whether the supplier instituted and/or agreed to institute new and/or revised review and control procedures and ethics programs.

(ix) Whether the supplier had adequate time to eliminate circumstances within the supplier's organization that could lead to debarment.

(x) Whether the supplier's senior officers and mid-level management recognize and understand the seriousness of the misconduct giving rise to debarment.

(2) The existence or nonexistence of mitigating factors or remedial measures such as those above is not determinative whether or not a supplier should be debarred. If a cause for debarment exists, the supplier has the burden of demonstrating, to the satisfaction of the vice president, Supply Management that debarment is not warranted or necessary.

(j) *Period of debarment.* (1) When an applicable statute, executive order, or controlling regulation of other agencies provides a specific period of debarment, that period applies. In other cases, debarment by the Postal Service should be for a reasonable, definite, stated period of time, commensurate with the seriousness of the offense or the failure or inadequacy of performance. Generally, a period of debarment should not exceed three years. When debarment for an additional period is deemed necessary, notice of the proposed additional period of debarment must be furnished to the supplier as in the case of original debarment.

(2) Except as precluded by an applicable statute, executive order, or controlling regulation of another agency, debarment may be removed or the period may be reduced by the vice president, Supply Management when requested by the debarred supplier and when the request is supported by a reasonable justification, such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which debarment was imposed. The vice president, Supply Management may, at his or her discretion, deny any request or refer it to the Judicial Officer for a hearing and for findings of fact, which the vice president, Supply Management will consider when deciding the matter. When a debarment is removed or the debarment period is reduced, the vice president, Supply Management must state in writing the reason(s) for the removal of the debarment or the reduction of the period of debarment.

(k) *Procedural requirements for debarment.* (1) After securing the concurrence of the General Counsel, the vice president, Supply Management will initiate a debarment proceeding by sending the supplier a written notice of proposed debarment. The notice will be served by sending it to the last known address of the supplier by Certified Mail, return receipt requested. A copy of the notice will be furnished to the Office of Inspector General. The notice will state that debarment is being considered; the reason(s) for the proposed debarment; the anticipated period of debarment and the proposed effective date; and that, within thirty days of the notice, the supplier, individually or through a representative, may submit in person or in writing information and argument in opposition to the proposed debarment. In the event a supplier does not submit information or argument in opposition to the proposed debarment to the vice president, Supply Management within the time allowed, the debarment will become final with no further review or appeal.

(2) If the proposed debarment is based on a conviction or civil judgment, the vice president, Supply Management, with the concurrence of the General Counsel, may decide whether debarment is merited based on the conviction or judgment, including any information received from the supplier. If the debarment is based on other circumstances or if there are questions regarding material facts, the vice president, Supply Management may seek additional information from the supplier and/or other persons, and may request the Judicial Officer to hold a fact-finding hearing on such matters.

The hearing will be governed by rules of procedure promulgated by the Judicial Officer. The vice president, Supply Management may reject any findings of fact, in whole or in part, when they are clearly erroneous.

(3) Questions of fact to be resolved by a hearing before the Judicial Officer will be based on the preponderance of the evidence.

(4) After consideration of the circumstances and any information and argument submitted by the supplier, the vice president, Supply Management, with the concurrence of the General Counsel, will issue a written decision regarding whether the supplier is debarred, and, if so, for the period of debarment. The decision will be mailed to the supplier by Certified Mail, return receipt requested. A copy of the decision will be furnished to the Office of the Inspector General. The decision will be final and binding, unless the decision was procured by fraud or other criminal misconduct, or the decision was obtained in violation of the regulations contained in this part or an applicable public law enacted by Congress.

**Stanley F. Mires,**

*Attorney, Federal Requirements.*

[FR Doc. 2014–26111 Filed 11–3–14; 8:45 am]

**BILLING CODE 7710–12–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R07–OAR–2014–0602; FRL–9918–74–Region–7]**

## Approval and Promulgation of Implementation Plans; State of Missouri, Controlling Emissions During Episodes of High Air Pollution Potential

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision submitted by the State of Missouri and received by EPA on December 17, 2013, pertaining to Missouri's rule ''Controlling Emissions During Episodes of High Air Pollution Potential.'' This rule specifies conditions that establish air pollution alerts and emergency alert levels, and associated procedures and emission reduction objectives statewide. This action revises the SIP by amending an existing table in the rule, clarifying requirements of the rule related to emission reduction plans and other rule provisions, and makes administrative and format changes all consistent with Federal regulations.

**DATES:** This direct final rule will be effective January 5, 2015, without further notice, unless EPA receives adverse comment by December 4, 2014. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0602, by one of the following methods:

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

2. *Email: bhesania.amy@epa.gov.*

3. *Mail or Hand Delivery:* Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

*Instructions:* Direct your comments to Docket ID No. EPA–R07–OAR–2014–0602. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7147, or by email at *bhesania.amy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?

### I. What is being addressed in this document?

EPA is taking direct final action to approve a revision to the Missouri SIP received by EPA on December 17, 2013, pertaining to Missouri rule 10 CSR 10–6.130, ''Controlling Emissions During Episodes of High Air Pollution Potential.'' This rule specifies conditions that establish air pollution alerts and emergency alert levels, and associated procedures and emission reduction objectives statewide. This action revises the SIP by amending an existing table in the rule, clarifying requirements of the rule related to emission reduction plans and other rule provisions, and makes administrative and format changes all consistent with Federal regulations.

Specifically, in subsection (1)(A), the rule is being revised to clarify the applicability of the rule to all sources and premises through the entire state with air emissions that contribute to sulfur dioxide ($SO_2$), carbon monoxide (CO), ozone ($O_3$), nitrogen dioxide ($NO_2$) or Particulate Matter—10 Micron ($PM_{10}$) and 2.5 Micron ($PM_{2.5}$). This

clarification is consistent with federal regulations regarding prevention of air pollution emergency episodes found in 40 CFR part 51, subpart H.

In addition, specific terms in this rule that were previously defined in section (2) of this rule have now been removed and placed in Missouri rule 10 CSR 10–6.020, ''Definitions and Common Reference Tables.''

In section (3) of the rule, table A is being amended to remove the specific breakpoint values for each relevant pollutant but retains the Air Quality Index (AQI) range values and categories for each pollutant. Because the AQI breakpoint values are updated each time a National Ambient Air Quality Standard (NAAQS) is revised, removing these values from the table eliminates unnecessary updates to this table. The AQI breakpoint values are established when EPA takes final action to revise a NAAQS and are codified in 50 CFR part 58, appendix G. Therefore there is no need for the rule to also contain these breakpoint values. This revision to the rule does not alter any provisions or applicability of the rule.

The conditions that are listed for alert level categories are being moved from a narrative outline format into a table format in subsection (3)(B), table B, to provide more clarity regarding the specific applicable conditions. The requirement for an air stagnation advisory to be in effect in order to trigger an alert has been removed from all alert level categories thus, the conditions that are required to establish an alert are more easily triggered.

The procedures established for addressing alert level conditions are being moved from a narrative outline into a table format in subsection (3)(C), table C, to provide clarity on applicable procedures. The alert level procedures associated with an orange alert which are currently listed in the rule have been removed. These orange alert procedures were inadvertently retained when the state revised their rule in 2002 to be consistent with revised Federal regulations by updating the formally called Pollution Standards Index (PSI) to the AQI standards and procedures as codified in 40 CFR part 58, appendix G. EPA took action to approve Missouri's SIP revision on March 18, 2003 (68 FR 12829). Establishing orange alert procedures are not a Federal requirement. This action amends the SIP to correct this error. This action does not alter the stringency of the rule.

Additional clarity is being added to section (4) of the rule addressing reporting and recordkeeping requirements. The alert plan requirements that are outlined in section (3) of the rule are being moved to a table format, tables D, E, and F. These tables retain the same objectives as previously contained in the rule, only modified in format and moved to section (4) of the rule with the exception of one red alert procedure. The red alert procedure which previously outlined provisions for the director to request all entertainment functions and facilities be closed has been removed from the rule. This procedure is not a requirement of Federal regulations for red alert procedures, and therefore remains consistent with Federal requirements. This procedure remains applicable for maroon level procedures.

## II. Have the requirements for approval of a SIP revision been met?

EPA is taking direct final action to approve Missouri's request to amend the SIP. These modifications will not adversely affect air quality and will not relax the SIP.

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. On June 17, 2013, Missouri published the proposed revisions to the rules in the *Missouri Register.* After considering public comments, the Missouri Air Conservation Commission (MACC) adopted the rule actions on August 29, 2013. Public comments were printed in the *Missouri Register* along with a re-print of the rule on November 1, 2013. The effective date was December 30, 2013.

The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## III. What action is EPA taking?

EPA is taking direct final action to approve this SIP revision. We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve this SIP revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

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

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. 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 January 5, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 21, 2014.

**Becky Weber,**

*Acting Regional Administrator, Region 7.*

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 as set forth below:

## 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 AA—Missouri

■ 2. In § 52.1320 the table in paragraph (c) is amended by revising the entry for 10–6.130 as follows:

**§ 52.1320 Identification of Plan.**

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

| Missouri citation | Title | State effective date | EPA Approval date | Explanation |
|---|---|---|---|---|
| Missouri Department of Natural Resources | | | | |
| * | * | * | * | * |
| Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri | | | | |
| * | * | * | * | * |
| 10–6.130 | Controlling Emissions During Episodes of High Air Pollution Potential. | 12/30/2013 | 11/4/14, *[Insert **Federal Register** citation].* | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2014–26080 Filed 11–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 4

**[PS Docket Nos. 13–75, 11–60; FCC 13–158]**

### Improving 9–1–1 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the Commission's *Report and Order,* FCC 13–158, published at 79 FR 3123 on January 17, 2014, and at 79 FR 7589 on February 10, 2014. This document is consistent with the *Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of requirements subject to OMB approval. Specifically, this document announces the effective date of rules requiring Covered 911 Service Providers to notify

Public Safety Answering Points (PSAPs) and other ''911 special facilities'' of major disruptions in 911 service within time limits established by the Commission.

**DATES:** 47 CFR 4.9(h) is effective November 4, 2014.

**FOR FURTHER INFORMATION CONTACT:** For additional information contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

**SUPPLEMENTARY INFORMATION:** This document announces that, on October 17, 2014, OMB approved information collection requirements contained in the Commission's *Report and Order,* FCC 13–158, Improving 9–1–1 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies, published at 79 FR 3123 on January 17, 2014 and at 79 FR 7589 on February 10, 2014. As pertinent here, the *Report and Order* established more specific outage notification requirements for Covered 911 Service Providers, including time limits for outage notifications to affected PSAPs and specific information that must be included in such notifications. The OMB Control Number is 3060–0484. The Commission publishes this document as an announcement of the effective date of the new requirements.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0484, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

*Synopsis:* As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on October 17, 2014, for information collection requirements contained in the Commission's rules at 47 CFR 4.9(h).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0484. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

*OMB Control Number:* 3060–0484.

*OMB Approval Date:* October 17, 2014.

*OMB Expiration Date:* October 31, 2017.

*Title:* Section 4.9, Part 4 of the Commission's Rules Concerning Disruptions to Communications.

*Form Number:* Not applicable.

*Respondents:* Business or other for-profit entities; not-for-profit institutions.

*Number of Respondents and Responses:* Approximately 1,100 respondents; 15,444 responses per year.

*Estimated Time per Response:* No more than 2.5 hours per occurrence.

*Frequency of Response:* On occasion and annual reporting requirements, recordkeeping requirement and third party disclosure requirement

*Obligation to Respond:* Mandatory. Statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i)–(j) & (o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a–1, and 615c of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j) & (o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a–1, and 615c.

*Total Annual Burden:* 29,870 hours.

*Total Annual Cost:* $0.

*Nature and Extent of Confidentiality:* Network Outage Reporting System (NORS) outage reports filed with the Commission pursuant to Part 4 of its rules are presumed confidential. The information in those filings may be shared with the Department of Homeland Security only under appropriate confidential disclosure provisions. Other persons seeking disclosure must follow the procedures delineated in 47 CFR 0.457 and 0.459 of the Commission's rules for requests for and disclosure of information. The revisions to this information collection require information to be transmitted to third parties, not to the FCC. Accordingly, the Commission cannot, and does not, guarantee confidentiality of information provided directly to PSAPs or other 911 special facilities. The revisions do not affect the confidential treatment of information provided directly to the FCC through NORS.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* On December 12, 2013, the Commission released a *Report and Order,* PS Docket Nos. 13–75, 11–60; FCC 13–158 (the *Report and Order*) adopting rules, which are codified at 47 CFR 4.9(h). The *Report and Order* requires Covered 911 Service Providers, defined in section 12.4(a)(4), to notify PSAPs of outages that potentially affect 911 service within 30 minutes of discovering the outage and provide contact information such as a name, telephone number, and email for follow-up. Whenever additional material information becomes available, but no later than two hours after the initial contact, the Covered 911 Service Provider must communicate additional detail to the PSAP, including the nature of the outage, its best-known cause, the geographic scope of the outage, and the estimated time for repairs. Notifications must be transmitted by telephone and in writing via electronic means, unless the PSAP and service provider have agreed in advance to an alternative method. The new requirements apply only to entities defined as Covered 911 Service Providers under 47 CFR 12.4(a)(4), and outage reporting obligations for other entities remain unchanged.

Previous FCC rules required certain communications providers to notify PSAPs of 911 outages ''as soon as possible'' with ''all available information that may be useful.'' The revisions to this information collection respond to the derecho storm that struck the Midwest and Mid-Atlantic United States in June 2012, causing significant disruptions in 911 service. Through its inquiry into these 911 outages, the Commission learned that many PSAPs' efforts to restore service were complicated by inadequate information and ineffective communication by 911 service providers. PSAPs depend on reliable 911 service to answer emergency calls and dispatch help when needed. When 911 service is compromised, PSAPs require prompt notification and useful information about the outage so that they may make alternate plans to reroute calls until service is restored.

As a result of its adoption of section 4.9(h), the Commission reported a 223-hour increase in its previous annual burden estimates for OMB Control Number 3060–0484. These revisions do not affect the obligation to submit NORS outage reports to the FCC or the information that must be provided in NORS reports; those portions of the information collection have already

been approved by OMB and have not changed since that approval.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2014–26117 Filed 11–3–14; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 74

**[FCC 14–150]**

### Commission Suspends Expiration Dates and Construction Deadlines for New Digital Low Power Television and TV Translator Stations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; suspension of expiration dates.

**SUMMARY:** The Commission announced that, effective immediately, it is suspending the expiration dates and construction deadlines for all outstanding construction permits for new digital low power television (LPTV) and TV translator stations. The Commission will decide on a new construction deadline for these permittees in the rulemaking proceeding in MB Docket No. 03–185. Until a decision is reached in the rulemaking decision and the Commission can determine the effect of the future incentive auction and repacking, permittees of new digital LPTV and TV translator stations may delay completing construction of their digital facilities.

**DATES:** The suspension became effective on October 10, 2014.

**FOR FURTHER INFORMATION CONTACT:** Shaun Maher, Video Division, Media Bureau, Federal Communications Commission, *Shaun.Maher@fcc.gov,* (202) 418–2324.

**SUPPLEMENTARY INFORMATION:** Effective immediately, the expiration dates and construction deadlines for all outstanding unexpired construction permits for new digital low power television (LPTV) and TV translator stations set forth in 47 CFR 74.788 are hereby suspended pending final action in the rulemaking proceeding in MB Docket No. 03–185 initiated today by the Commission. In a Third Notice of Proposed Rulemaking released October 10, 2014 in MB Docket No. 03–185 (FCC 14–151) the Commission recognized that the incentive auction and repacking process will impact existing analog LPTV and TV translator stations transitioning to digital and, because of this, it tentatively concluded to postpone the September 1, 2015 digital transition date. For similar reasons, the Commission also tentatively concluded to extend the construction deadlines of permits for new digital LPTV and TV translator stations and proposed that these permits be subject to whatever new transition date is adopted. This proposed action would also have the effect of treating these permittees similarly to the permittees of transitioning LPTV and TV translator stations.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2014–26064 Filed 11–3–14; 8:45 am]

**BILLING CODE 6712–01–P**

# Proposed Rules

Federal Register

Vol. 79, No. 213

Tuesday, November 4, 2014

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

## DEPARTMENT OF ENERGY

### 10 CFR Parts 429 and 430

**[Docket No. EERE–2014–BT–TP–0043]**

**RIN 1904–AD36**

## Energy Conservation Program: Test Procedures for External Power Supplies

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

**ACTION:** Notice of public meeting.

**SUMMARY:** On October 9, 2014, the U.S. Department of Energy proposed to revise its test procedure for external power supplies and noted that it would hold a public meeting to discuss the proposal at the request of interested parties. DOE has since received such a request and is holding a public meeting on November 21, 2014.

**DATES:** DOE will hold a public meeting on November 21, 2014 from 9:00 a.m. to 1:00 p.m. Eastern Standard Time in Washington, DC. Additionally, DOE is extending the comment period for the submission of written comments on the proposal to December 23, 2014.

DOE will continue to accept comments, data, and information on the October 9, 2014 Notice of Proposed Rulemaking (NOPR) (79 FR 60996) before and after the public meeting, but no later than December 23, 2014.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. The public meeting can also be attended via webinar. For details regarding attendance at the meeting or webinar, see the Public Participation section of this notice.

Any comments submitted must identify the NOPR for Test Procedures for External Power Supplies, and provide docket number EERE–2014–BT–TP–0043 and/or regulatory information number (RIN) number 1904–AD36. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: ExtPowerSupplies2014TP0043@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation section of this notice.

*Docket:* The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov/#!docketDetail;D=EERE-2014-BT-TP-0043.* All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information may be sent to Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* (202) 586–9870.

*Email: battery_chargers_and_external_power_supplies@EE.Doe.Gov*

For legal issues, please contact Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

### Public Participation

*A. Attendance at Public Meeting*

If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov.* As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

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

Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945 so that the necessary procedures can be completed. DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the building. Please report to the visitor's desk to

have devices checked before proceeding through security.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's external power supply rulemaking Web site *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=102.* Participants are responsible for ensuring their systems are compatible with the webinar software.

*B. Procedure for Submitting Prepared General Statements For Distribution*

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

*C. Conduct of Public Meeting*

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. Interested parties may submit comments on the proceedings and any aspect of the rulemaking at any point until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

*D. Submission of Comments*

DOE will continue to accept comments, data, and information regarding this NOPR before or after the public meeting, but no later than December 23, 2014. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

*Submitting comments via regulations.gov.* The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery, or mail.* Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This

reduces comment processing and posting time.

*Confidential Business Information.* According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC, on October 29, 2014.

**Kathleen B. Hogan,**

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

[FR Doc. 2014–26166 Filed 11–3–14; 8:45 am]

**BILLING CODE 6450–01–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 704

**RIN 3133–AE43**

### Corporate Credit Unions

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** The NCUA Board (Board) is issuing proposed amendments to its regulations governing corporate credit unions (Corporates) and the scope of their activities. The proposed amendments clarify the mechanics of a number of substantive regulatory provisions and also make several non-substantive, technical corrections to various provisions.

**DATES:** Comments must be received on or before January 5, 2015.

**ADDRESSES:** You may submit comments by any of the following methods, but please send comments by one method only:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Proposed Rule—Corporate Credit Unions'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

**FOR FURTHER INFORMATION CONTACT:** David Shetler, Deputy Director, Office of National Examinations and Supervision, at the above address or telephone (703) 518–6640; or Frank Kressman, Associate General Counsel, Office of General Counsel, at the above address or telephone (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Background
II. Proposed Amendments
III. Regulatory Procedures

### I. Background

In 2010, the Board comprehensively revised the regulations governing Corporates and their activities.[1] The Board also amended those regulations twice more in 2011.[2] The Board has since identified the need to update the Corporate regulations by streamlining and clarifying certain provisions and incorporating a number of technical amendments to enhance readability. The amendments also provide a measure of regulatory relief to the Corporates.

### II. Proposed Amendments

*1. Section 704.2—Definitions*

The current rule defines a number of terms that contain the word ''capital'' or otherwise relate to ''capital.'' Some of these terms are duplicative and unnecessary. Accordingly, the Board proposes to delete several of these terms and also redefine a number of other terms to minimize confusion and enhance the effectiveness of the regulation. The proposal deletes the distinct definitions of ''adjusted core capital'' and ''core capital'' and incorporates them into the definition of ''Tier 1 capital.'' The proposal also deletes the term ''capital'' when used as a specific measure, and replaces it with the term ''total capital.'' Finally, the proposal deletes the definition of ''supplementary capital'' and incorporates it into the definition of ''Tier 2 capital.''

The proposal also deletes the definitions of the terms ''asset-backed commercial paper program,'' ''credit enhancing interest-only strip,'' and ''eligible ABCP facility,'' all of which are used in Appendix C to part 704. Corporates generally do not engage in the kinds of activities described by these terms. By deleting these definitions, the Board emphasizes that these activities are not consistent with the regular business activities of Corporates.

The proposal also modifies a number of definitions to provide greater clarity or to make them consistent with other NCUA regulations. These include the definitions of ''available to cover losses that exceed retained earnings,'' ''derivatives,'' ''equity investment,'' ''equity security,'' ''fair value,'' ''internal control,'' and ''retained earnings.'' Lastly, the current rule contains two definitions for ''leverage ratio,'' one for use before October 21, 2013, and one for use on or after that date. The proposal deletes the pre-October 21, 2013, definition and modifies the latter definition to reflect the proposed substitution of ''Tier 1 capital'' for ''adjusted core capital.''

*2. Section 704.3—Corporate Credit Union Capital*

The proposal amends §§ 704.3(b)(5) and 704.3(c)(3), regarding Corporate capital, to clarify that upon redeeming or calling nonperpetual capital accounts or perpetual contributed capital instruments, a Corporate must continue to meet its minimum required capital

[1] 12 CFR part 704; 75 FR 64786 (Oct. 20, 2010).

[2] 76 FR 23861 (Apr. 29, 2011); 76 FR 79531 (Dec. 22, 2011). The Board also made technical changes to the regulations in 2011 and 2013. 76 FR 16235 (Mar. 23, 2011); 78 FR 77563 (Dec. 24, 2013).

and net economic value ratios. These clarifications make the provisions consistent with each other and with the terms and conditions of contributed capital included in the Model Forms in Appendix A to part 704. The proposal also deletes § 704.3(f)(4), as that provision refers to a regulatory requirement that Corporates were to have complied with prior to December 20, 2011.

*3. Section 704.5—Investments*

The proposal amends § 704.5(j) regarding grandfathering certain Corporate investments. The proposal clarifies that, while a Corporate may continue to hold an investment that was permissible at the time of purchase but later became impermissible because of a regulatory change, the investment is still subject to all other sections of part 704 that apply to investments, including those pertaining to credit risk management, asset and liability management, liquidity management, and investment action plans.

*4. Section 704.6—Credit Risk Management*

Section 704.6 establishes issuer and sector concentration limits to control the credit risk of Corporate investment activities, but does not specify how to value investments when calculating aggregate amounts. In response to requests for clarification, the proposal states that the appropriate measure is the value of relevant investments recorded on the books of the Corporate. This measure includes the value of the investment after accreting or amortizing the investment purchase premium or discount, as applicable.

*5. Section 704.7—Lending*

Section 704.7(c) currently restricts a Corporate's unsecured member lending to 50 percent of capital and its secured member lending to 100 percent of capital. First, the proposal amends the provision by basing the lending limit on the Corporate's total capital, consistent with the definitional changes discussed above. Second, in response to requests by Corporates for greater flexibility, the proposal amends the provision to allow a higher level of secured lending. The rule continues to limit unsecured lending to 50 percent of total capital, but permits secured lending up to the full 150 percent of total capital limit. Under the proposal, each Corporate may determine its preferred composition of secured versus unsecured lending.

*6. Section 704.8—Asset and Liability Management*

Section 704.8 establishes requirements to identify, measure, monitor, and control risk in the management of assets and liabilities. These include interest rate sensitivity analyses, net interest income modeling, and limiting the weighted average life of assets. Section 704.8(j) imposes reporting and other requirements on Corporates that experience a decline in net economic value (NEV) or other NEV-related measures beyond certain thresholds. The proposal clarifies that if a Corporate does experience such NEV-related breaches, but is able to adjust its balance sheet to meet required regulatory limits within 10 days, then the Corporate will not be considered to be in violation of the regulation. NCUA recognizes that, through the normal course of business, a Corporate may temporarily experience an NEV-related breach. Often, a Corporate can resolve the breach within a timely manner, which is why the current rule permits the Corporate to resolve any breach within 10 days prior to further regulatory action being taken. The proposed rule clarifies that only if a Corporate cannot resolve the breach in a timely manner would there be a cause for regulatory concern and, as such, be considered a regulatory violation.

*7. Section 704.9—Liquidity Management*

Section 704.9(b) currently restricts a Corporate's borrowing to the lower of 10 times capital or 50 percent of capital and shares. First, the proposal amends the provision by changing the limit to 10 percent of total capital, consistent with the definitional changes discussed above. Second, recognizing that tying the borrowing limit to a percentage of shares may, in the event of a share outflow, limit a Corporate's ability to borrow at a critical time, the proposal removes the restriction of 50 percent of capital and shares. Finally, the proposal increases the secured borrowing maturity limit from 30 to 120 days to accommodate seasonality in the borrowing patterns of member credit unions. NCUA believes that this extension will not materially increase risk and will allow Corporates to better serve their members.

*8. Section 704.11—Corporate Credit Union Service Organizations (CUSOs)*

Section 704.11(e) addresses permissible Corporate CUSO activities and includes implementing dates that were prospective when the Board adopted the provision in 2010. Those dates have passed, and the proposal simplifies the provision by removing them.

Section 704.11(g) provides that before making an investment in or loan to a Corporate CUSO, a Corporate must obtain written agreement from the Corporate CUSO that the Corporate CUSO will meet certain requirements. These include following generally accepted accounting principles, providing financial statements to the Corporate, and obtaining an annual CPA audit. The proposal also adds the requirement that a Corporate CUSO provide to NCUA and, if applicable, the appropriate state supervisory authority (SSA) the kinds of informational reports required to be produced and submitted by natural person CUSOs pursuant to a recent revision to NCUA's general CUSO rule.[3] This additional information will enhance NCUA's ability to monitor a Corporate's CUSO-related activities consistent with the monitoring adopted for natural person credit unions' CUSOs.

*9. Section 704.14—Representation*

Section 704.14(a)(2) provides that an individual must hold a specified management position in a member credit union to be eligible to seek election to the board of directors of a Corporate. A question has arisen as to whether the individual must hold that position at the member credit union at the time his or her Corporate board service begins. The proposal amends this provision to clarify that an individual may run for a seat on the board of a Corporate only if he or she will continue to hold one of the required member management positions at the time he or she will serve on the Corporate board. The proposal also simplifies and corrects § 704.14 by removing expired implementing dates and replacing the term ''Regional Director'' with the term ''ONES Director.''

*10. Section 704.15—Audit and Reporting Requirements*

Section 704.15 establishes auditing and reporting requirements for Corporates. When adopted in 2011, the provision contained implementing dates that have since passed. The proposal makes technical changes to the provision by eliminating those dates and correcting a typographical error.

*11. Section 704.18—Fidelity Bond Coverage*

Section 704.18 establishes fidelity bond requirements for Corporate

[3] 12 CFR 712.3(d)(4) and (5); 78 FR 72537 (Dec. 3, 2013).

employees and officials, with maximum deductibles based on a Corporate's capital. The proposal changes the measure from core capital to total capital, consistent with the definitional changes discussed above. NCUA believes this change will have an immaterial effect on maximum deductible levels.

*12. Section 704.21—Enterprise Risk Management*

Section 704.21 requires a Corporate to develop and follow an enterprise risk management policy, establish an enterprise risk management committee, and include an independent risk management expert on the committee. Paragraph (c) of this section lists the minimum qualifications for the independent expert, including specific educational and background requirements. NCUA recognizes the minimum qualifications may be overly prescriptive and subject to differences in interpretation. The critical factors are an individual's independence and experience that is commensurate with the Corporate's operations and complexity. Accordingly, the proposal removes the minimum requirements for the independent risk management expert. The Board believes this will make it easier for corporates to attract and hire qualified individuals for the position.

*13. Appendix A to Part 704—Capital Prioritization and Model Forms*

Appendix A to part 704 includes Model Forms A–H for use by Corporates when accepting contributed capital from members. Model Forms A, B, E, and F were designed for use before October 20, 2011, and the proposed rule removes those expired forms and redesignates the remaining forms as A–D. The proposal also removes a sentence from the introductory note to current Model Form G, redesignated as Model Form C, to clarify that in some instances previously issued ''paid-in capital'' may not be considered perpetual contributed capital.

*14. Appendix B to Part 704—Expanded Authorities and Requirements*

Appendix B to part 704 describes expanded authorities available to Corporates and the procedures for obtaining such authorities. Consistent with the earlier discussion regarding the simplification of terms relating to capital, the proposal substitutes ''leverage ratio'' for ''capital ratio'' and ''total capital'' for ''capital.''

*15. Appendix C to Part 704—Risk-Based Capital Credit Risk-Weight Categories*

Appendix C to 704 explains how a Corporate must compute its risk-weighted assets for the purpose of determining its capital ratios. Several of the assets and activities discussed such as ''asset-backed commercial paper program,'' ''credit enhancing interest-only strip,'' and ''eligible ABCP facility'' are not consistent with the regular business activities of Corporates. To reduce confusion, the proposal removes references to those assets and activities.

**III. Regulatory Procedures**

*1. Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $50 million in assets).[4] This proposed rule only affects Corporates, all of which have more than $50 million in assets. Furthermore, the proposed rule consists primarily of technical and clarifying amendments. Accordingly, NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

*2. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden or increases an existing burden.[5] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. Under the proposed rule, a Corporate with an investment in or loan to a Corporate CUSO will need to revise the current agreement it has with the Corporate CUSO to provide that the Corporate CUSO will prepare and submit basic or expanded reports directly to NCUA and the appropriate SSA.

Currently, there are 14 Corporates and approximately 16 Corporate CUSOs, 13 of which provide the complex or high-risk services that require expanded reporting. The information collection burdens imposed, on an annual basis, are analyzed below.

*Changing the written agreement relating to reports to NCUA.*

Frequency of response: One-time.

Initial hour burden: 4.

4 hours × 14 = 56 hours

*Initial Corporate CUSO reporting to NCUA and SSA—basic information.*

Frequency of response: One-time.

Initial hour burden: 0.5.

0.5 hours × 16 = 8 hours

*Initial Corporate CUSO reporting to NCUA and SSA—expanded information.*

Frequency of response: One-time.

Initial hour burden: 3.

3 hours × 13 = 39 hours

*Annual Corporate CUSO reporting to NCUA and SSA—expanded information.*

Frequency of response: Annual.

Annual hour burden: 3.

3 hours × 13 = 39 hours

As required by the PRA, NCUA is submitting a copy of this proposal to OMB for its review and approval. Persons interested in submitting comments with respect to the information collection aspects of the proposed rule should submit them to OMB at the address noted below.

NCUA considers comments by the public on this proposed collection of information in:

- evaluating whether the proposed collection of information is necessary for the proper performance of the functions of NCUA, including whether the information will have a practical use;
- evaluating the accuracy of NCUA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhancing the quality, usefulness, and clarity of the information to be collected; and
- minimizing the burden of collecting 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.

OMB will make a decision concerning the collection of information contained in this proposed regulation between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to NCUA on the substantive aspects of this proposed regulation.

Comments on the proposed information collection requirements should be sent to: Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Washington, DC 20503; Attention: NCUA Desk Officer, with a copy to Amanda Wallace

[4] 5 U.S.C. 603(a); 12 U.S.C. 1787(c)(1).

[5] 44 U.S.C. 3507(d); 5 CFR part 1320.

at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

*3. Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The proposed rule does 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. NCUA has, therefore, determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

*4. Assessment of Federal Regulations and Policies on Families*

NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

**List of Subjects in 12 CFR Part 704**

Credit unions, Corporate credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on October 23, 2014.

**Gerard Poliquin,**

*Secretary of the Board.*

For the reasons discussed above, the National Credit Union Administration proposes to amend 12 CFR part 704 as follows:

## PART 704—CORPORATE CREDIT UNIONS

■ 1. The authority citation for part 704 continues to read as follows:

**Authority:** 12 U.S.C. 1766(a), 1781, and 1789.

■ 2. Amend § 704.2 by:

■ a. Removing the definitions of ''*Adjusted core capital*'', ''*Asset-backed commercial paper program*'', ''*Capital*'', ''*Capital ratio*'', ''*Core capital*'', ''*Core capital ratio*'', ''*Credit-enhancing interest-only strip*'', ''*Eligible ABCP liquidity facility*'', the two definitions of ''*Leverage ratio*'', and ''*Supplementary capital*'';

■ b. Revising the first two sentences of the definition of ''*Available to cover losses that exceed retained earnings*'' and the definitions of ''*Derivatives*'', ''*Equity investment*'', ''*Equity security*'', ''*Fair value*'', ''*Internal control*'', ''*Net assets*'', ''*Net risk-weighted assets*'', ''*Retained earnings*'', ''*Tier 1 capital*'', ''*Tier 2 capital*'', and ''*Total capital*''; and

■ c. Adding definitions, in alphabetical order, for ''*Leverage ratio*'' and ''*Tier 1 risk-based capital ratio*''.

The revisions and additions read as follows:

**§ 704.2 Definitions.**

* * * * *

*Available to cover losses that exceed retained earnings* means that the funds are available to cover operating losses realized, in accordance with generally accepted accounting principles (GAAP), by the corporate credit union that exceed retained earnings and equity acquired in a combination. Likewise, *available to cover losses that exceed retained earnings and perpetual contributed capital (PCC)* means that the funds are available to cover operating losses realized, in accordance with GAAP, by the corporate credit union that exceed retained earnings and equity acquired in a combination and PCC.

* * *

* * * * *

*Derivatives* means a financial contract which derives its value from the value and performance of some other underlying financial instrument or variable, such as an index or interest rate.

* * * * *

*Equity investment* means an investment in an equity security and other ownership interest, including, for example, an investment in a partnership or limited liability company.

*Equity security* means any security representing an ownership interest in an enterprise (for example, common, preferred, or other capital stock) or the right to acquire (for example, warrants and call options) or dispose of (for example, put options) an ownership interest in an enterprise at fixed or determinable prices. However, the term does not include Federal Home Loan Bank stock, convertible debt, or preferred stock that by its terms either must be redeemed by the issuing enterprise or is redeemable at the option of the investor.

* * * * *

*Fair value* means the price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date, as defined by GAAP.

* * * * *

*Internal control* means the process, established by the corporate credit union's board of directors, officers and employees, designed to provide reasonable assurance of reliable financial reporting and safeguarding of assets against unauthorized acquisition, use, or disposition. A credit union's internal control structure generally consists of five components: control environment; risk assessment; control activities; information and communication; and monitoring. Reliable financial reporting refers to preparation of Call Reports as well as financial data published and presented to members that meet management's financial reporting objectives. Internal control over safeguarding of assets against unauthorized acquisition, use, or disposition refers to prevention or timely detection of transactions involving such unauthorized access, use, or disposition of assets which could result in a loss that is material to the financial statements.

* * * * *

*Leverage ratio* means the ratio of Tier 1 capital to moving daily average net assets.

* * * * *

*Net assets* means total assets less Central Liquidity Facility (CLF) stock subscriptions, loans guaranteed by the National Credit Union Share Insurance Fund (NCUSIF), and member reverse repurchase transactions. For its own account, a corporate credit union's payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net assets.

* * * * *

*Net risk-weighted assets* means risk-weighted assets less CLF stock subscriptions, CLF loans guaranteed by the NCUSIF, and member reverse repurchase transactions. For its own account, a corporate credit union's payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net risk-weighted assets.

* * * * *

*Retained earnings* means undivided earnings, regular reserve, reserve for contingencies, supplemental reserves, reserve for losses, and other appropriations from undivided earnings as designated by management or NCUA.

* * * * *

*Tier 1 capital* means the sum of paragraphs (1) through (4) of this definition from which paragraphs (5) through (9) of this definition are deducted:

(1) Retained earnings;

(2) Perpetual contributed capital;

(3) The retained earnings of any acquired credit union, or of an integrated set of activities and assets, calculated at the point of acquisition, if the acquisition was a mutual combination;

(4) Minority interests in the equity accounts of CUSOs that are fully consolidated;

(5) Deduct the amount of the corporate credit union's intangible assets that exceed one half percent of its moving daily average net assets (however, NCUA may direct the corporate credit union to add back some of these assets on NCUA's own initiative, by petition from the applicable state regulator, or upon application from the corporate credit union);

(6) Deduct investments, both equity and debt, in unconsolidated CUSOs;

(7) Deduct an amount equal to any PCC or NCA that the corporate credit union maintains at another corporate credit union;

(8) Beginning on October 20, 2016, and ending on October 20, 2020, deduct any amount of PCC that causes PCC minus retained earnings, all divided by moving daily net average assets, to exceed two percent; and

(9) Beginning after October 20, 2020, deduct any amount of PCC that causes PCC to exceed retained earnings.

*Tier 1 risk-based capital ratio* means the ratio of Tier 1 capital to the moving monthly average net risk-weighted assets.

*Tier 2 capital* means the sum of paragraphs (1) through (4) of this definition:

(1) Nonperpetual capital accounts, as amortized under § 704.3(b)(3);

(2) Allowance for loan and lease losses calculated under GAAP to a maximum of 1.25 percent of risk-weighted assets;

(3) Any PCC deducted from Tier 1 capital; and

(4) Forty-five percent of unrealized gains on available-for-sale equity securities with readily determinable fair values. Unrealized gains are unrealized holding gains, net of unrealized holding losses, calculated as the amount, if any, by which fair value exceeds historical cost. NCUA may disallow such inclusion in the calculation of Tier 2 capital if NCUA determines that the securities are not prudently valued.

* * * * *

*Total capital* means the sum of Tier 1 capital and Tier 2 capital, less the corporate credit union's equity investments not otherwise deducted when calculating Tier 1 capital.

* * * * *

■ 3. Amend § 704.3 by revising paragraphs (b)(5), (c)(3), and (e)(3)(i) and removing paragraph (f)(4) to read as follows:

**§ 704.3 Corporate credit union capital.**

* * * * *

(b) * * *

*(5) Redemption.* A corporate credit union may redeem NCAs prior to maturity or prior to the end of the notice period only if it meets its minimum required capital and net economic value ratios after the funds are redeemed and only with the prior approval of NCUA and, for state chartered corporate credit unions, the applicable state regulator.

* * * * *

(c) * * *

(3) *Callability.* A corporate credit union may call PCC instruments only if it meets its minimum required capital and net economic value ratios after the funds are called and only with the prior approval of the NCUA and, for state chartered corporate credit unions, the applicable state regulator. PCC accounts are callable on a pro-rata basis across an issuance class.

* * * * *

(e) * * *

(3) * * * (i) Notwithstanding the definitions of Tier 1 capital and Tier 2 capital in § 704.2, NCUA may find that a particular asset or Tier 1 capital or Tier 2 capital component has characteristics or terms that diminish its contribution to a corporate credit union's ability to absorb losses, and NCUA may require the discounting or deduction of such asset or component from the computation of Tier 1 capital, Tier 2 capital, or total capital.

* * * * *

■ 4. Amend § 704.5 by revising paragraph (j) to read as follows:

**§ 704.5 Investments.**

* * * * *

(j) *Grandfathering.* A corporate credit union's authority to hold an investment is governed by the regulation in effect at the time of purchase. However, all grandfathered investments are subject to the other requirements of this part.

■ 5. Amend § 704.6 by revising paragraphs (c), (d), and (e) to read as follows:

**§ 704.6 Credit risk management.**

* * * * *

(c) *Issuer concentration limits*—(1) *General rule.* The aggregate value recorded on the books of the corporate credit union of all investments in any single obligor is limited to 25 percent of total capital or $5 million, whichever is greater.

(2) *Exceptions.* (i) Investments in one obligor where the remaining maturity of all obligations is less than 30 days are limited to 50 percent of total capital;

(ii) Investments in credit card master trust asset-backed securities are limited to 50 percent of total capital in any single obligor;

(iii) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 200 percent of total capital;

(iv) Investments in non-money market registered investment companies are limited to 50 percent of total capital in any single obligor;

(v) Investments in money market registered investment companies are limited to 100 percent of total capital in any single obligor; and

(vi) Investments in corporate CUSOs are subject to the limitations of § 704.11.

(d) *Sector concentration limits.* (1) A corporate credit union must establish sector limits based on the value recorded on the books of the corporate credit union that do not exceed the following maximums:

(i) Mortgage-backed securities (inclusive of commercial mortgage-backed securities)—the lower of 1000 percent of total capital or 50 percent of assets;

(ii) Commercial mortgage-backed securities—the lower of 300 percent of total capital or 15 percent of assets;

(iii) Federal Family Education Loan Program student loan asset-backed securities—the lower of 1000 percent of total capital or 50 percent of assets;

(iv) Private student loan asset-backed securities—the lower of 500 percent of total capital or 25 percent of assets;

(v) Auto loan/lease asset-backed securities—the lower of 500 percent of total capital or 25 percent of assets;

(vi) Credit card asset-backed securities—the lower of 500 percent of total capital or 25 percent of assets;

(vii) Other asset-backed securities not listed in paragraphs (d)(1)(ii) through (vi) of this section—the lower of 500 percent of total capital or 25 percent of assets;

(viii) Corporate debt obligations—the lower of 1000 percent of total capital or 50 percent of assets; and

(ix) Municipal securities—the lower of 1000 percent of total capital or 50 percent of assets.

(2) Registered investment companies—A corporate credit union must limit its investment in registered

investment companies to the lower of 1000 percent of total capital or 50 percent of assets. In addition to applying the limit in this paragraph (d)(2), a corporate credit union must also include the underlying assets in each registered investment company in the relevant sectors described in paragraph (d)(1) of this section when calculating those sector limits.

(3) A corporate credit union must limit its aggregate holdings in any investments not described in paragraphs (d)(1) or (2) of this section to the lower of 100 percent of total capital or 5 percent of assets. The NCUA may approve a higher percentage in appropriate cases.

(4) Investments in other federally insured credit unions, deposits and federal funds investments in other federally insured depository institutions, and investment repurchase agreements are excluded from the concentration limits in paragraphs (d)(1), (2), and (3) of this section.

(e) *Corporate debt obligation subsector limits.* In addition to the limitations in paragraph (d)(1)(viii) of this section, a corporate credit union must not exceed the lower of 200 percent of total capital or 10 percent of assets in any single North American Industry Classification System (NAICS) industry sector based on the value recorded on the books of the corporate credit union. If a corporation in which a corporate credit union is interested in investing does not have a readily ascertainable NAICS classification, a corporate credit union will use its reasonable judgment in assigning such a classification. NCUA may direct, however, that the corporate credit union change the classification.

* * * * *

■ 6. Amend § 704.7 by revising paragraph (c) to read as follows:

**§ 704.7 Lending.**

* * * * *

(c) *Loans to members*—(1) *Credit unions.* (i) The maximum aggregate amount in unsecured loans and lines of credit from a corporate credit union to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 50 percent of the corporate credit union's total capital.

(ii) The maximum aggregate amount in secured loans (excluding those secured by shares or marketable securities and member reverse repurchase transactions) and unsecured loans (excluding pass-through and guaranteed loans from the CLF and the NCUSIF) and lines of credit from a corporate credit union to any one member credit union must not exceed 150 percent of the corporate credit union's total capital.

(2) *Corporate CUSOs.* Any loan or line of credit from a corporate credit union to a corporate CUSO must comply with § 704.11.

(3) *Other members.* The maximum aggregate amount of loans and lines of credit from a corporate credit union to any other one member must not exceed 15 percent of the corporate credit union's total capital plus pledged shares.

* * * * *

■ 7. Amend § 704.8 by revising paragraph (j) to read as follows:

**§ 704.8 Asset and liability management.**

* * * * *

(j) *Limit breaches.* (1)(i) If a corporate credit union's decline in NEV, base case NEV ratio, or any NEV ratio calculated under paragraph (d) of this section exceeds established or permitted limits, or the corporate is unable to satisfy the tests in paragraphs (f) or (g) of this section, the operating management of the corporate must immediately report this information to its board of directors and ALCO; and

(ii) If the corporate credit union cannot adjust its balance sheet to meet the requirements of paragraphs (d), (f), or (g) of this section within 10 calendar days after detection by the corporate, the corporate must notify in writing the Director of the Office of National Examinations and Supervision.

(2) If any breach described in paragraph (j)(1) of this section persists for 30 or more calendar days, the corporate credit union:

(i) Must immediately submit a detailed, written action plan to the NCUA that sets forth the time needed and means by which it intends to come into compliance and, if the NCUA determines that the plan is unacceptable, the corporate credit union must immediately restructure its balance sheet to bring the exposure back within compliance or adhere to an alternative course of action determined by the NCUA; and

(ii) If presently categorized as adequately capitalized or well capitalized for prompt corrective action purposes, and the breach was of paragraph (d) of this section, the corporate credit union will immediately be recategorized as undercapitalized until coming into compliance, and

(iii) If presently categorized as less than adequately capitalized for prompt corrective action purposes, and the breach was of paragraph (d) of this section, the corporate credit union will immediately be downgraded one additional capital category.

* * * * *

■ 8. Amend § 704.9 by revising paragraph (b) to read as follows:

**§ 704.9 Liquidity management.**

* * * * *

(b) *Borrowing limits.* A corporate credit union may borrow up to 10 times its total capital.

(1) *Secured borrowings.* A corporate credit union may borrow on a secured basis for liquidity purposes, but the maturity of the borrowing may not exceed 120 days. Only a corporate credit union with Tier 1 capital in excess of five percent of its moving daily average net assets (DANA) may borrow on a secured basis for nonliquidity purposes, and the outstanding amount of secured borrowing for nonliquidity purposes may not exceed an amount equal to the difference between the corporate credit union's Tier 1 capital and five percent of its moving DANA.

(2) *Exclusions.* CLF borrowings and borrowed funds created by the use of member reverse repurchase agreements are excluded from the limit in paragraph (b)(1) of this section.

■ 9. Amend § 704.11 by:

■ a. Revising paragraphs (b)(1) and (2) and (e)(1) introductory text;

■ b. Removing paragraph (e)(2);

■ c. Redesignating paragraph (e)(3) as paragraph (e)(2);

■ d. Redesignating paragraphs (g)(4) through (7) as paragraphs (g)(5) through (8), respectively; and

■ e. Adding new paragraph (g)(4).

The revisions and addition read as follows:

**§ 704.11 Corporate Credit Union Service Organizations (Corporate CUSOs).**

* * * * *

(b) *Investment and loan limitations.* (1) The aggregate of all investments in member and non-member corporate CUSOs that a corporate credit union may make must not exceed 15 percent of a corporate credit union's total capital.

(2) The aggregate of all investments in and loans to member and nonmember corporate CUSOs a corporate credit union may make must not exceed 30 percent of a corporate credit union's total capital. A corporate credit union may lend to member and nonmember corporate CUSOs an additional 15 percent of total capital if the loan is collateralized by assets in which the corporate has a perfected security interest under state law.

* * * * *

(e) *Permissible activities.* (1) A corporate CUSO must agree to limit its activities to:

* * * * *

(g) * * *

(4) Will provide the reports as required by § 712.3(d)(4) and (5) of this chapter;

* * * * *

■ 10. Amend § 704.14 by revising paragraphs (a)(2), (a)(9), and (e)(2) to read as follows:

**§ 704.14 Representation.**

(a) * * *

(2) Only an individual who currently holds the position of chief executive officer, chief financial officer, chief operating officer, or treasurer/manager at a member credit union, and will hold that position at the time he or she is seated on the corporate credit union board if elected, may seek election or re-election to the corporate credit union board;

* * * * *

(9) At least a majority of directors of every corporate credit union, including the chair of the board, must serve on the corporate board as representatives of natural person credit union members.

* * * * *

(e) * * *

(2) The provisions of § 701.14 of this chapter apply to corporate credit unions, except that where ''Regional Director'' is used, read ''Director of the Office of National Examinations and Supervision.''

■ 11. Amend § 704.15 by revising paragraph (a)(2)(iii) introductory text, the first sentence of paragraph (b)(2), and the first sentence of paragraph (d)(1) to read as follows:

**§ 704.15 Audit and reporting requirements.**

(a) * * *

(2) * * *

(iii) An assessment by management of the effectiveness of the corporate credit union's internal control structure and procedures as of the end of the past calendar year that must include the following:

* * * * *

(b) * * *

(2) * * * The independent public accountant who audits the corporate credit union's financial statements must examine, attest to, and report separately on the assertion of management concerning the effectiveness of the corporate credit union's internal control structure and procedures for financial reporting. * * *

* * * * *

(d) * * *

(1) * * * Each corporate credit union must establish a supervisory committee, all of whose members must be independent. * * *

* * * * *

**§ 704.18 [Amended]**

■ 12. Amend § 704.18 in paragraph (e)(1) by:

■ a. Removing the words ''core capital ratio'' wherever they appear and adding in their place ''leverage ratio'';

■ b. Removing the words ''Core capital ratio'' and adding in their place ''Leverage ratio''; and

■ c. Removing the words ''core capital'' wherever they appear without being followed by the word ''ratio'' and adding in their place ''Tier 1 capital''.

■ 13. Amend § 704.21 by revising paragraph (c) to read as follows:

**§ 704.21 Enterprise risk management.**

* * * * *

(c) The ERMC must include at least one independent risk management expert. The risk management expert must have at least five years of experience in identifying, assessing, and managing risk exposures. This experience must be commensurate with the size of the corporate credit union and the complexity of its operations. The board of directors may hire the independent risk management expert to work full-time or part-time for the ERMC or as a consultant for the ERMC.

* * * * *

**Appendix A to Part 704—[Amended]**

■ 14. Amend Appendix A to part 704 by:

■ a. Removing Model Forms A, B, E, and F and redesignating Model Forms C, D, G, and H as Model Forms A, B, C, and D, respectively; and

■ b. Removing the second sentence of the note in newly redesignated Model Form C.

**Appendix B to Part 704—[Amended]**

■ 15. Amend Appendix B to part 704 by:

■ a. Removing the words ''capital ratio'' wherever they appear and adding in their place ''leverage ratio'';

■ b. Removing the word ''capital'' wherever it appears without being followed by the word ''ratio'' and adding in its place ''total capital''; and

■ c. Removing paragraph (e) from part 1.

■ 16. Amend Appendix C to part 704 by:

■ a. In part I(b):

■ (i) Revising paragraph (8) of the definition of ''*Direct credit substitute''*;

■ (ii) Revising paragraph (8) of the definition of ''*Recourse''*; and

■ (iii) Revising paragraph (2) of the definition of ''*Residual interests''*;

■ b. In part II(a), revising paragraph (4)(xiii);

■ c. In part II(b):

■ (i) Revising the heading of part II(b);

■ (ii) Removing paragraphs (1)(iv) and (4);

■ (iii) Redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively;

■ (iv) Revising newly redesignated paragraph (4)(i); and

■ (v) Removing newly redesignated paragraph (5)(v)(C).

■ d. In part II(c):

■ (i) Removing paragraph (2)(i);

■ (ii) Redesignating paragraphs (2)(ii) and (iii) as paragraphs (2)(i) and (ii), respectively; and

■ (iii) Revising newly redesignated paragraph (2)(i) and the introductory paragraph of newly redesignated paragraph (2)(ii).

The revisions read as follows:

**Appendix C to Part 704—Risk-Based Capital Credit Risk-Weight Categories**

* * * * *

Part I: Introduction

* * * * *

*(b) Definitions*

* * * * *

*Direct credit substitute* * * *

(8) Liquidity facilities that provide support to asset-backed commercial paper.

* * * * *

*Recourse* * * *

(8) Liquidity facilities that provide support to asset-backed commercial paper.

* * * * *

*Residual interest* * * *

(2) Residual interests generally include spread accounts, cash collateral accounts, retained subordinated interests (and other forms of overcollateralization), and similar assets that function as a credit enhancement. Residual interests further include those exposures that, in substance, cause the corporate credit union to retain the credit risk of an asset or exposure that had qualified as a residual interest before it was sold.

* * * * *

Part II: Risk-Weightings

*(a) On-Balance Sheet Assets*

* * * * *

(4) * * *

(xiii) Interest-only strips receivable;

* * * * *

*(b) Off-Balance Sheet Activities*

* * * * *

(4) * * * (i) Unused portions of commitments with an original maturity of one year or less;

* * * * *

(c) Recourse Obligations, Direct Credit Substitutes, and Certain Other Positions

* * * * *

(2)(i) Other residual interests. A corporate credit union must maintain risk-based capital for a residual interest equal to the face amount of the residual interest, even if the amount of risk-based capital that must be maintained exceeds the full risk-based capital requirement for the assets transferred.

(ii) Residual interests and other recourse obligations. Where a corporate credit union holds a residual interest and another recourse obligation in connection with the same transfer of assets, the corporate credit union must maintain risk-based capital equal to the greater of:

* * * * *

[FR Doc. 2014–25743 Filed 11–3–14; 8:45 am]

BILLING CODE 7535–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 121 and 145

**[AC 120–66C]**

### Advisory Circular for Aviation Safety Action Program (ASAP)

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

**ACTION:** Notice of availability of proposed revision to Advisory Circular for Aviation Safety Action Program (ASAP); Extension of comment period.

**SUMMARY:** This action extends the comment period for the Notice of availability of proposed revision to Advisory Circular for Aviation Safety Action Program (ASAP) that was published on September 5, 2014. In that document, the FAA proposed to clarify FAA policy, facilitate achievement of an ASAP's safety goals, and encourage wider participation in the program. Multiple industry groups have requested that the FAA extend the comment period closing date to allow time to prepare comments.

**DATES:** The comment period for the Notice of availability of proposed revision to Advisory Circular for Aviation Safety Action Program (ASAP) published on September 5, 2014, was scheduled to close on November 4, 2014, and is extended until January 5, 2015.

**ADDRESSES:** You may send comments identified by AC 120–66C using any of the following methods:

- *Aviation Safety Draft Document Open for Comment Web site:* Go to *http://www.faa.gov/aircraft/draft_docs/afs_ac/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to 1625 K Street NW., Suite 300, Washington, DC 20006.
- *Fax:* Fax comments to 202–223–4615. Attn: Laura L. Miller.
- *Hand Delivery:* Bring comments to 1625 K Street NW., Suite 300, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Randy McDonald, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8166; facsimile: 202–267–5229; email: *randy.mcdonald@faa.gov.*

**Background**

On September 5, 2014, the Federal Aviation Administration (FAA) published a notice in the **Federal Register** (79 FR 53008) announcing the availability of proposed Advisory Circular (AC) 120–66C. AC 120–66C provides guidance for establishing an air transportation Aviation Safety Action Program (ASAP). The comment period for that notice was to have closed November 4, 2014.

The FAA has reviewed the requests made by multiple industry groups for extension of the comment period to Notice of availability of proposed revision to Advisory Circular for Aviation Safety Action Program (ASAP). These petitioners have shown a substantive interest in the contents of the Notice and good cause for the extension. The FAA has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for Notice of availability of proposed revision to Advisory Circular for Aviation Safety Action Program (ASAP) is extended until January 5, 2015.

**John S. Duncan,**

*Director, Flight Standards Service.*

[FR Doc. 2014–26212 Filed 11–3–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### 25 CFR Part 169

**[BIA–2014–0001; DR.5B711.IA000814]**

**RIN 1076–AF20**

### Rights-of-Way on Indian Land

**AGENCY:** Bureau of Indian Affairs, Interior.

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

**SUMMARY:** This document announces that the Department will accept comments on the proposed rule governing rights-of-way on Indian land until November 28, 2014. The proposed rule would comprehensively update and streamline the process for obtaining BIA grants of rights-of-way on Indian land, while supporting tribal self-determination and self-governance.

**DATES:** Comments on the proposed rule published June 17, 2014 (79 FR 34455) must be received by November 28, 2014.

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

—*Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs.'' The rule has been assigned Docket ID: BIA–2014–0001.

—*Email: consultation@bia.gov.* Include the number 1076–AF20 in the subject line.

—*Mail* or *hand delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS 3642, Washington, DC 20240. Include the number 1076–AF20 on the envelope.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

**SUPPLEMENTARY INFORMATION:** On June 17, 2014, we published a proposed rule to comprehensively update and streamline the process for obtaining BIA grants of rights-of-way on Indian land. *See* 79 FR 34455. On August 18, 2014, we published an extension of the comment period, establishing a new comment deadline of October 2, 2014. On October 1, 2014, we released a press release notifying the public that we are extending the comment period to November 3, 2014, to allow additional time for tribal and public comment. On October 30, 2014, we released a press release notifying the public that we are again extending the comment period to November 28, 2014. We will accept all comments received between June 17, 2014, and November 28, 2014.

The proposed rule, frequently asked questions, and other information are online at: *http://www.bia.gov/WhoWeAre/AS-IA/ORM/RightsofWay/index.htm.*

Dated: October 30, 2014.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2014–26264 Filed 10–31–14; 4:15 pm]

BILLING CODE 4310–W7–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 110**

**[Docket No. USCG–2014–0142]**

**RIN 1625–AA01**

## Anchorage Regulations: Special Anchorage Areas, Marina del Rey Harbor, California

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; notice of public meeting and reopening of the comment period.

**SUMMARY:** The Coast Guard announces a November 20, 2014 public meeting to receive comments on a notice of proposed rulemaking entitled ''Anchorage Regulations: Subpart A—Special Anchorage Areas, Marina del Rey Harbor, California '' that was published in the **Federal Register** on May 28, 2014. As stated in that document, the Coast Guard proposes to disestablish the special anchorage area at the north end of the main channel in Marina del Rey Harbor, California. This proposed action would remove the anchorage area from Coast Guard regulations. This proposed rule would not prevent vessels from anchoring in the harbor during storms, stress, or other emergency situations. We have reopened the comment period which will now end November 28, 2014.

**DATES:** A public meeting will be held on Thursday, November 20, 2014, from 4:30 p.m. to 6:30 p.m. in Marina del Rey, CA to provide an opportunity for oral comments. The comment period for this rulemaking is reopened through November 28, 2014.

**ADDRESSES:** The public meeting will be held at the Burton W. Chace Park Community Room, 13650 Mindanao Way, Marina del Rey, CA 90292, telephone 310–305–9595.

You may submit comments identified by docket number USCG–2014–0142 using any one of the following methods:

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

(2) *Fax:* (202) 493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (202) 366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning the meeting or the proposed rule, please call or email Lieutenant Van Vu, Waterways Management Division, U.S. Coast Guard District 11, telephone 510–437–2978, email *van.h.vu@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

### Background and Purpose

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 28, 2014 (79 FR 30509), entitled ''Anchorage Regulations: Subpart A—Special Anchorage Areas, Marina del Rey Harbor, California'' in which we stated we did not plan to hold a public meeting. We received several requests for a meeting in comments submitted to the docket and have concluded that a public meeting would aid this rulemaking. Therefore, we are announcing a public meeting.

You may view the NPRM in our online docket and comments submitted thus far by going to *http://www.regulations.gov.* Once there, insert ''USCG–2014–0142'' in the ''Keyword'' box and click ''Search.'' You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

We encourage you to participate in this rulemaking by submitting comments either orally at the meeting or in writing. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to our online public docket. To submit your comment online, go to *http://www.regulations.gov,* type the docket number USCG–2014–0142 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

### Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Lieutenant Van Vu at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section above.

### Public Meeting

The Coast Guard will hold a public meeting regarding its Anchorage Regulations: Subpart A—Special Anchorage Areas, Marina del Rey Harbor, California proposed rule on Thursday, November 20, 2014, from 4:30 p.m. to 6:30 p.m. at the Burton W. Chace Park Community Room at 13650 Mindanao Way, Marina del Rey, CA 90292, telephone 310–305–9595. Public parking lots are available on a pay basis. For Public transit information to the Community Room, contact the Los Angeles County Metropolitan Transportation Authority (Metro) at 323–466–3876 or search at *http://www.metro.net* for additional information. We will provide a written summary of the meeting and additional comments received at the meeting in the docket. The meeting may conclude before the allotted time if all who have come to submit oral comments have done so before 6:30 p.m.

Dated: October 23, 2014.

**J.A. Servidio,**

*Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.*

[FR Doc. 2014–26185 Filed 11–3–14; 8:45 am]

BILLING CODE 9110–04–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R07–OAR–2014–0602; FRL 9918–74–Region–7]**

### Approval and Promulgation of Implementation Plans; State of Missouri, Controlling Emissions During Episodes of High Air Pollution Potential

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision submitted by the State of Missouri and received by EPA on December 17, 2013, pertaining to Missouri's rule ''Controlling Emissions During Episodes of High Air Pollution Potential.'' This rule specifies conditions that establish air pollution alerts and emergency alert levels, and associated procedures and emission reduction objectives statewide. This action revises the SIP by amending an existing table in the rule, clarifying requirements of the rule related to emission reduction plans and other rule provisions, and makes administrative and format changes all consistent with Federal regulations.

**DATES:** Comments on this proposed action must be received in writing by December 4, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0602, by mail to Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. 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:** Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7147, or by email at *bhesania.amy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. 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 in relation to this action. 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

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

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

Dated: October 22, 2014.

**Becky Weber,**

*Acting Regional Administrator, Region 7.*

[FR Doc. 2014–26079 Filed 11–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R08–OAR–2014–0761; FRL–9918–87–Region–8]**

### Partial Approval and Partial Disapproval and Promulgation of Air Quality Implementation Plans; Wyoming; Revisions to Wyoming Air Quality Standards and Regulations; Nonattainment Permitting Requirements and Chapter 3, General Emission Standards

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to disapprove a portion of State Implementation Plan (SIP) revisions submitted by the State of Wyoming on May 10, 2011. This submittal revises the Wyoming Air Quality Standards and Regulations (WAQSR) that pertain to the issuance of Wyoming air quality permits for major sources in nonattainment areas. Also in this action, EPA is proposing to approve SIP revisions submitted by the State of Wyoming on February 13, 2013, and on February 10, 2014. These submittals revise the WAQSR with respect to sulfur dioxide ($SO_2$) limits and dates of incorporation by reference (IBR). This action is being taken under section 110 of the Clean Air Act (CAA).

**DATES:** Comments must be received on or before December 4, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2014–0761, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: leone.kevin@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R08–OAR–2014–0761. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you

include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, or *leone.kevin@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Table of Contents

I. General Information
II. What is being addressed in this document?
III. What is the state process to submit these materials to EPA?
IV. What are the changes that EPA is proposing to approve?
V. What are the changes that EPA is proposing to disapprove?
VI. What action is EPA proposing today?
VII. Statutory and Executive Orders Review

## Definitions

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

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

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

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

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

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

(vi) The initials *NSPS* mean or refer to New Source Performance Standards.

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

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

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

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

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

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

(xiii) The initials *WAQSR* mean or refer to the Wyoming Air Quality Standards and Regulations.

(xiv) The initials *WEQC* mean or refer to the Wyoming Environmental Quality Council.

## I. General Information

### *A. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

## II. What is being addressed in this document?

### *May 10, 2011 Submittal*

In this proposed rulemaking, we are only taking action on the addition of Chapter 6, Section 13 to the WAQSR. This new section incorporates by reference 40 CFR section 51.165 in its entirety, with the exception of paragraphs (a) and (a)(1), into Wyoming's permit requirements. The rest of the May 10, 2011 submittal was acted on previously. On July 25, 2011, 76 FR 44265, we approved revisions in the May 10, 2011 submittal to the State's prevention of signification deterioration (PSD) program (Chapter 6, Section 4). Also in the May 10, 2011 submittal, Wyoming revised Chapter 6, Section 14 to update the IBR of the CFR to July 1, 2008. This revision was superseded by the State's May 24, 2012 submittal, which updates the IBR of the CFR in Chapter 6, Section 14 to July 1, 2010. EPA approved this superseding revision on December 6, 2013, 78 FR 73445.

### *February 13, 2013, and February 10, 2014 Submittals*

On February 13, 2013, and on February 10, 2014, the State of Wyoming submitted to EPA formal revision packages containing portions of rulemakings R–20 and R–22(b), respectively, as revisions to Wyoming's SIP. These revisions amend the WAQSR. In particular, Wyoming revised Chapter 3, General Emissions Standards, Section 4, Emission standards for sulfur oxides and Section 9, Incorporation by reference in R–20, and then again revised Section 9, Incorporation by reference in R–22(b).

The Wyoming Environmental Quality Council (WEQC) made these changes by amending WASQR Chapter 3, including Sections 4 and 9, via rulemaking R–20 on October 5, 2012. They then amended other sections of Chapter 3, including the update to Section 9 included in this notice, on September 12, 2013 via

rulemaking R–22(b). Chapter 3, Section 4, ''Emission standards for sulfur oxides,'' was revised in that its only two subsections, 4(a) and 4(f), were removed and Section 4 was relabeled as ''Reserved'' for future use. Section 9 of Chapter 3, ''Incorporation by reference,'' was added to adopt by reference the CFR to July 1, 2012.

The SIP revisions in the February 13, 2013 and February 10, 2014 submittals that we are proposing to act on involve the WASQR Chapter 3, ''General Emissions Standards,'' Section 4, ''Emission standards for sulfur oxides,'' and Section 9, ''Incorporation by reference.'' Section 4 covers only sulfur oxide emissions from specific sulfuric acid production processes.

## III. What is the state process to submit these materials to EPA?

Section 110(k) of the CAA addresses EPA's actions on submissions of revisions to a SIP. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to EPA.

For the May 10, 2011, submittal, the WEQC held a public hearing on July 8, 2010 to hear proposed revisions to the WAQSR from the Wyoming Department of Environmental Quality, including the addition of Chapter 6, Section 13, Nonattainment permit requirements. After reviewing comments received before and during the hearing, the WEQC approved the proposed revisions on July 8, 2010. The Governor submitted these SIP revisions to EPA on May 10, 2011.

For the February 13, 2013, submittal, the WEQC held a public hearing on October 5, 2012. Several comments were received in support of the rulemaking. For the February 10, 2014, submittal, the WEQC held a public hearing on September 12, 2013. Only one comment with respect to the incorporation by reference date of July 1, 2012 was received. That comment was adequately addressed.

In accordance with the Wyoming Administrative Procedures Act, the revisions were forwarded to the Wyoming Governor's Office where they were approved, and then transmitted to the Wyoming Secretary of State's office.

We have evaluated the Governor's submittal of the submitted revisions and have determined that the State met the requirements for reasonable notice and public hearing under Section 110(a)(2) of the CAA.

## IV. What are the changes that EPA is proposing to approve?

EPA is proposing to approve the SIP revisions as submitted by Wyoming on February 13, 2013 and February 10, 2014. These submittals involve the WASQR Chapter 3, ''General Emissions Standards,'' Section 4, ''Emission standards for sulfur oxides,'' and Section 9, ''Incorporation by reference.'' Section 4 covers only sulfur oxide emissions from specific sulfuric acid production processes.

Chapter 3, Section 4, Emission standards for sulfur oxides, established limits on the quantity, rate or concentration of $SO_2$ emissions from sulfuric acid production facilities producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge. Section 4 is one of the oldest sections in the WAQSR, and was approved into the SIP prior to the 1990 CAA Amendments. The State is removing the section as these older regulations (subparts 4(a) and 4(f)—the only subparts remaining in Section 4) have been superseded by other regulations that are at least as stringent. The superseding regulations are EPA's New Source Performance Standards (NSPS) and New Source Review (NSR) program. The NSPS regulations are located in Title 40 ''Protection of the Environment,'' Part 60 ''Standards of Performance for New Stationary Sources.'' Specific NSPS requirements for sulfuric acid plants are found in Subpart H, sections 60.80 through 60.85. Wyoming's EPA approved NSR program is found in the WAQSR at Chapter 6, Section 2 ''Permit requirements for construction, modification and operation'' and Section 4 ''Prevention of significant deterioration.''

The emissions standards in the sections that Wyoming is requesting to remove apply to the same sulfuric acid production units as in the NSPS requirements specifically detailed in 40 CFR part 60, section 60.81(a). Wyoming's emission standards were also numerically the same as those required in NSPS requirements at 40 CFR part 60, section 60.82(a). EPA's NSPS regulations apply to any sulfuric acid production facility (as defined above) that commenced construction or modification after August 17, 1971. Although WAQSR Chapter 3, Section 4 applies statewide (except for Indian country), the only two facilities under jurisdiction of the State of Wyoming are the Lurgi Sulfuric Acid Plant (Unit 9a) and the MEC Sulfuric Acid Plant (Unit 9b), both located at the Simplot Phosphates LLC Rock Springs Fertilizer Complex in the City of Rock Springs, in the southwest corner of Wyoming. The two plants were put into operation in 1986 and 1995, respectively, so are, and have always been, under NSPS regulatory requirements. In addition, the NSR permits for these facilities contain the same limits as the NSPS.

Therefore, Wyoming's removal of the $SO_2$ limit for these facilities will have no adverse effect on ambient air quality, including that of Wyoming's only nonattainment area for particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers ($PM_{10}$—coarse particulate matter) located more than 200 miles north near Sheridan, Wyoming. All current and future sulfuric acid plant $SO_2$ emitting sources in the State will be regulated under federally enforceable programs that are at least as stringent as the $SO_2$ limit that Wyoming is removing. Thus, removal of the limit will not interfere with the national ambient air quality standards (NAAQS) and will not increase emissions within the $PM_{10}$ nonattainment area. As a result, sections 110(l) and 193 of the Act are satisfied.

Chapter 3, Section 4 is not to be confused with Chapter 2, Section 4 ''Ambient standards for sulfur oxides,'' which provides for the NAAQS for sulfur oxides. The only category of sources regulated in Chapter 3, subsection 4(a) covered under the SIP are sulfuric acid production facilities producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge. The removal of subsection 4(f) from the SIP follows as it involves cross-referencing that is no longer applicable without the rest of the section.

While Section 9 is not currently in the SIP, the State previously submitted a SIP revision dated May 24, 2012 for inclusion of Section 9 into the SIP. The February 10, 2014 submittal is simply an update to the May 24, 2012 revision. Today's notice proposes to add the February 10, 2014 version of Section 9 of Chapter 3 to the SIP, and thus the May 24, 2012 revision will be superseded by today's action. Section 9 merely incorporates by reference certain federal requirements. EPA views this revision as noncontroversial.

EPA has reviewed Wyoming's rule amendments and additions as discussed above. These WAQSR changes and additions are consistent with the CAA and EPA regulations. As a result, EPA is proposing for approval the SIP revisions submitted by the State of Wyoming consisting of the above discussed applicable portions of

rulemakings R–20 and R–22(b), submitted to EPA Region 8 on February 13, 2013 and February 10, 2014, respectively.

## V. What are the changes that EPA is proposing to disapprove?

EPA is proposing to disapprove the portion of Wyoming's May 10, 2011 submittal that adds a new section to the permitting requirements in WAQSR Chapter 6. The new Chapter 6 Section 13, Nonattainment permit requirements, consists of one sentence: ''40 CFR part 51.165 is herein incorporated by reference, in its entirety, with the exception of paragraph (a) and paragraph (a)(1).''

The section of the CFR that the submittal incorporates by reference, 40 CFR 51.165 (Permit requirements), sets out the minimum plan requirements states are to use in developing nonattainment NSR permit programs. Generally speaking, 40 CFR 51.165 consists of a set of definitions for use in state programs, minimum plan requirements for procedures for determining applicability of nonattainment NSR and for the use of offsets, and minimum plan requirements regarding other source obligations, such as recordkeeping.

Specifically, subparagraphs 51.165(a)(1)(i) through (xlvi) enumerate a set of definitions which states must either use or replace with definitions that a state demonstrates are more stringent or at least as stringent in all respects. Subparagraph 51.165(a)(2) sets minimum plan requirements for procedures to determine the applicability of the nonattainment NSR program to new or modified sources. These requirements are prefaced by language such as ''each plan shall adopt a preconstruction review program,'' ''each plan shall use the [following] provisions,'' and ''the plan shall require.'' Subparagraphs 51.165(a)(3), (a)(9), and (a)(11) set minimum plan requirements for the use of offsets by sources subject to nonattainment NSR. Again, these requirements are prefaced by language such as ''each plan shall provide'' and ''the plan shall require.'' Similar language prefaces the requirements in subparagraphs (a)(8) and (a)(10) regarding precursors, and subparagraphs (a)(6) and (a)(7) regarding recordkeeping obligations. Finally subparagraph 51.165(a)(4) allows nonattainment NSR programs to treat fugitive emissions in certain ways. This provision is prefaced by the phrase ''the plan may provide.''

Subparagraph 51.165(b) sets minimum plan requirements for new major stationary sources and major modifications in attainment and unclassifiable areas that would cause or contribute to violations of the NAAQS. The requirements are prefaced by ''the plan shall include'' or ''the plan shall apply to''; in addition there is an optional component (''Such a program may include''). Finally, subparagraph 51.165(f) sets minimum plan requirements for the use of plantwide applicability limitations. This subparagraph again includes in various places language such as ''the plan shall provide'' and ''the plan shall require.''

EPA proposes to disapprove the portion of the May 10, 2011 submittal [1] that adds Chapter 6, Section 13, Nonattainment permit requirements, to the Wyoming SIP, based on the following considerations:

(1) The language prefaced by phrases such as ''the plan shall provide'' or ''the plan shall require'' does not create unambiguous and enforceable obligations for sources that would be subject to the nonattainment NSR requirements. Instead, the language creates obligations for states to meet in adopting a nonattainment NSR program. Furthermore, language prefaced by phrases such as ''the plan may provide'' not only fails to create enforceable obligations for sources; it also creates an ambiguity as to whether or not the nonattainment NSR program in fact contains the optional provisions.

Section 110(a)(2)(C) requires each state plan to include ''a program to provide for . . . the regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that the [NAAQS] are achieved, including a permit program as required in parts C and D of this subchapter.'' Part D requires a permit program in section 172(c)(5), which provides that the plan ''shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with section [173].'' Section 173 lays out the requirements for obtaining a permit that must be included in the state's SIP-approved permit program. Because language prefaced by phrases such as ''the plan shall provide'' or ''the plan shall require'' does not itself impose requirements on sources, the State's proposed plan revision does not clearly satisfy the requirements of these statutory provisions.[2] Nor does the SIP revision comply with the requirements of 40 CFR 51.165 as the plan fails to impose the regulatory requirements on sources.

Also, the failure to create enforceable obligations for sources violates section 110(a)(2)(A) of the Act, which requires that SIPs contain enforceable emissions limitations and other control measures. Under section 110(a)(2) of the Act, the enforceability requirement in 110(a)(2)(A) applies to all plans submitted by a state. In addition, under CAA section 172(c)(7), nonattainment plans—including nonattainment NSR programs required by 172(c)(5)—are required to meet the applicable provisions of section 110(a)(2), including the requirement in section 110(a)(2)(A) for enforceable emission limitations and other control measures.

(2) In certain places 40 CFR 51.165 requires states to adopt procedures that meet certain standards, but do not specify the content of those procedures. For example, 51.165(a)(ii)(F) requires ''the plan [to] provide that . . . procedures relating to the permissible location of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR part 51 appendix S section IV.D.'' The State's submittal, by incorporating this language, leaves those procedures unspecified. This not only calls into question the enforceability of these offset requirements, but also violates section 110(i) of the Act, which (with the exception of certain limited circumstances that do not apply here) prohibits modification of any requirement applying to a stationary source except through the SIP revision process.

Under section 110(l) of the Act, EPA cannot approve a SIP revision that interferes with any applicable requirement of the Act. As explained above, the addition of Chapter 6, Section 13 to the Wyoming SIP would interfere with sections 110(a)(2) and 110(i) of the Act. EPA therefore proposes to disapprove the addition of Chapter 6, Section 13 to the Wyoming SIP.

EPA's proposed disapproval, if finalized, will start the two-year clock

[1] As mentioned elsewhere, EPA has already approved the portions of the May 11, 2011 submittal that revise the State's PSD program. EPA has also approved a portion of another submittal that supersedes the update to Section 14, Incorporation by Reference in the May 10, 2011 submittal.

[2] A 1987 EPA guidance memorandum identifies a similar issue with incorporation by reference of 40 CFR 51.166, which contains the minimum plan requirements for PSD programs. The memorandum recommends that states incorporate by reference 40 CFR 52.21 instead of 40 CFR 51.166, because only 52.21 is ''written in a form imposing obligations on permit applicants.'' Memorandum from J. Craig Potter, Thomas L. Adams Jr., and Francis S. Blake, ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency'' (Sept. 13, 1987).

under section 110(c)(1) for EPA's obligation to promulgate a federal implementation plan to correct the deficiency, unless the State submits and EPA approves a SIP revision addressing the deficiency. If finalized, the proposed disapproval will also, under section 179(a)(2), start the 18-month clock for sanctions, unless the State submits and EPA approves a SIP revision correcting the deficiency.

## VI. What action is EPA proposing today?

As described in Section IV of this notice, EPA is proposing to approve the SIP revisions submitted by Wyoming on February 13, 2013 and February 10, 2014.

As described in Section V of this notice, EPA is proposing to disapprove the portion of the SIP revisions submitted by Wyoming on May 10, 2011 that adds Chapter 6, Section 13 to the Wyoming SIP.

## VII. Statutory and Executive Orders Review

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 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: October 20, 2014.

**Shaun L. McGrath,**

*Regional Administrator, Region 8.*

[FR Doc. 2014–26172 Filed 11–3–14; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R10–OAR–2014–0753, FRL–9918–86–Region 10]**

## Approval and Promulgation of Implementation Plans; Alaska: Nonattainment New Source Review

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Alaska State Implementation Plan (SIP) submitted by the Commissioner of the Alaska Department of Conservation (ADEC) on December 11, 2009, November 29, 2010, December 10, 2012, January 28, 2013, July 1, 2014, and October 24, 2014. These revisions update the State of Alaska's adoption by reference of the Federal preconstruction permitting regulations for large industrial (major source) facilities located in designated nonattainment areas, referred to as the Nonattainment New Source Review (major NNSR) program. The major NNSR program is designed to ensure that major stationary sources of air pollution are constructed or modified in a manner that is consistent with attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

**DATES:** Comments must be received on or before December 4, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R10–OAR–2014–0753, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Donna Deneen, EPA Region 10, Office of Air, Waste and Toxics (AWT–150), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101
- *Email: R10-Public_Comments@epa.gov.*
- *Hand Delivery:* EPA Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Donna Deneen, Office of Air, Waste and Toxics, AWT–150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R10–OAR–2014–0753. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other

contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

**FOR FURTHER INFORMATION CONTACT:** Donna Deneen at telephone number: (206) 553–6706, email address: *deneen.donna@epa.gov,* or the above EPA, Region 10 address.

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

**Table of Contents**

I. Purpose of Proposed Major NNSR Action
II. Background for the Proposed Major NNSR Action
III. Effect of the January 4, 2013 D.C. Circuit Decision Regarding $PM_{2.5}$ Implementation Under Subpart 4
IV. Alaska's Revisions to Major NNSR
V. Proposed Action
VI. Statutory and Executive Order Reviews

## I. Purpose of Proposed Major NNSR Action

The EPA is proposing to approve revisions to the Alaska SIP related to major NNSR submitted by ADEC on December 11, 2009, November 29, 2010, December 10, 2012, January 28, 2013, July 1, 2014, and October 24, 2014.[1] Alaska's major NNSR program essentially adopts by reference the Federal preconstruction permitting regulations for major sources in nonattainment areas at 40 CFR 51.165 (Permit Requirements). The key changes in Alaska's SIP revisions are the update of the adoption by reference citation dates in 18 AAC 50.040(i) to the Federal rules in 40 CFR 51.165, and the updated definition of ''regulated NSR pollutant'' in 18 AAC 50.040(i)(1)(B) to reflect the current Federal definition of ''regulated NSR pollutant'' for nonattainment areas at 40 CFR 51.165(a)(1)(xxxvii). These and other related revisions addressed in this action are discussed below.

In a previous action relating to the revisions submitted on December 11, 2009, November 29, 2010, December 10, 2012, and January 28, 2013, the EPA deferred action on the portions of those submittals relating to major NNSR. (September 19, 2014; 79 FR 56268). In this proposal we are taking action on the deferred portions of those submittals. In this action we are also addressing the major NNSR portion of revisions submitted on July 1, 2014 and October 24, 2014. Where there are multiple amendments to the same provision, we have limited our review to only the most recently submitted amendment to any particular provision. We intend to address the remaining portions of the SIP submittals that are not related to major NNSR, and that we have not yet acted on, in one or more separate actions.

## II. Background for the Proposed Major NNSR Action

On July 18, 1997, the EPA revised the NAAQS for particulate matter to add new standards for fine particles, using $PM_{2.5}$ as the indicator. Previously, the EPA used $PM_{10}$ (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the particulate matter NAAQS. The EPA established health-based (primary) annual and 24-hour standards for $PM_{2.5}$, setting an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour standard at a level of 65 $\mu g/m^3$ (62 FR 38652). At the time the 1997 primary standards were established, the EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of $PM_{2.5}$, such as visibility impairment and materials damage. The State of Alaska had no areas violating the annual or 24-hour 1997 $PM_{2.5}$ NAAQS at the time the standards were promulgated.

On October 17, 2006, the EPA revised the primary and secondary $PM_{2.5}$ NAAQS (71 FR 61236). In that rulemaking, the EPA lowered the 24-hour $PM_{2.5}$ NAAQS to 35 $\mu g/m^3$ and retained the existing annual $PM_{2.5}$ NAAQS of 15 $\mu g/m^3$. In 2009, as a result of the change in the 24-hour $PM_{2.5}$ NAAQS from 65 $\mu g/m^3$ to 35 $\mu g/m^3$, the EPA designated Fairbanks, Alaska as nonattainment based on 2006–2008 monitoring data (74 FR 58688, November 13, 2009). The Fairbanks $PM_{2.5}$ nonattainment area covers the expanded part of Fairbanks North Star Borough (FNSB) and is currently the only nonattainment area in the State of Alaska.

On May 16, 2008, the EPA finalized a rule to implement the $PM_{2.5}$ NAAQS, including changes to the New Source Review (NSR) program (2008 NSR $PM_{2.5}$ Rule, 73 FR 28321). The 2008 NSR $PM_{2.5}$ Rule revised the NSR program requirements to establish a framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas. The 2008 NSR $PM_{2.5}$ Rule also established the following NSR requirements to implement the $PM_{2.5}$ NAAQS: (1) Required NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) established significant emission rates for direct $PM_{2.5}$ and precursor pollutants, including sulfur dioxide ($SO_2$) and oxides of nitrogen ($NO_X$); (3) established $PM_{2.5}$ emission offsets for nonattainment areas; and (4) required states to account for gases that condense to form particles in $PM_{2.5}$ emission limits. Alaska's regulations, submitted to the EPA on December 11, 2009, November 29, 2010, December 10, 2012, January 28, 2013, July 1, 2014, and October 24, 2014, were revised to address the requirements of the 2008 NSR $PM_{2.5}$ rule, as well as to provide general updates that apply to all the NAAQS.

## III. Effect of the January 4, 2013 D.C. Circuit Decision Regarding $PM_{2.5}$ Implementation Under Subpart 4

On January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit, in *Natural Resources Defense Council* v. *EPA*[2] issued a decision that remanded the EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ NAAQS. Relevant here, the 2008 NSR $PM_{2.5}$ Rule promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas and attainment/unclassifiable areas. The Court found that the EPA erred in implementing the $PM_{2.5}$ NAAQS in these rules solely pursuant to the general implementation provisions of subpart 1, part D, title I of the CAA, rather than pursuant to the additional implementation provisions specific to particulate matter nonattainment areas in subpart 4. The Court ordered the EPA to ''repromulgate these rules pursuant to

[1] This submittal also withdrew a September 24, 2014, submittal determined to contain an error.

[2] 706 F.3d 428 (D.C. Cir. 2013).

Subpart 4 consistent with this opinion.'' *Id.* at 437.

On June 2, 2014, the EPA published a final rulemaking, *Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $PM_{2.5}$ NAAQS,* that begins to address the remand (79 FR 31566). The final rule classified all existing $PM_{2.5}$ nonattainment areas as ''Moderate'' nonattainment areas and set a deadline of December 31, 2014, for states to submit any SIP submissions, including major NNSR SIPs, that may be necessary to satisfy the requirements of subpart 4, part D, title I of the CAA, with respect to $PM_{2.5}$ nonattainment areas.

In a separate rulemaking process, the EPA is evaluating the requirements of subpart 4 as they pertain to nonattainment NSR for $PM_{2.5}$ emissions. In particular, subpart 4 includes section 189(e) of the CAA, which requires the control of major stationary sources of $PM_{10}$ precursors ''except where the Administrator determines that such sources do not contribute significantly to $PM_{10}$ levels which exceed the standard in the area.'' Under the Court's decision in *NRDC,* section 189(e) of the CAA also applies to $PM_{2.5}$.

Alaska submitted SIP revisions to two definitions in Alaska's major NNSR program. In 18 AAC 50.040(i)(1), Alaska revised the definition of ''regulated NSR pollutant'' by adopting by reference the Federal definition of ''regulated NSR pollutant'' at 40 CFR 51.165(a)(1)(xxxvii), which includes precursors to both ozone and $PM_{2.5}$ in nonattainment areas. With respect to $PM_{2.5}$, the adopted by reference definition of ''regulated NSR pollutant'' identifies sulfur dioxide and nitrogen oxides as regulated $PM_{2.5}$ precursors while volatile organic compounds (VOCs) and ammonia are not regulated $PM_{2.5}$ precursors in $PM_{2.5}$ nonattainment areas in the State. In addition, in 18 AAC 50.040(i)(1), Alaska adopted by reference the Federal definition of ''significant'' at 40 CFR 51.165(a)(1)(x), which includes significant emission rates for direct $PM_{2.5}$ and for sulfur dioxide and nitrogen oxides as $PM_{2.5}$ precursors. These revisions, although consistent with the 2008 NSR $PM_{2.5}$ Rule developed in accordance with subpart 1 of the CAA, may not contain the elements necessary to satisfy the CAA requirements when evaluated under the subpart 4 statutory requirements. In particular, Alaska's submission does not include regulation of VOCs and ammonia as $PM_{2.5}$ precursors, nor does it include a demonstration consistent with section 189(e) showing that major sources of those precursor pollutants would not contribute significantly to $PM_{2.5}$ levels exceeding the standard in the area. For these reasons, the EPA cannot conclude at this time that this part of Alaska's major NNSR submission satisfies all of the requirements of subpart 4 as they pertain to $PM_{2.5}$ major NNSR permitting.

Although the revisions to Alaska's major NNSR rule may not contain all of the necessary elements to satisfy the CAA requirements when evaluated under the subpart 4 provisions, the revisions themselves represent a strengthening of Alaska's currently-approved major NNSR SIP which does not address $PM_{2.5}$ at all. As a result of the June 2, 2014, final rule, the State will have until December 31, 2014, to make any additional submission necessary to address the requirements of subpart 4, including addressing the $PM_{2.5}$ precursors VOCs and ammonia. For these reasons, the EPA is proposing to approve the major NNSR revisions at 18 AAC 50.040(i), without listing as a deficiency at this time the absence of either the regulation or evaluation of VOCs and ammonia as $PM_{2.5}$ precursors.

## IV. Alaska's Revisions to Major NNSR

Table 1 below summarizes the revisions submitted by the State related to major NNSR and addressed in this action, including the submittal date, the State effective date, and the title and section of 18 AAC 50 related to the major NNSR program. Where there are multiple amendments to the same provision, the EPA limited its review to the most recently submitted amendment to that particular provision.

TABLE 1—ALASKA SIP REVISIONS TO MAJOR NNSR ADDRESSED IN THIS ACTION

| Date of submittal | State effective date | Major NNSR-related provisions of 18 AAC 50.040 revised or amended | Major NNSR-related provisions of 18 AAC 50.990 revised or amended |
|---|---|---|---|
| 12/11/2009 | 7/25/2008 | (i), (i)(7), (i)(8), (i)(9), (i)(10). | |
| 11/29/2010 | 12/9/2010 | (i). | |
| 12/10/2012 | 9/14/2012 | (i), (i)(1)(B). | |
| 1/28/2013 | 1/4/2013 | (i)(1)(A), (i)(1)(B), (i)(1)(B)(ii). | |
| 7/1/2014 | 10/6/2013 | (i), (i)(1)(B), (i)(2), (i)(4), (i)(5), (i)(6) | (40). |
| 10/24/2014 | 11/9/2014 | (i), (i)(1)(B), (i)(2), (i)(4), (i)(5), (i)(6) | (92). |

Alaska's major NNSR program is comprised of 18 AAC 50.311 (Nonattainment Area Major Stationary Source Permits), which was previously approved on August 14, 2007 (72 FR 45378) and has not been revised since, and 18 AAC 50.040 (Federal Standards Adopted by Reference), paragraph (i), relating to 40 CFR 51.165 (Permit Requirements). Definitions for specific terms referenced by these provisions are found in 18 AAC 50.990 (Definitions). To ensure that its regulations are consistent with the EPA requirements, Alaska generally updates annually its adoption by reference citations to the Federal major NNSR regulations at 40 CFR 51.165 (Permit Requirements) in 18 AAC 50.040(i).[3] Because of this practice, the revisions submitted by the State and listed in Table 1 are primarily updates to make the State's regulations consistent with updates to the Federal regulations. Other revisions are discussed below.

In the State's December 11, 2009, submittal, exceptions were added to the major NNSR regulations at 18 AAC 50.040(i)(10), relating to the adoption by reference of ''Actuals PALs,'' in 40 CFR 51.165(f). Under 18 AAC 50.040(i)(10)(A), mass balance calculations, as authorized under 40 CFR 52.165(f)(12)(ii)(A), are also acceptable for activities emitting sulfur dioxide from the combustion of fuel to the extent otherwise available for activities using coatings or solvents. This includes the requirement that the emission unit is assumed to emit all of the sulfur in the fuel as sulfur dioxide. Under 18 AAC 50.040(i)(10)(B), the monitoring requirements of 40 CFR 52.21(f)(12)(iii) are applied to owners or operators using mass balance calculations to monitor plantwide

[3] In some instances 18 AAC 50.040(i) does not directly adopt by reference the Federal provisions, but instead references provisions in AS 46.14.990 or 18 AAC 50.990, which, in turn, reference the Federal provisions in 40 CFR 51.165.

applicability limitation (PAL) pollutant emissions from activities emitting sulfur dioxide from the combustion of fuel. These provisions are approvable because they are an appropriate method of determining compliance with a PAL for the narrow activity added by ADEC's regulations.

In the State's July 1, 2014 submittal, Alaska repealed provisions in 18 AAC 50.040(i), paragraphs (7), (8) and (9), that related to clean units and pollution control projects. The comparable Federal provisions were initially vacated by a court and then repealed by the EPA. Repeal of these provisions as a matter of state law does not affect the SIP because the EPA had not previously approved these provisions into the SIP and because they are no longer elements of the Federal major NNSR program.

Alaska submitted revisions to two definitions in 18 AAC 50.990 related to major NNSR. On October 24, 2014, the State revised 18 AAC 50.040(i)(1) to adopt by reference the Federal definition of ''regulated NSR pollutant'' at 40 CFR 51.165(a)(1)(xxxvii) and also repealed the definition ''regulated NSR pollutant'' in 18 AAC 50.990(92) because the State has now adopted the Federal definition in 18 AAC 50.040(i). With these revisions, the State's definition of ''regulated NSR pollutant'' at 18 AAC 50.040(i)(1) is consistent with the current Federal definition of ''regulated NSR pollutant'' for major NNSR and is approvable.

On July 1, 2014, Alaska revised its major NNSR regulations at 18 AAC 50.040(i)(1)(B)(2) to reference the definition of ''fugitive emissions'' in 18 AAC 50.990(40). In turn, 18 AAC 50.990(40) was revised to adopt by reference the Federal definition of ''fugitive emissions'' at 40 CFR 51.166(b)(20).[4] The definition of ''fugitive emissions'' referenced in 18 AAC 50.990(40) is consistent with the Federal definition of ''fugitive emissions'' for major NNSR and is approvable.

We note that in the State's October 24, 2014 submittal, technical corrections were made to the revisions in 18 AAC 50.040(i)(2), (4), (5) and (6) that were submitted on July 1, 2014. The effect of these corrections is that the State has submitted its repeal of 18 AAC 50.040(i)(4) and no changes were made to the adoption by reference of Federal provisions at 18 AAC 50.040(i)(2), (5) and (6). The repealed provision at 18 AAC 50.040(i)(4) adopted by reference an exemption for fugitive emissions in 40 CFR 51.165(a)(4) that duplicates an exemption contained in the State's definition of ''major stationary source'' and its repeal is therefore approvable.

In summary, revisions to Alaska's major NNSR regulations in 18 AAC 50.040(i) are approvable because the submitted revisions bring the State's major NNSR program up to date with current Federal requirements and, as explained above, represent a strengthening of Alaska's currently-approved major NNSR program.

## V. Proposed Action

Pursuant to section 110 of the CAA and consistent with the discussion above, the EPA proposes to approve the Alaska SIP revisions submitted on December 11, 2009, November 29, 2010, December 10, 2012, January 28, 2013, July 1, 2014, and October 24, 2014 that update the adoption by reference of the Federal major NNSR program and revise the definition of ''regulated NSR pollutant.'' The EPA has made the preliminary determination that these SIP revisions are approvable because they are consistent with the CAA and the current EPA requirements regarding major NNSR. The EPA intends to address the remaining portions of the SIP submittals that are not related to major NNSR, and have not yet been addressed, in one or more separate actions.

## 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves the state's law as meeting Federal requirements and does not impose additional requirements beyond those imposed by the state's 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 it does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

### List of Subjects in 40 CFR Part 52

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

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

Dated: October 27, 2014.

**Dennis J. McLerran,**

*Regional Administrator, Region 10.*

[FR Doc. 2014–26181 Filed 11–3–14; 8:45 am]

BILLING CODE 6560–50–P

[4] The definition of ''fugitive emissions'' in 40 CFR 51.166(b)(20) is identical to the definition of ''fugitive emissions'' in 51.165(a)(1)(ix).

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## 42 CFR Part 88

## World Trade Center Health Program; Petition 005—Acoustic Neuroma; Finding of Insufficient Evidence

**AGENCY:** Centers for Disease Control and Prevention, HHS.

**ACTION:** Denial of petition for addition of a health condition.

**SUMMARY:** On September 2, 2014, the Administrator of the World Trade Center (WTC) Health Program received a petition to add acoustic neuroma (Petition 005) to the List of WTC-Related Health Conditions (List). The Administrator has not found sufficient scientific evidence to conduct an analysis of whether to add acoustic neuroma to the List. Accordingly, the Administrator finds that insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee (STAC), to publish a proposed rule, or to publish a determination not to publish a proposed rule.

**DATES:** The Administrator of the WTC Health Program is denying this petition for the addition of a health condition as of November 4, 2014.

**FOR FURTHER INFORMATION CONTACT:** Rachel Weiss, Program Analyst, 4674 Columbia Parkway, MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

**SUPPLEMENTARY INFORMATION:**

## A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), amended the Public Health Service Act (PHS Act) to add Title XXXIII [1] establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders), and to eligible persons who were present in the dust or dust cloud on September 11, 2001 or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area (survivors).

All references to the Administrator of the WTC Health Program (Administrator) in this notice mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his or her designee.

Pursuant to section 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.1. Within 60 calendar days after receipt of a petition to add a condition to the List, the Administrator must take one of the following four actions described in section 3312(a)(6)(B) and 42 CFR 88.17: (i) Request a recommendation of the STAC; (ii) publish a proposed rule in the **Federal Register** to add such health condition; (iii) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (iv) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (i) through (iii) above.

## B. Petition 005

On September 2, 2014, the Administrator received a petition to add acoustic neuroma to the List (Petition 005).[2] The petition was submitted by a New York City police sergeant who worked at Ground Zero in the aftermath of the September 11, 2001, terrorist attacks. The petitioner stated that he had been diagnosed with acoustic neuroma and shared letters from his personal physicians confirming the diagnosis. The petition offered as evidence an article published in the *International Journal of Adolescent Medicine and Health (IJAMH)* linking exposure to toxic molds to ''acoustic mycotic neuroma,'' [3] and a link to an Occupational Safety and Health Administration (OSHA) Web page, linking benzene exposure to acoustic neuroma.[4]

## C. Administrator's Determination on Petition 005

The Administrator has established a methodology for evaluating whether to add non-cancer health conditions to the List of WTC-Related Health Conditions.[5] First, the Administrator determines whether published, peer-reviewed studies about the health condition among 9/11-exposed populations are available to assess evidence for a causal relationship and provide a basis for a decision on whether to add the condition to the List. If the studies provide sufficient evidence for analysis, the Administrator proceeds with an assessment of the information. A health condition may be added to the List if published, peer-reviewed direct observational or epidemiologic studies provide substantial support [6] for a causal relationship between 9/11 exposures and the health condition in 9/11-exposed populations. If only epidemiologic studies are available and they provide only modest support [7] for a causal relationship between 9/11 exposures and the health condition, the Administrator may then evaluate studies of associations between the health condition and 9/11 agents.[8] If that additional assessment establishes substantial support for a causal relationship between a 9/11 agent or agents and the health condition, the health condition may be added to the List.

In accordance with section 3312(a)(6)(B) of the PHS Act and 42 CFR 88.17, described above, the Administrator has reviewed the evidence presented in Petition 005. Neither the *IJAMH* article nor the OSHA information on benzene provide sufficient evidence of a causal relationship between acoustic neuroma and 9/11 exposures to establish a basis for a decision on whether to add acoustic neuroma to the List. The *IJAMH* article concerns a study population that is not related to the September 11, 2001, terrorist attacks. Moreover, the study related to the development of acoustic neuroma among adolescents exposed to toxic mold; toxic mold is not considered a 9/11 agent. With regard to the second reference provided by the petitioner, although the OSHA Web page includes a reference to another published study suggesting an association between occupational exposures to benzene (a recognized 9/11 agent) and acoustic neuroma,[9] the study population was not 9/11-exposed.

[1] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

[2] See Petition 005. WTC Health Program: Petitions Received. *http://www.cdc.gov/wtc/received.html.*

[3] Anyanwu E, Campbell AW, High W [2002]. Brainstem auditory evoked response in adolescents with acoustic mycotic neuroma due to environmental exposure to toxic molds. Int J Adolesc Med Health 14(1):67–76.

[4] OSHA, *https://www.osha.gov/dts/chemicalsampling/data/CH_220100.html.*

[5] This methodology, ''Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions,'' revised October 21, 2014, is available on the WTC Health Program Web site, at *http://www.cdc.gov/wtc/policies.html.*

[6] The substantial evidence standard is met when the Program assesses all of the available, relevant information and determines with high confidence that the evidence supports its findings regarding a causal association between the 9/11 exposure(s) and the health condition.

[7] The modest evidence standard is met when the Program assesses all of the available, relevant information and determines with moderate confidence that the evidence supports its findings regarding a causal association between the 9/11 exposure(s) and the health condition.

[8] 9/11 agents are chemical, physical, biological, or other agents or hazards reported in a published, peer-reviewed exposure assessment study of responders or survivors who were present in either the New York City disaster area, the Pentagon site, or in Shanksville, Pennsylvania site as defined in 42 CFR part 88.

[9] Prochazka M, Feychting M, Ahlbom A, Edwards CG, Nise G, Plato N, Schwartzbaum JA, Forssén UM

In addition to reviewing the evidence provided in Petition 005, the Administrator also conducted a search of the existing scientific/medical literature for evidence that could establish a causal relationship between 9/11 exposures and acoustic neuroma, as well as the related conditions acoustic neurinoma, acoustic neurilemoma or vestibular schwannoma. He did not find any peer-reviewed, published epidemiologic studies of 9/11-exposed populations which would support such a relationship.

Because neither the evidence submitted by the Petitioner nor a search of published scientific/medical literature provided information regarding the occurrence of acoustic neuroma among 9/11-exposed populations, the Administrator has determined that requesting a recommendation from the STAC (pursuant to PHS Act, section 3312(a)(6)(B)(i) and 42 CFR 88.17(a)(2)(i)) is unwarranted. In prior actions, the Administrator requested a recommendation from the STAC when he determined that it would assist his evaluation; such as when, for example, the Administrator is in need of an interpretation of conflicting or inconclusive published scientific evidence.

Similarly, the Administrator has determined that insufficient evidence exists to take further action, including either proposing the addition of acoustic neuroma to the List (pursuant to PHS Act, section 3312(a)(6)(B)(ii) and 42 CFR 88.17(a)(2)(ii)) or publishing a determination not to publish a proposed rule in the **Federal Register** (pursuant to PHS Act, section 3312(a)(6)(B)(iii) and 42 CFR 88.17(a)(2)(iii)). In order to publish such a proposed addition or a determination not to propose a rule, the Administrator would first need to find that enough scientific evidence is available to analyze whether 9/11 exposures are associated with the health condition. Since the Administrator is unable to identify sufficient evidence to conduct an analysis of whether to add the health condition, the Administrator (pursuant to PHS Act, section 3312(a)(6)(B)(iv) and 42 CFR 88.17(a)(2)(iv)) is publishing a determination that he cannot take any of the other statutory and regulatory actions.

For the reasons discussed above, the request made in Petition 005 to add acoustic neuroma to the List of WTC-Related Health Conditions is denied.

**John Howard,**

*Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.*

[FR Doc. 2014–26043 Filed 11–3–14; 8:45 am]

**BILLING CODE 4163–18–P**

[2010]. Occupational exposures and risk of acoustic neuroma. Occup Environ Med. 2010 Nov;67(11):766–71.

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 0, 1, 2, 15, 27, 73, and 74

**[GN Docket No. 12–268; Report 3011]**

### Petitions for Reconsideration of Action in a Rulemaking Proceeding; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for reconsideration; correction.

**SUMMARY:** The Federal Communications Commission published a document in the **Federal Register** of October 27, 2014 (79 FR 63883), regarding Petitions for Reconsideration filed of Action in a rulemaking proceeding. The document contained the incorrect deadline for filing replies to an opposition to the Petition. This document revises the deadline for replies to an opposition to the Petition.

**DATES:** Oppositions to the Petitions must be filed on or before November 12, 2014. Replies to an opposition must be filed on or before November 24, 2014.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** A.J. Glusman, Wireless Telecommunications Bureau, (202) 418–1425, email *AJ.Glusman@fcc.gov.*

### Correction

In the **Federal Register** of October 27, 2014, in FR Doc. 2014–25456, on page 63883, in the second column, correct the **DATES** section to read:

**DATES:** Oppositions to the Petitions must be filed on or before November 12, 2014. Replies to an opposition must be filed on or before November 24, 2014.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2014–26116 Filed 11–3–14; 8:45 am]

**BILLING CODE 6712–01–P**

# Notices

Federal Register

Vol. 79, No. 213

Tuesday, November 4, 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

### Minority Farmer Advisory Committee; Re-Establishment of Charter

**AGENCY:** Office of Advocacy and Outreach, USDA.

**ACTION:** Notice of re-establishment.

**SUMMARY:** We are giving notice that the Secretary of Agriculture intends to re-establish the charter of the Advisory Committee on Minority Farmers (the ''Committee'') for a 2-year term.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Kenya Nicholas, Designated Federal Official, USDA Office of Advocacy and Outreach, 1400 Independence Avenue SW., Room 520–A, Washington, DC 20250–0170; Telephone (202) 720–6350; Fax (202) 720–7136; Email: *kenya.nicholas@osec.usda.gov.*

**ADDRESSES:** Inquiries may be sent to: Mrs. Kenya Nicholas, Designated Federal Official, USDA Office of Advocacy and Outreach, 1400 Independence Avenue SW., Room 520–A, Washington, DC 20250–0170.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act (FACA, 5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture intends to re-establish the Advisory Committee on Minority Farmers for 2 years. A call for nominations was previously announced and has closed. Those applicants will be revetted and will be appointed for 2-year terms immediately following charter renewal.

This Committee will advise the Secretary of Agriculture on matters particularly affecting: Minority farmers and ranchers participating in and equal access to USDA programs and services; the implementation of the Outreach and Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers (OASDVFR) also known as the ''2501 Program''; and civil rights activities within the Department as these activities relate to the participants of the OASDVFR Program. The Committee will consider recommendations proffered from the previous committee members in 2012 and suggest means of implementation.

The Secretary will appoint 15 members from among applicants vetted in order to obtain the broadest possible representation on the Committee, pursuant to Section 5 of the Agricultural Credit Improvement Act of 1992 (Pub. L. 102–554), in accordance with the FACA and U.S. Department of Agriculture (USDA) Regulation 1041–1. Equal opportunity practices, in line with the USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Signed in Washington, DC, this 24th day of October, 2014.

**Carolyn C. Parker,**

*Director, Office of Advocacy and Outreach.*

[FR Doc. 2014–26102 Filed 11–3–14; 8:45 am]

BILLING CODE P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Kansas Advisory Committee for a Meeting To Discuss the Voter ID Law in Kansas and Seclusion and Restraint of Children With Disabilities in Kansas Schools

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Kansas Advisory Committee (Committee) will hold a meeting on Wednesday, November 19, 2014, at 12:00 p.m. CST for the purpose of discussing two project topics. First, the Committee will continue its discussion on the Kansas vote ID law and determine whether it intends to consider a project proposal on the topic at a future meeting. Second, the Committee will consider and vote on a proposal to hear testimony and issue an advisory memorandum on the issue of seclusion and restraint of children with disabilities in Kansas schools.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–397–5352, conference ID: 3973125. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by December 19, 2014. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

**Agenda**

*Welcome and Introductions*

12:00 p.m. to 12:10 p.m.

Elizabeth Kronk Warner, Chair

*Discussion of Seclusion and Restraint Proposal*

12:10 p.m. to 12:30 p.m.
Annie Myers, USCCR intern, Kansas Advisory Committee

*Discussion of Voting Rights in Kansas*

12:30 p.m. to 12:50 p.m.
Kansas Advisory Committee

*Planning Next Steps*

12:50 p.m. to 1:00 p.m.

*Adjournment*

1:00 p.m.

**DATES:** The meeting will be held on Wednesday, November 19, 2014, at 12:00 p.m.

*Public Call Information:* Dial: 888–397–5352, Conference ID: 3973125.

Dated: October 30, 2014.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2014–26150 Filed 11–3–14; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Oklahoma Advisory Committee for a Meeting To Discuss Memoranda on Possible Civil Rights Topics in Oklahoma To Consider as Project Topics

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Oklahoma Advisory Committee (Committee) will hold a meeting on Friday, December 12, 2014, at 3:00 p.m. CST for the purpose of discussing memoranda prepared by Committee members on the following civil rights topics: (1) Prisons: Incarceration of women, disproportionality of African-American males; (2) impact of 2012 referendum banning affirmative action in public contracting, schools, employment; (3) equal educational opportunity in Oklahoma; and (4) rights of Cherokee Freedmen. The Committee will discuss which, if any, of these topics will be the subject of study for the Committee in the coming year.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–510–1765, conference ID: 3596639. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by January 12, 2015. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

**Agenda**

*Welcome and Introductions*

3:00 p.m. to 3:05 p.m.
Vicki Limas, Chair

*Discussion of Racial and Gender Disparities in OK Prisons*

3:05 p.m. to 3:15 p.m.
Shani Neely and Maria-Elena Diaz, Committee members, Oklahoma Advisory Committee

*Discussion of 2012 Affirmative Action Referendum*

3:15 p.m. to 3:25 p.m.
Adam Doverspike and Andy Spiropoulos, Committee members, Oklahoma Advisory Committee

*Discussion of Equal Educational Opportunity in Oklahoma*

3:25 p.m. to 3:35 p.m.
Maria-Elena Diaz, Committee member, Oklahoma Advisory Committee

*Discussion of Rights of Cherokee Freedmen*

3:35 p.m. to 3:45 p.m.
Hannibal Johnson, Committee member, Oklahoma Advisory Committee

*Planning Next Steps*

3:45 p.m. to 4:00 p.m.

*Adjournment*

4:00 p.m.

**DATES:** The meeting will be held on Friday, December 12, 2014, at 3:00 p.m.

*Public Call Information:* Dial: 888–510–1765, Conference ID: 3596639.

Dated: October 30, 2014.

*David Mussatt,*

*Chief, Regional Programs Unit.*

[FR Doc. 2014–26149 Filed 11–3–14; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Missouri Advisory Committee for a Meeting on a Project Proposal on Civil Rights and Law Enforcement in Missouri

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Missouri Advisory Committee (Committee) will hold a meeting on Monday, November 17, 2014, at 12:00 p.m. for the purpose of discussing and voting on a project proposal on civil rights and law enforcement in Missouri. The proposal arose in the aftermath of recent events in Ferguson, Missouri.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–539–3696, conference ID: 6728111. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no

charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by December 17, 2014. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Carolyn Allen at *callen@usccr.gov*. Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

**Agenda**

*Welcome*

12:00 p.m. to 12:05 p.m.

S. David Mitchell, Chairman, Missouri Advisory Committee

*Presentation of Project Proposal on Civil Rights and Law Enforcement in Missouri*

12:05 p.m. to 12:20 p.m.

Melissa Wojnaroski, Civil Rights Analyst, USCCR

*Deliberation and Vote on Proposal*

12:20 p.m. to 12:45 p.m.

Missouri Advisory Committee

*Planning Next Steps*

12:45 p.m. to 1:00 p.m.

*Adjournment*

1:00 p.m.

**DATES:** The meeting will be held on Monday, November 17, 2014, at 12:00 p.m. CST.

Public Call Information: Dial: 888–539–3696, Conference ID: 6728111.

Dated: October 30, 2014.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2014–26147 Filed 11–3–14; 8:45 am]

**BILLING CODE 6335–01–P**

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## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

### Proposed Information Collection; Comment Request; Direct Investment Surveys: BE–605, Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate With Foreign Parent

**AGENCY:** Bureau of Economic Analysis, 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 comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before January 5, 2015.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230, or via email at *jjesup@doc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Request for additional information or copies of the information collection instrument and instructions should be directed to Patricia Abaroa, Chief, Direct Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9591; fax: (202) 606–2894; or via email at *patricia.abaroa@bea.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate with Foreign Parent (BE–605) is a sample survey that collects data on transactions and positions between foreign-owned U.S. business enterprises and their ''affiliated foreign groups'' (i.e., their foreign parents and foreign affiliates of their foreign parents). The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–12, Benchmark Survey of Foreign Direct Investment in the United States, which is conducted every five years. The data are used in the preparation of the U.S. international transactions, national income and product, and input-output accounts and the net international investment position of the United States. The data are needed to measure the size and economic significance of foreign direct investment in the United States, measure changes in such investment, and assess its impact on the U.S. economy.

The Bureau of Economic Analysis (BEA) proposes several changes to the survey that will improve the coverage and quality of BEA direct investment statistics and reduce respondent burden. BEA plans to add a check-box question that asks respondents whether they plan to expand their operation with a new facility. This information will be used to identify transactions that should be collected on the companion BE–13, Survey of New Foreign Direct Investment in the United States, which is being reinstated in 2014. BEA plans to eliminate several questions related to organizational structure. These questions were intended to serve as an instruction on how to identify the consolidated U.S. affiliate. They will be replaced by an illustration that will provide the necessary guidance and eliminate the burden of answering questions each quarter. BEA plans to add questions to obtain the ultimate beneficial owner's (UBO) name and country of incorporation when the UBO information changes or it is the company's initial filing. In addition, BEA plans to make improvements to question wording, instructions, and formatting to elicit more complete and correct responses and to make the survey more consistent with other BEA surveys.

**II. Method of Collection**

Form BE–605 is a quarterly report that must be filed within 30 days after the end of each quarter (45 days after the final quarter of the respondent's fiscal year) by every U.S. business enterprise that is owned 10 percent or more by a foreign investor and that has total assets, sales or gross operating revenues, or net income (positive or negative) of over $60 million.

As an alternative to filing paper forms, BEA offers its electronic filing option, the eFile system, for use in reporting on Form BE–605. For more information about eFile, go to *www.bea.gov/efile.*

Potential respondents are those U.S. business enterprises that were required to report on the BE–12, Benchmark

Survey of Foreign Direct Investment in the United States—2012, along with those U.S. business enterprises that subsequently entered the direct investment universe. The data collected are sample data covering transactions and positions between foreign-owned U.S. business enterprises and their affiliated foreign groups. Universe estimates are developed from the reported sample data.

**III. Data**

*OMB Control Number:* 0608–0009.

*Form Number:* BE–605.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Responses:* 16,000 annually.

*Estimated Time per Response:* One hour is the average, but may vary considerably among respondents because of differences in company size and complexity.

*Estimated Total Annual Burden Hours:* 16,000.

*Estimated Total Annual Cost to Public:* $0.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

**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 will 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: October 29, 2014.

**Glenna Mickelson,**

*Management Analyst, Office of Chief Information Officer.*

[FR Doc. 2014–26108 Filed 11–3–14; 8:45 am]

**BILLING CODE 3510–06–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–939]**

## Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** As a result of this sunset review, the Department of Commerce (''the Department'') finds that revocation of the antidumping duty (''AD'') order on certain tow-behind lawn groomers and certain parts thereof (''lawn groomers'') from the People's Republic of China (''PRC'') would be likely to lead to continuation or recurrence of dumping. The magnitude of the dumping margins likely to prevail is indicated in the ''Final Results of Sunset Review'' section of this notice.

**DATES:** *Effective Date:* November 4, 2014.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatrian, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6412.

**SUPPLEMENTARY INFORMATION:**

### Background

On August 3, 2009, the Department published the AD order on lawn groomers from the PRC.[1] On July 1, 2014, the Department published the notice of initiation of the sunset review of this AD order, pursuant to section 751(c) of the Act.[2] On July 15, 2014, pursuant to 19 CFR 351.218(d)(1), the Department received a timely and complete notice of intent to participate in the sunset review of the order from Agri-Fab, Inc. (''Domestic Producer''). On July 31, 2014, pursuant to 19 CFR 351.218(d)(3), Domestic Producer filed a timely and adequate substantive response. The Department did not receive substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930 (''Act'') and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of this AD order.

### Scope of the Order

The scope of this order covers certain non-motorized tow behind lawn groomers, manufactured from any material, and certain parts thereof. Lawn groomers are defined as lawn sweepers, aerators, dethatchers, and spreaders. Unless specifically excluded, lawn groomers that are designed to perform at least one of the functions listed above are included in the scope of this order, even if the lawn groomer is designed to perform additional non-subject functions (*e.g.,* mowing).

The scope of this order specifically excludes the following: (1) Agricultural implements designed to work (*e.g.,* churn, burrow, till, etc.) soil, such as cultivators, harrows, and plows; (2) lawn or farm carts and wagons that do not groom lawns; (3) grooming products incorporating a motor or an engine for the purpose of operating and/or propelling the lawn groomer; (4) lawn groomers that are designed to be hand held or are designed to be attached directly to the frame of a vehicle, rather than towed; (5) ''push'' lawn grooming products that incorporate a push handle rather than a hitch, and which are designed solely to be manually operated; (6) dethatchers with a net assembled weight (*i.e.,* without packing, additional weights, or accessories) of more than 100 pounds, or lawn groomers—sweepers, aerators, and spreaders—with a net fully-assembled weight (*i.e.,* without packing, additional weights, or accessories) of more than 200 pounds; and (7) lawn rollers designed to flatten grass and turf, including lawn rollers which incorporate an aerator component (*e.g.,* ''drum-style'' spike aerators).

The lawn groomers that are the subject of this order are currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 8432.40.0000, 8432.80.0000, 8432.80.0010, 8432.90.0030, 8432.90.0080, 8479.89.9896, 8479.89.9897, 8479.90.9496, and 9603.50.0000. These HTSUS provisions are given for reference and customs purposes only, and the description of merchandise is dispositive for determining the scope of the product included in this order. For the full scope of this order, see the accompanying I&D Memorandum, which is hereby adopted by this notice.[3]

[1] *See Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Antidumping Duty Order,* 74 FR 38395 (August 3, 2009) (''*Antidumping Duty Order*'').

[2] *See Initiation of Five-Year (''Sunset'') Review,* 79 FR 37292 (July 1, 2014) (''*Sunset Initiation*'').

[3] *See* ''Issues and Decision Memorandum for the Expedited First Sunset Review of the Antidumping

Continued

## Analysis of Comments Received

A complete discussion of all issues raised in this sunset review is provided in the accompanying I&D Memorandum. The issues discussed in the I&D Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margins likely to prevail if the order is revoked. The I&D Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at htpp://*iaacess.trade.gov,* and is available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed I&D Memorandum and the electronic version of the I&D Memorandum are identical in content.

## Final Results of Sunset Reviews

Pursuant to section 752(c)(3) of the Act, the Department determines that revocation of the AD order on lawn groomers from the PRC would be likely to lead to continuation or recurrence of dumping at weighted-average margins up to 386.28 percent.[4]

## Notification Regarding Administrative Protective Orders

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

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: October 24, 2014.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2014–26188 Filed 11–3–14; 8:45 am]

**BILLING CODE 3510–DS–P**

Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (''I&D Memorandum'').

[4] *See Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 29167 (June 19, 2009).

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# DEPARTMENT OF COMMERCE

## International Trade Administration

**[C–570–019]**

## Countervailing Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Postponement of Preliminary Determination

**AGENCY:** Enforcement and Compliance International Trade Administration, Department of Commerce.

**FOR FURTHER INFORMATION CONTACT:** Susan S. Pulongbarit, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4013.

**SUPPLEMENTARY INFORMATION:**

## Background

On September 22, 2014, the Department of Commerce (the ''Department'') initiated the countervailing duty investigation of boltless steel shelving units prepackaged for sale (''steel shelves'') from the People's Republic of China (''PRC'').[1] Currently, the preliminary determination is due no later than November 19, 2014.

## Postponement of Due Date for the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the ''Act''), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, section 703(c)(1) of the Act permits the Department to postpone making the preliminary determination until no later than 130 days after the date on which it initiated the investigation if, among other reasons, the petitioner makes a timely request for a postponement, or the Department concludes that the parties concerned are cooperating and determines that the investigation is extraordinarily complicated. On October 21, 2014, Edsal Manufacturing Co., Inc. (''Petitioner'') made a timely request to postpone the preliminary countervailing duty determination.[2] Moreover, the Department has not yet chosen mandatory respondents. In addition, the Department determines that, thus far, the parties concerned are cooperating because each has made an entry of appearance in this investigation.[3] Also, the Department must analyze 19 complicated programs[4] for each respondent, including companies that are cross-owned with each respondent, and likely issue multiple supplemental questionnaires. For all these reasons, the Department finds this investigation to be extraordinarily complicated within the meaning of section 703(c)(1)(B) of the Act, and is hereby fully postponing the preliminary countervailing duty determination by 130 days. Therefore, pursuant to the discretion afforded to the Department under section 703(c)(1)(B) of the Act, we are postponing the due date for the preliminary determination to no later than January 23, 2015.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: October 28, 2014.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2014–26191 Filed 11–3–14; 8:45 am]

**BILLING CODE 3510–DS–P**

[1] *See Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Initiation of Countervailing Duty Investigation,* 79 FR 56567 (September 22, 2014).

[2] *See* Petitioners' October 21, 2014 letter requesting postponement of the preliminary determination; *see also* Memorandum to the File, from Susan S. Pulongbarit, Senior International Trade Analyst, AD/CVD Operations, Office V, Enforcement and Compliance, regarding Countervailing Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China, dated October 23, 2014.

[3] *See, e.g.,* The Government of the People's Republic of China September 19, 2014 submission, ''Boltless Steel Shelving Units Pre-Packaged for Sale from China; Entry of Appearance.''

[4] The number of programs may be found in the ''Countervailing Duty Investigation Initiation Checklist: Boltless Steel Shelving from the People's Republic of China from the People's Republic of China,'' at 7–21.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–552–802]**

### Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review, 2012–2013

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On September 24, 2014, the Department of Commerce (''Department'') published in the **Federal Register** the *Final Results* of the eighth administrative review of the antidumping duty (''AD'') *Order* [1] on certain warmwater shrimp from the Socialist Republic of Vietnam (''Vietnam'').[2] The Department is amending the *Final Results* of the administrative review covering the period February 1, 2012 through January 31, 2013, to correct two ministerial errors.

**DATES:** *Effective Date:* November 4, 2014.

**FOR FURTHER INFORMATION CONTACT:** Bob Palmer or Irene Gorelik, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–9068 or (202) 482–6905, respectively.

**SUPPLEMENTARY INFORMATION:** On September 24, 2014, the Department published in the **Federal Register** the *Final Results.* On September 26, 2014, on behalf of several member companies, VASEP [3] collectively submitted a timely ministerial error allegation with respect to the Department's *Final Results* of the administrative review.

### Ministerial Error

A ministerial error, as defined in section 751(h) of the Tariff Act of 1930, as amended (''the Act''), includes ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.'' [4] VASEP alleges that, in the *Final Results,* the Department incorrectly identified several companies' names in the rate table in the **Federal Register** notice. Specifically, VASEP alleges that the Department: (1) Mistakenly added parentheses to one of the trade names for Minh Hai Joint-Stock Seafoods Processing Company; (2) misidentified one of the trade names for Stapimex; (3) misidentified the full name of Camau Seafood Processing and Service Joint-Stock Corporation and also omitted its alleged trade name ''CASES''; and (4) omitted Hai Viet Corporation's alleged trade name ''Havico.'' Thus, VASEP requests that the Department correct the names of the companies identified above in the *Final Results* rate table as follows:

(1) Change Seaprodex Minh Hai (Workshop 1) to Seaprodex Minh Hai Workshop 1;

(2) change Stapimex Soc Trans Aquatic Products and General Import Export Company to Soc Trang Aquatic Products and General Import Export Company (Stapimex);

(3) change Camau Seafood Processing and Service Joint Stock Company to Camau Seafood Processing and Service Joint-Stock Corporation, aka CASES; and

(4) change Hai Viet Corporation to Hai Viet Corporation (Havico).

VASEP further alleged ministerial errors regarding misspelled and/or incorrect names within the draft cash deposit and draft liquidation instructions released to interested parties with the disclosure documents.

After comparing the ministerial error allegations against record evidence, in accordance with section 751(h) of the Act, we agree that we incorrectly listed the following names in the *Final Results:* Seaprodex Minh Hai (Workshop 1), Camau Seafood Processing and Service Joint Stock Company, and Stapimex Soc Trans Aquatic Products and General Import Export Company. The companies included these names in their respective separate rate certification and/or application, and we agree that we did not accurately reflect those names in the *Final Results.*[5] Thus, we corrected the names in the rate box below to correspond to the names submitted in the separate rate certifications as follows: Seaprodex Minh Hai Workshop 1, Camau Seafood Processing and Service Joint-Stock Corporation, and Soc Trang Aquatic Products and General Import Export Company (''Stapimex'').

However, we disagree with VASEP's request that the Department add ''CASES'' as a trade name for Camau Seafood Processing and Service Joint-Stock Corporation. Camau Seafood Processing and Service Joint-Stock Corporation only identified CASES as an abbreviation of the full company name, not as a legal trade name used during the period of review (''POR'').[6] Indeed, Camau Seafood Processing and Service Joint-Stock Corporation certified in its separate rate application that it had no other trade names during the POR.[7] Thus, this allegation does not constitute a ministerial error as defined in 751(h) of the Act, because the Department intentionally omitted the abbreviation, CASES, from the rate box as the respondent did not identify it as a trade name in the separate rate application. Thus, we decline to add this name as a trade name in these amended final results.

Additionally, VASEP requests that the Department change Hai Viet Corporation to Hai Viet Corporation (Havico). However, Hai Viet Corporation only identified Havico as an abbreviation of the full company name, not as a legal trade name, used during the POR.[8] Hai Viet Corporation certified in its separate rate application that it had no other trade names during the POR.[9] Thus, this allegation does not constitute a ministerial error under 751(h) of the Act, because the Department intentionally omitted the abbreviation, Havico, from the rate box as the respondent did not identify it as a trade name in the separate rate application. Thus, we decline to include Havico as a trade name in these amended final results.

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam,* 70 FR 5152 (February 1, 2005) (''*Order*'').

[2] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2012–2013,* 79 FR 57047 (September 24, 2014) (''*Final Results*'').

[3] The ministerial error allegation was filed by the Vietnam Association of Seafood Exporters and Producers (''VASEP'') which includes, as members, one of the two mandatory respondents, Soc Trang Aquatic Products and General Import and Export Company (''Stapimex''), and a number of companies that received a separate rate.

[4] *See also* 19 CFR 351.224(f).

[5] *See* Separate Rate Certification filed by Minh Hai Joint-Stock Seafoods Processing Company, dated May 28, 2013, at pages 8–9; *see also* Separate Rate Application filed by Camau Seafood Processing and Service Joint-Stock Corporation, dated May 28, 2013, at pages 8–9; and Separate Rate Certification filed by Stapimex, dated May 28, 2013, at page 8.

[6] *See* Separate Rate Application filed by Camau Seafood Processing and Service Joint-Stock Corporation, dated May 28, 2013, at page 8, where CASES was only identified as an abbreviation of the full company name.

[7] *See id.,* at page 9, where the company certified that it had no other trade names during the POR.

[8] *See* Separate Rate Application filed by Hai Viet Corporation, dated May 28, 2013, at page 8, where Havico was only identified as an abbreviation of the full company name.

[9] *See id.,* where the company certified that it had no other trade names during the POR.

Upon review of the *Final Results,* we also noted that while we intended to include two trade names for the Minh Phu Group,[10] we inadvertently omitted those two trade names from the *Final Results* rate box. Therefore, in these amended final results, we added Minh Phu-Hau Giang Seafood Processing Co., Ltd. and Minh Phu-Hau Giang Seafood Processing Corporation as trade names for the Minh Phu Group and revised the draft cash deposit instructions, accordingly.

**Amended Final Results of the Review**

| Exporter | Weighted-average margin (percent) |
|---|---|
| Minh Phu Group: | |
| Minh Phu Seafood Corp., aka, Minh Phu Seafood Corporation, aka, Minh Phu Seafood Pte, aka, Minh Phu Hau Giang Seafood Co., Ltd., aka, Minh Phu-Hau Giang Seafood Processing Co., Ltd., aka, Minh Phu-Hau Giang Seafood Processing Corporation, aka, Minh Phat Seafood Co., Ltd., aka, Minh Qui Seafood Co., Ltd. | 4.98 |
| Soc Trang Seafood Joint Stock Company, aka, Stapimex, aka, Soc Trang Aquatic Products and General Import Export Company, aka, Soc Trang Aquatic Products and General Import Export Company (''Stapimex''), aka, Stapmex | 9.75 |
| Camau Seafood Processing and Service Joint-Stock Corporation | 6.37 |
| Minh Hai Joint-Stock Seafoods Processing Company, aka, Seaprodex Minh Hai, aka, Sea Minh Hai, aka, Seaprodex Min Hai, aka, Seaprodex Minh Hai-Factory No. 78, aka, Seaprodex Minh Hai (Minh Hai Joint Stock Seafoods Processing Co.), aka, Seaprodex Minh Hai Workshop 1, aka, Seaprodex Minh Hai Factory No. 69 | 6.37 |

With respect to VASEP's ministerial error allegations regarding the draft cash deposit and draft liquidation instructions, we find that they do not fall under the definition of ministerial errors under section 751(h) because they were draft instructions that were not transmitted at the time of the *Final Results* publication to the U.S. Customers and Border Protection (''CBP'') and can be updated prior to transmittal to CBP. Therefore, we corrected, as described above, the misspellings and omissions within the draft instructions.[11]

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: October 29, 2014.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2014–26192 Filed 11–3–14; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Notice of Intent To Grant Exclusive License

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), intends to grant to Science Applications International Corporation (SAIC) of San Diego, California, an exclusive license to U.S. Patent No. 7,289,907, ''SYSTEM FOR REPORTING HIGH RESOLUTION OCEAN PRESSURES IN NEAR REALTIME FOR THE PURPOSE OF TSUNAMI REPORTING'' issued on October 30, 2007.

**DATES:** Comments must be received on or before November 28, 2014.

**ADDRESSES:** Send comments to NOAA Technology Partnerships Office, SSMC4 Room 7605, 1305 East West Highway, Silver Spring, Maryland 20910.

**FOR FURTHER INFORMATION CONTACT:** Derek Parks, NOAA Technology Transfer Program Manager, at: *derek.parks@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Commerce. It is in the public interest to so license this invention, as SAIC of San Diego, California, has submitted a complete and sufficient application for a license. 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 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the NOAA Technology Partnerships Office receives written evidence and argument which establishes the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Dated: October 28, 2014.

**Jason Donaldson,**

*Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2014–26085 Filed 11–3–14; 8:45 am]

**BILLING CODE 3510–KD–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD445**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Pier Replacement Project

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

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the U.S. Navy (Navy) to incidentally harass,

[10] The Department found the companies comprising the Minh Phu Group are a single entity and, because there have been no changes to the facts which supported this determination since the sixth administrative review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results of Administrative Review,* 77 FR 13547, 13549 (March 7, 2012), unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 77 FR 55800 (September 11, 2012); *see also Final Results* and accompanying Issues and Decision Memorandum at Comment 9.

[11] *See* ''Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Irene Gorelik, Senior International Trade Compliance Analyst, Office V, re; Revised Draft Cash Deposit Instructions for the Amended Final Results of the 2012–2013 Administrative Review,'' dated concurrently with this notice.

by Level B harassment only, six species of marine mammals during construction activities associated with a pier replacement project at Naval Base Point Loma, San Diego, California.

**DATES:** This authorization is effective from October 8, 2014, through October 7, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

## Availability

An electronic copy of the Navy's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* A memorandum describing our adoption of the Navy's Environmental Assessment (2013) and our associated Finding of No Significant Impact, prepared pursuant to the National Environmental Policy Act, are also available at the same site. In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

## Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as '' . . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

## Summary of Request

On July 8, 2014, we received a request from the Navy for authorization to take marine mammals incidental to pile installation and removal associated with a pier replacement project in San Diego Bay at Naval Base Point Loma in San Diego, CA (NBPL), followed on July 14, 2014, by a draft monitoring report for activities conducted under the previous IHA issued for this project. We reviewed these documents and provided a request for additional information to the Navy on August 5, 2014; the Navy submitted revised versions of the request on August 14 and August 19, 2014, the latter of which we deemed adequate and complete. The pier replacement project is planned to occur over four years; this IHA is valid only for the second year of work, from October 8, 2014, through October 7, 2015. Hereafter, use of the generic term ''pile driving'' may refer to both pile installation and removal unless otherwise noted.

The use of both vibratory and impact pile driving during the pier replacement project is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Species with the expected potential to be present during all or a portion of the in-water work window include the California sea lion (*Zalophus californianus*), harbor seal (*Phoca vitulina richardii*), bottlenose dolphin (*Tursiops truncatus truncatus*), gray whale (*Eschrichtius robustus*), and either short-beaked or long-beaked common dolphins (*Delphinus* spp.). California sea lions are present year-round and are common in the project area, while bottlenose dolphins may be present year-round, but sightings are highly variable in Navy marine mammal surveys of northern San Diego Bay. Harbor seals are also common but have limited occurrence in the project area in comparison with sea lions. Gray whales may be observed in San Diego Bay sporadically during migration periods. Common dolphins are known to occur in nearshore waters outside San Diego Bay, but are only rarely observed near or in the bay.

This is the second such IHA issued to the Navy for this project, following the IHA issued effective from September 1, 2013, through August 31, 2014 (78 FR 44539). A monitoring report for the first IHA is available on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm,* and it provides environmental information related to issuance of this IHA.

## Description of the Specified Activity

### *Overview*

NBPL provides berthing and support services for Navy submarines and other fleet assets. The existing fuel pier serves as a fuel depot for loading and unloading tankers and Navy underway replenishment vessels that refuel ships at sea (''oilers''), as well as transferring fuel to local replenishment vessels and other small craft operating in San Diego Bay, and is the only active Navy fueling facility in southern California. Portions of the pier are over one hundred years old, while the newer segment was constructed in 1942. The pier as a whole is significantly past its design service life and does not meet current construction standards.

Over the course of four years, the Navy plans to demolish and remove the existing pier and associated pipelines and appurtenances while simultaneously replacing it with a generally similar structure that meets relevant standards for seismic strength and is designed to better accommodate modern Navy ships. Demolition and construction are planned to occur in two phases to maintain the fueling capabilities of the existing pier while the new pier is being constructed. During the second year of construction (the specified activity considered under this IHA), approximately 272 piles (18- to 36-in steel pipe piles) will be installed and 402 piles will be removed (via multiple methods) over the course of a maximum 135 in-water construction days. The maximum 135 days of in-water construction pertains to impact and vibratory pile driving, as well as pneumatic chipping (unless required project monitoring

demonstrates that this activity does not have the potential to result in the incidental take of marine mammals). Pile removal may occur via other methods beyond this 135-day limit. All steel piles will be driven with a vibratory hammer for their initial embedment depths and finished with an impact hammer, as necessary.

The planned actions with the potential to incidentally harass marine mammals within the waters adjacent to NBPL are vibratory and impact pile installation and removal of piles via vibratory hammer or pneumatic chipper. Concurrent use of multiple pile driving rigs is not planned; however, pile removal conducted as part of demolition activities (which could occur via a number of techniques other than use of a vibratory hammer) is expected to occur concurrently with pile installation conducted as part of construction activities.

*Dates and Duration*

The entire project is scheduled to occur from 2013–17; the planned activities that would occur during the period of validity for this IHA, during the second year of work, would occur for one year. Under the terms of a memorandum of understanding (MOU) between the Navy and the U.S. Fish and Wildlife Service (FWS), all noise- and turbidity-producing in-water activities in designated least tern foraging habitat are to be avoided during the period when least terns are present and engaged in nesting and foraging (a window from approximately September 15 through April 1). However, the Navy may extend that window, depending on the nature of the activity and with approval from FWS and it is possible that in-water work, as described below, could occur at any time during the period of validity of this IHA. We expect that in-water work would primarily occur during the October 1–April 1 period. In-water pile driving work is limited to 135 days in total under this IHA. Pile driving will occur during normal working hours (approximately 7 a.m. to 4 p.m.).

*Specific Geographic Region*

NBPL is located on the peninsula of Point Loma near the mouth and along the northern edge of San Diego Bay (see Figures 1–1 and 1–2 in the Navy's application). San Diego Bay is a narrow, crescent-shaped natural embayment oriented northwest-southeast with an approximate length of 24 km and a total area of roughly 4,500 ha. The width of the bay ranges from 0.3 to 5.8 km, and depths range from 23 m mean lower low water (MLLW) near the tip of Ballast Point to less than 2 m at the southern end (see Figure 2–1 of the Navy's application). San Diego Bay is a heavily urbanized area with a mix of industrial, military, and recreational uses. The northern and central portions of the bay have been shaped by historic dredging to support large ship navigation. Dredging occurs as necessary to maintain constant depth within the navigation channel. Outside the navigation channel, the bay floor consists of platforms at depths that vary slightly. Sediments in northern San Diego Bay are relatively sandy, as tidal currents tend to keep the finer silt and clay fractions in suspension, except in harbors and elsewhere in the lee of structures, where water movement is diminished. Much of the shoreline consists of riprap and manmade structures. San Diego Bay is heavily used by commercial, recreational, and military vessels, with an average of over 80,000 vessel movements (in or out of the bay) per year (not including recreational boating within the Bay) (see Table 2–2 of the Navy's application). For more information about the specific geographic region, please see section 2.3 of the Navy's application.

*Detailed Description of Activities*

In order to provide context, we described the entire project in our **Federal Register** notice of proposed authorization associated with the first-year IHA (78 FR 30873; May 23, 2013). Please see that document for an overview of the entire fuel pier replacement project, or see the Navy's Environmental Assessment (2013) for more detail. In the notice of proposed authorization associated with the second-year IHA (79 FR 53026; September 5, 2014) we provided an overview of relevant construction methods before describing only the specific project portions scheduled for completion during the second work window. We do not repeat that information here; please refer to that document for more information. Approximately 498 piles in total are planned to be installed for the project, including steel, concrete, and plastic piles. For the second year of work, approximately 272 piles will be installed (all steel pipe piles, 18- to 36-in). Tables 1 and 2 detail the piles to be installed and removed, respectively, under this IHA.

TABLE 1—DETAILS OF PILES TO BE INSTALLED

| Purpose | Location | Planned timing | Planned number of days | Number per pile diameter (in) | | | |
|---|---|---|---|---|---|---|---|
| | | | | 18 | 24 | 30 | 36 |
| Indicator Pile Program | Outboard side of existing pier. | Fall 2014 | 1 | 0 | 0 | 0 | 2 |
| Temporary dolphin | South of existing pier | Fall 2014 | 5 | 0 | 0 | 10 | 0 |
| Temporary shoring piles | Existing pier approach and intersection. | Fall 2014 | 5 | 4 | 0 | 0 | 0 |
| Temporary trestle piles | North of new approach trestle. | Fall 2014 | 14 | 0 | 16 | 0 | 0 |
| Abutment piles | New pier, along shoreline | Winter 2014–15. | 10 | 0 | 0 | 0 | [2] 18 |
| Approach pier | New pier footprint | Fall 2014–Spring 2015. | 90 | 0 | 0 | 0 | 104 |
| Fuel pier | New pier footprint | Fall 2014 | 90 | 0 | 0 | 0 | 95 |
| Permanent dolphins | North of existing pier | Spring 2015 | 10 | 0 | 0 | 23 | 0 |

TABLE 1—DETAILS OF PILES TO BE INSTALLED—Continued

| Purpose | Location | Planned timing | Planned number of days | Number per pile diameter (in) | | | |
|---|---|---|---|---|---|---|---|
| | | | | 18 | 24 | 30 | 36 |
| Totals—272 piles ..... | ..... | Fall 2014–Spring 2015. | [1] 135 | 4 | 16 | 33 | 219 |

[1] Numbers of piles, timing, and number of days associated with any particular component of work are subject to change. However, the total of 135 days in-water pile driving is an absolute maximum.
[2] Land-based abutment piles will not be monitored.

TABLE 2—DETAILS OF PILES TO BE REMOVED

| Pile type | Number |
|---|---|
| Concrete fender piles (14-, 18-, and 24-in) ..... | 65 |
| Plastic fender piles (13-in) ..... | 29 |
| Timber piles (12-in) ..... | 286 |
| Concrete-filled steel caissons ... | 22 |
| Total ..... | 402 |

*Description of Work Accomplished*

During the first in-water work season, two primary activities were conducted: Relocation of the Marine Mammal Program and the Indicator Pile Program. These activities were described in detail in our notice of proposed authorization associated with the second-year IHA (79 FR 53026; September 5, 2014); please see that document for more information.

**Comments and Responses**

We published a notice of receipt of the Navy's application and proposed IHA in the **Federal Register** on September 5, 2014 (79 FR 53026). We received a letter from the Marine Mammal Commission; the Commission's comments and our responses are provided here, and the comments have been posted on the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

San Diego Bay is a busy industrial and recreational water body and, in recognition of the likelihood that ambient sound levels in the bay exceed NMFS' regulatory threshold for continuous noise (i.e., 120-dB rms), the Navy has been measuring ambient sound in the bay in the absence of construction activity per NMFS' guidance (NMFS, 2012). Results of that effort to date show that ambient sound is indeed louder than 120 dB rms, with daily averages of 128 dB rms measured in the vicinity of the project site during the Navy's indicator pile program conducted as part of the first year of the project; therefore, we substitute the louder value for use in delineating the zones employed in the Navy's mitigation and monitoring strategy (as described in our notice of proposed authorization). The Commission's comments concern the way we use those data for that purpose and the way in which we continue the acoustic monitoring effort designed to further our understanding of ambient sound levels.

*Comment 1:* The Commission recommends that we require the Navy to use the mean ambient sound level minus at least one standard deviation (based on the three recording periods interspersed throughout the work window) down to the 120-dB re 1 μPa threshold as a basis for establishing the Level B harassment zone to fulfill its monitoring and reporting requirements for the authorization and to inform future authorizations.

*Response:* We disagree with this recommendation. The 128-dB value is reported in accordance with NMFS' 2012 guidance document (NMFS, 2012) on data collection methods to characterize underwater background sound, which says that in order to characterize average conditions, the dB rms level that occurs at least fifty percent of the time should be used as the average background sound in consultations under the MMPA; therefore, the value is appropriately representative of existing data regarding background sound and is consistent with NMFS' guidance.

*Comment 2:* The Commission recommends that we require the Navy to measure ambient sound levels both to the north and south of the fuel pier site to further refine the spatial differences in ambient sound levels near the project site, and that similar spatially-distributed methods should be used for determining sound propagation in the far-field during installation and removal of various types and sizes of piles to identify the distance at which sound from those activities become indistinguishable from ambient.

*Response:* We agree with the Commission's second recommendation and have discussed it with the Navy. Acoustic monitoring performed under this IHA will be conducted in accordance with the Commission's recommendation.

**Description of Marine Mammals in the Area of the Specified Activity**

There are five marine mammal species which are either resident, have known seasonal occurrence, or have been observed recently in San Diego Bay, including the California sea lion, harbor seal, bottlenose dolphin, common dolphin, and gray whale. Note that common dolphins could be either short-beaked (*Delphinus delphis delphis*) or long-beaked (*D. capensis capensis*). While it is likely that common dolphins observed in the project area would be long-beaked, as it is the most frequently stranded species in the area from San Diego Bay to the U.S.-Mexico border (Danil and St. Leger, 2011), the species' distributions overlap, and it is unlikely that observers would be able to differentiate them in the field. Therefore, we consider that any common dolphins observed—and any incidental take of common dolphins—could be either species. Navy records and other survey results indicate that other species that occur in the Southern California Bight may have the potential for isolated occurrence within San Diego Bay or just offshore. The Pacific white-sided dolphin (*Lagenorhynchus obliquidens*) has been sighted along a previously used transect on the opposite side of the Point Loma peninsula (Merkel and Associates, 2008). Risso's dolphin (*Grampus griseus*) is fairly common in southern California coastal waters (e.g., Campbell *et al.,* 2010), but has not been seen in San Diego Bay. These species have not been observed near the project area and are not expected to occur there, and, given the unlikelihood of their exposure to sound generated from the project, are not considered further.

We have reviewed the Navy's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Sections 3 and 4 of the Navy's application instead of reprinting the information here. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts and to the Navy's

Marine Resource Assessment for the Southern California and Point Mugu Operating Areas, which provides information regarding the biology and behavior of the marine resources that may occur in those operating areas (DoN, 2008). The document is publicly available at *www.navfac.navy.mil/products_and_services/ev/products_and_services/marine_resources/marine_resource_assessments.html* (accessed August 23, 2014). In addition, we provided information for the potentially affected stocks, including details of stock-wide status, trends, and threats, in our **Federal Register** notice of proposed authorization associated with the first-year IHA (78 FR 30873; May 23, 2013) and refer the reader to that document rather than reprinting the information here. We provided additional information for marine mammals with potential for occurrence in the area of the specified activity in our **Federal Register** notice of proposed authorization (79 FR 53026; September 5, 2014).

Table 3 lists the marine mammal species with expected potential for occurrence in the vicinity of NBPL during the project timeframe and summarizes key information regarding stock status and abundance. See also Figure 3–2 of the Navy's application for observed occurrence of marine mammals in the project area. Taxonomically, we follow Committee on Taxonomy (2014). Please see NMFS' Stock Assessment Reports (SARs), available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance.

All potentially affected species are addressed in the Pacific SARs (Carretta *et al.,* 2014).

TABLE 3—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF NBPL

| Species | Stock | ESA/MMPA Status; Strategic (Y/N) [1] | Stock abundance (CV, $N_{min}$, most recent abundance survey) [2] | PBR [3] | Annual M/SI [4] | Relative occurrence in San Diego Bay; season of occurrence |
|---|---|---|---|---|---|---|
| Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales) | | | | | | |
| Family Eschrichtiidae: | | | | | | |
| Gray whale | Eastern North Pacific | —; N | 19,126 (0.071; 18,017; 2007). | 558 | [6]127 | Rare migratory visitor; late winter. |
| Superfamily Odontoceti (toothed whales, dolphins, and porpoises) | | | | | | |
| Family Delphinidae: | | | | | | |
| Bottlenose dolphin | California coastal | —; N | 323 [5] (0.13; 290; 2005). | 2.4 | 0.2 | Occasional; year-round. |
| Short-beaked common dolphin. | California/Oregon/Washington | —; N | 411,211 (0.21; 343,990; 2008). | 3,440 | 64 | Rare; year-round (but more common in warm season). |
| Long-beaked common dolphin. | California | —; N | 107,016 (0.42; 76,224; 2009). | 610 | 13.8 | Rare; year-round (but more common in warm season). |
| Order Carnivora—Superfamily Pinnipedia | | | | | | |
| Family Otariidae (eared seals and sea lions): | | | | | | |
| California sea lion | U.S. | —; N | 296,750 (n/a; 153,337; 2008). | 9,200 | ≥431 | Abundant; year-round. |
| Family Phocidae (earless seals): | | | | | | |
| Harbor seal | California | —; N | 30,196 (0.157; 26,667; 2009). | 1,600 | 31 | Uncommon and localized; year-round. |

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (—) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; $N_{min}$ is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the species' (or similar species') life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value.

[5] This value is based on photographic mark-recapture surveys conducted along the San Diego coast in 2004–05, but is considered a likely underestimate, as it does not reflect that approximately 35 percent of dolphins encountered lack identifiable dorsal fin marks (Defran and Weller, 1999). If 35 percent of all animals lack distinguishing marks, then the true population size would be closer to 450–500 animals (Carretta *et al.,* 2014).

[6] Includes annual Russian harvest of 123 whales.

**Potential Effects of the Specified Activity on Marine Mammals**

In our **Federal Register** notice of proposed authorization associated with the first-year IHA (78 FR 30873; May 23, 2013), we described in detail the potential effects of the Navy's planned activity on marine mammals, including general background information on sound and marine mammal hearing and a description of sound sources and ambient sound. Rather than reprint the information here, we refer the reader to that document. We also provided brief definitions of relevant acoustic terminology in our notice of proposed authorization associated with the second-year IHA (79 FR 53026; September 5, 2014).

**Anticipated Effects on Habitat**

We described potential impacts to marine mammal habitat, including effects to prey and to foraging habitat, in detail in our **Federal Register** notice of proposed authorization associated with the first-year IHA (78 FR 30873; May 23, 2013). In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving activities associated with the planned action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. The area around NBPL is heavily altered with significant levels of industrial and recreational activity, and is unlikely to harbor significant amounts of forage fish. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

**Mitigation**

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

We described a proposed suite of mitigation measures in our **Federal Register** notice of proposed authorization (79 FR 53026; September 5, 2014). Those mitigation measures were included as conditions in the IHA issued to the Navy, which is available on the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* Please review those documents for information about the specific measures required of the Navy.

We carefully evaluated the Navy's proposed mitigation measures and considered their effectiveness in past implementation to determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Based on our evaluation of the Navy's proposed measures, we have determined that the mitigation measures described in our notice of proposed authorization provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Monitoring and Reporting**

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

The Navy submitted an Acoustic and Marine Species Monitoring Plan (available at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*). We described the monitoring requirements in detail in our **Federal Register** notice of proposed authorization (79 FR 53026; September 5, 2014). Those requirements were included as conditions in the IHA issued to the Navy, available at the same location on the Internet. Please review those documents for information about the specific measures required of the Navy. In addition, monitoring results from the previous IHA were described in detail in our notice of proposed authorization and are not repeated here.

We made one substantive change from the proposed measures described in our **Federal Register** notice of proposed authorization to those included in the final IHA. Instead of requiring at least three vessel-based observers for all pile driving activities, as called for in the proposed IHA, the Navy will be required to have a minimum of two vessel-based observers, and a total of three to seven observers, for all pile driving activities. The total three to seven observers includes (1) a minimum of one observer stationed at the active pile driving rig in order to monitor the shutdown zones; (2) a minimum of two vessel-based observers; and (3) a minimum of one shore-based observer located at the pier work site during impact pile driving. This change was made to more accurately reflect changes made to the second-year monitoring plan in response to lessons learned during the first year of monitoring, and we believe it to represent the most effective alignment of monitoring assets. It is not expected to impact observer coverage and is expected to increase the effectiveness of the monitoring, and thus does not change our analysis or conclusions described in the **Federal Register** notice announcing our proposed IHA.

**Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

All anticipated takes would be by Level B harassment resulting from vibratory and impact pile driving and involving temporary changes in

behavior. The planned mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by Level A harassment, serious injury, or mortality is considered extremely unlikely. However, it is unlikely that injurious or lethal takes would occur even in the absence of the planned mitigation and monitoring measures.

If a marine mammal responds to a stimulus by changing its behavior (e.g., through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound.

This practice potentially overestimates the numbers of marine mammals taken, in part because it is often difficult to distinguish between the individuals harassed and incidents of harassment. In particular, for stationary activities, it is more likely that some smaller number of individuals may accrue a number of incidents of harassment per individual than for each incident to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (e.g., because of foraging opportunities) is stronger than the deterrence presented by the harassing stimulus.

The project area is not believed to be particularly important habitat for marine mammals, nor is it considered an area frequented by marine mammals, with the exception of California sea lions, which are attracted to nearby haul-out opportunities. Sightings of other species are relatively rare. Therefore, behavioral disturbances that could result from anthropogenic sound associated with these activities are expected to affect only a relatively small number of individual marine mammals, although those effects could be recurring over the life of the project if the same individuals remain in the project vicinity.

The Navy requested authorization for the potential incidental taking of small numbers of California sea lions, harbor seals, bottlenose dolphins, common dolphins, and gray whales in San Diego Bay and nearby waters that may result from pile driving during construction activities associated with the fuel pier replacement project. In order to estimate the potential incidents of take that may occur incidental to the specified activity, we first estimated the extent of the sound field that may be produced by the activity and then considered that in combination with information about marine mammal density or abundance in the project area. We provided detailed information on applicable sound thresholds for determining effects to marine mammals and described the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidents of take, in our **Federal Register** notice of proposed authorization (79 FR 53026; September 5, 2014). That information is unchanged, and our take estimates were calculated in the same manner and on the basis of the same information as what was described in the **Federal Register** notice. Measured distances to relevant thresholds are shown in Table 4 and total estimated incidents of take are shown in Table 5. Please see our **Federal Register** notice of proposed authorization (79 FR 53026; September 5, 2014) for full details of the process and information used in estimating potential incidents of take.

TABLE 4—MEASURED DISTANCES TO RELEVANT THRESHOLDS

| Activity | Distance to threshold in meters | | | | | |
|---|---|---|---|---|---|---|
| | 190 dB | 180 dB | 160 dB | 120 dB | 100 dB | 90 dB |
| Impact driving, steel piles (measured) | 75 | 450 | 2,500 | n/a | 71 | 233 |
| Vibratory driving, steel piles (measured) | <10 | <10 | n/a | 3,000 | n/a | n/a |

TABLE 5—CALCULATIONS FOR INCIDENTAL TAKE ESTIMATION

| Species | Abundance [1] | Total proposed authorized takes [3] (% of total stock) |
|---|---|---|
| California sea lion | 175 | 23,625 (8.0). |
| Harbor seal | 7 | 945 (3.1). |
| Bottlenose dolphin | 3 | 405 (81.0).[4] |
| Common dolphin | 6 | 810 (0.8 [LB]/0.2 [SB]).[5] |
| Gray whale | [2] 1 | 90 (0.5). |

[1] Best available species- and season-specific density estimates were described in our notice of proposed authorization. With the exception of the gray whale (see footnote 2 below), we have determined that in all cases a site-specific abundance estimate is the most appropriate information to use in estimating take.

[2] Product of density (0.115 animals/km$^2$) and largest ZOI (5.7 km$^2$) rounded to nearest whole number.

[3] Best abundance numbers multiplied by expected days of activity (135) to produce take estimate. Calculation for gray whale assumes ninety days rather than 135.

[4] Total stock assumed to be 500 for purposes of calculation. See Table 3.

[5] LB = long-beaked; SB = short-beaked.

**Analyses and Determinations**

*Negligible Impact Analysis*

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, we consider other factors, such as the likely nature of any responses (e.g., intensity, duration), the context of any responses (e.g., critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

Pile driving activities associated with the pier replacement project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving is happening.

No injury, serious injury, or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory hammers will be the primary method of installation, and this activity does not have significant potential to cause injury to marine mammals due to the relatively low source levels produced (site-specific acoustic monitoring data show no source level measurements above 180 dB rms) and the lack of potentially injurious source characteristics. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. When impact driving is necessary, required measures (implementation of shutdown zones) significantly reduce any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious. The likelihood that marine mammal detection ability by trained observers is high under the environmental conditions described for San Diego Bay (approaching one hundred percent detection rate, as described by trained biologists conducting site-specific surveys) further enables the implementation of shutdowns to avoid injury, serious injury, or mortality.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (e.g., Thorson and Reyff, 2006; HDR, 2012; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. In response to vibratory driving, pinnipeds (which may become somewhat habituated to human activity in industrial or urban waterways) have been observed to orient towards and sometimes move towards the sound. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in San Francisco Bay and in the Puget Sound region, which have taken place with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the project area while the activity is occurring.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the absence of any significant habitat within the project area, including rookeries, significant haul-outs, or known areas or features of special significance for foraging or reproduction; and (4) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In addition, these stocks are not listed under the ESA or considered depleted under the MMPA. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the planned monitoring and mitigation measures, we find that the total marine mammal take from Navy's pier replacement activities will have a negligible impact on the affected marine mammal species or stocks.

*Small Numbers Analysis*

The number of incidents of take proposed for authorization for these stocks, with the exception of the coastal bottlenose dolphin (see below), would be considered small relative to the relevant stocks or populations (see Table 5) even if each estimated taking occurred to a new individual. This is an extremely unlikely scenario as, for pinnipeds occurring at the NBPL waterfront, there will almost certainly be some overlap in individuals present day-to-day and in general, there is likely to be some overlap in individuals present day-to-day for animals in estuarine/inland waters.

The numbers of authorized take for bottlenose dolphins are higher relative to the total stock abundance estimate and would not represent small numbers if a significant portion of the take was for new individuals. However, these numbers represent the estimated incidents of take, not the number of individuals taken. That is, it is likely that a relatively small subset of California coastal bottlenose dolphins would be incidentally harassed by project activities. California coastal bottlenose dolphins range from San

Francisco Bay to San Diego (and south into Mexico), and the specified activity would be stationary within an enclosed water body that is not recognized as an area of any special significance for coastal bottlenose dolphins (and is therefore not an area of dolphin aggregation, as evident in Navy observational records). We therefore believe that the estimated numbers of takes, were they to occur, likely represent repeated exposures of a much smaller number of bottlenose dolphins and that, based on the limited region of exposure in comparison with the known distribution of the coastal bottlenose dolphin, these estimated incidents of take represent small numbers of bottlenose dolphins.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

*Impact on Availability of Affected Species for Taking for Subsistence Uses*

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Endangered Species Act (ESA)**

The Navy initiated informal consultation under section 7 of the ESA with NMFS Southwest Regional Office (now West Coast Regional Office) on March 5, 2013. NMFS concluded on May 16, 2013, that the proposed action may affect, but is not likely to adversely affect, western North Pacific (WNP) gray whales. The Navy has not requested authorization of the incidental take of WNP gray whales and no such authorization is proposed, and there are no other ESA-listed marine mammals found in the action area. Therefore, no additional consultation under the ESA is required.

**National Environmental Policy Act (NEPA)**

In compliance with the NEPA of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (CEQ; 40 CFR parts 1500–1508), the Navy prepared an Environmental Assessment (EA) to consider the direct, indirect, and cumulative effects to the human environment resulting from the pier replacement project. We made the Navy's EA available to the public for review and comment, in relation to its suitability for adoption in order to assess the impacts to the human environment of issuance of an IHA to the Navy. In compliance with NEPA, the CEQ regulations, and NOAA Administrative Order 216–6, we subsequently adopted that EA and signed a Finding of No Significant Impact (FONSI) on July 8, 2013.

We have reviewed the Navy's application for a renewed IHA for ongoing construction activities for 2014–15 and the 2013–14 monitoring report. Based on that review, we have determined that the proposed action is very similar to that considered in the previous IHA. In addition, no significant new circumstances or information relevant to environmental concerns have been identified. Thus, we have determined that the preparation of a new or supplemental NEPA document is not necessary, and, after review of public comments, reaffirm our 2013 FONSI. The 2013 NEPA documents are available for review at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

**Authorization**

As a result of these determinations, we have issued an IHA to the Navy for conducting the described pier maintenance activities in San Diego Bay, from October 8, 2014 through October 7, 2015, provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: October 29, 2014.

**Wanda L. Cain,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2014–26195 Filed 11–3–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket Number 2014–0038]**

### Submission for OMB Review; Comment Request

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

**ACTION:** Notice.

**SUMMARY:** The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**DATES:** Consideration will be given to all comments received by December 4, 2014.

**SUPPLEMENTARY INFORMATION:**

*Title and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Part 229, Taxes, and related clause at DFARS 252.229–7010; OMB Control Number 0704–0390.

*Type of Request:* Extension.

*Number of Respondents:* 40.

*Responses per Respondent:* 1.

*Annual Responses:* 40.

*Average Burden per Response:* 4 hours.

*Annual Burden Hours:* 160.

*Frequency:* On occasion.

*Needs and Uses:* DoD uses this information to determine if DoD contractors in the United Kingdom have attempted to obtain relief from customs duty on vehicle fuels in accordance with contract requirements.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Frequency:* On occasion.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

*DoD Clearance Officer:* Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD

Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations Council.*

[FR Doc. 2014–26162 Filed 11–3–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF ENERGY

### Proposed Subsequent Arrangement

**AGENCY:** Office of Nonproliferation and International Security, Department of Energy.

**ACTION:** Proposed subsequent arrangement.

**SUMMARY:** This notice is being issued under the authority of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a proposed subsequent arrangement under paragraph 2 of Article 6 of the Agreement for Cooperation between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States Concerning Peaceful Uses of Nuclear Energy, done at Washington on December 20, 2013 (123 Agreement).

**DATES:** This subsequent arrangement will take effect no sooner than November 19, 2014.

**FOR FURTHER INFORMATION CONTACT:** Ms. Katie Strangis, Office of Nonproliferation and International Security, National Nuclear Security Administration, Department of Energy. Telephone: 202–586–8623 or email: *Katie.Strangis@nnsa.doe.gov.*

**SUPPLEMENTARY INFORMATION:** This subsequent arrangement concerns the alteration in form or content of irradiated fuel elements which are subject to obligations to the American Institute in Taiwan (AIT) pursuant to the 123 Agreement, and which are to take place in a hot cell laboratory at the Institute of Nuclear Energy Research (INER) in Lungtan, Taiwan. Approximately thirty-six irradiated light water reactor fuel rods are expected to be transferred to the INER hot cell laboratory for post irradiation examination and failure root cause analysis and 80 cans of spent fuel pool sludge from the Taiwan Research Reactor will be transferred to the hot cell laboratory for stabilization. These activities, in support of nuclear power-related research activities, are described in the ''Irradiated Fuels and Material Research Program from 2014 to 2020,'' dated October 2013 and in ''Summary of the Irradiated Fuels and Materials Research Program from 2014 to 2020.'' This subsequent arrangement is effective until December 31, 2020.

In accordance with section 131a. of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security of the United States of America.

Dated: October 9, 2014.

For the Department of Energy.

**Anne M. Harrington,**

*Deputy Administrator, Defense Nuclear Nonproliferation.*

[FR Doc. 2014–26163 Filed 11–3–14; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### Collegiate Wind Competition

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

**ACTION:** Request for proposals.

**SUMMARY:** The U.S. Department of Energy (DOE) requests proposals to participate in the 2016 Collegiate Wind Competition (Competition), which is administered by the National Renewable Energy Laboratory (NREL). DOE anticipates the award of ten (10) firm fixed price subcontracts under this solicitation. The anticipated period of performance is through July 31, 2016, with a funding availability of $20,000 for each award. The Competition is open to teams of undergraduate students from two- and four-year institutions of higher education.

**DATES:** The request for proposals was issued on October 30, 2014 and is available at *wind.energy.gov/windcompetition.* Technical questions must be received in writing to NREL by November 13, 2014. Proposals must be received by December 15, 2014. The Competition event will be held in May, 2016. Dates are subject to change.

**ADDRESSES:** Interested persons can find full details about the Competition online at *wind.energy.gov/windcompetition.* Questions about the Competition can be sent to:

- *Email: maurice.nelson@nrel.gov.*
- *Mail:* Mr. Maurice Nelson, National Renewable Energy Laboratory, 15013 Denver West Parkway MS RSF030, Golden, Colorado 80401.

(The **ADDRESSES** caption includes any addresses that the public needs to know, such as where to mail public comments, where a public hearing (or meeting) will be held or where to examine any material available for public inspection or submission dates or due dates.)

**FOR FURTHER INFORMATION CONTACT:** Questions may be directed to Mr. Maurice Nelson at (303) 384–7029 or by email at: *maurice.nelson@nrel.gov.*

**SUPPLEMENTARY INFORMATION:** The Department of Energy Science Education and Enhancement Act (42 U.S.C. 7381b) authorizes the Secretary to support competitive events for students under the supervision of teachers, designed to encourage student interest and knowledge in science and mathematics. DOE introduced the Competition in 2014 for the purpose of engaging the future workforce in wind energy. NREL administers the Competition for DOE.

The objective of the Competition is to prepare students from multiple disciplines to enter the wind energy workforce. Currently, the wind industry has shortages in key jobs such as scientists, educators, design and research engineers, technical workers, and project managers. Wind-specific advanced degrees are not required for many of these jobs, but having wind experience is of high importance. The Competition is also aligned with the central goals of DOE, which are to catalyze the timely, material, and efficient transformation of the nation's energy system, secure the United States' leadership in clean energy technologies, and maintain a vibrant domestic effort in science and engineering as a cornerstone of economic prosperity.

The 2016 Competition theme is to design, construct, and develop a plan to market a wind-driven power system, which includes an off-grid load supplied by the wind-driven power generator. The load shall be designed to perform useful work in an off-grid environment, be easily transported to the competition, tested safely and cleanly in the Competition environment, and provide a visual indication of the instantaneous power generated by the wind-driven power system. This theme focuses on effective electrical and electronic design of the wind turbine for efficient and safe control of the device, a load system that can match the power being generated, and an overall safe and reliable mechanical and aerodynamic turbine design. The Competition does not prescribe a market or a wind regime.

The Competition consists of three multi-faceted elements. The technical element requires teams to design and build a unique wind-driven power system, develop and present the technical designs to a panel of judges,

and test the wind system against pre-determined parameters in an on-site wind tunnel. The second element of the Competition is the creation and presentation of a market research-supported business plan that will be used to develop the team's technical product into a marketable wind power system. This plan will be presented formally to a panel of judges and informally pitched to a public audience. The final element of the Competition aims to familiarize students with the siting, permitting, and planning process associated with deployment of wind power systems by requiring students to identify a project site for their power system, develop a plan to install their system informed by siting constraints and expected challenges at that location, and present their well-researched deployment strategy. The plan for deployment shall be presented in a slide show or poster.

Each Competition element will be evaluated against a set of pre-weighted objective and subjective criteria in both closed-door and public settings. Technical design and business plan presentations to judge panels will be closed-door and non-public. Teams' market pitch and deployment strategy presentations will be public and attended by judges and other Competition teams. Criteria and weighting will be defined in the 2016 Rules and Requirements document, which will be published in the spring of 2015. Refer to the 2014 Rules and Requirements for examples of likely content.

All dates are subject to change. For more details please visit *wind.energy.gov/windcompetition.*

Dated: October 30, 2014.

**Jose Zayas,**

*Director, Wind and Water Power Technologies, Office of Energy Efficiency and Renewable Energy.*

[FR Doc. 2014–26167 Filed 11–3–14; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC15–17–000.
*Applicants:* Dogwood Energy LLC.
*Description:* Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, Shortened Comment Period and Expedited Action of Dogwood Energy LLC.
*Filed Date:* 10/24/14.
*Accession Number:* 20141024–5181.
*Comments Due:* 5 p.m. ET 11/14/14.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–3301–002; ER10–2757–002; ER10–2756–002.
*Applicants:* Arlington Valley, LLC, Griffith Energy LLC, GWF Energy LLC.
*Description:* Third Supplement to June 28, 2013 Triennial Market Power Update for the Southwest Region of the GWF Energy LLC, et. al.
*Filed Date:* 10/24/14.
*Accession Number:* 20141024–5185.
*Comments Due:* 5 p.m. ET 11/14/14.

*Docket Numbers:* ER12–1163–003.
*Applicants:* ATCO Power Canada Limited.
*Description:* Notice of Non-Material Change in Status of ATCO Power Canada Limited.
*Filed Date:* 10/24/14.
*Accession Number:* 20141024–5183.
*Comments Due:* 5 p.m. ET 11/14/14.

*Docket Numbers:* ER13–1562–002.
*Applicants:* Catalina Solar Lessee, LLC.
*Description:* Compliance filing per 35: Supplement to Notice of Non-Material Change in Status to be effective N/A.
*Filed Date:* 10/24/14.
*Accession Number:* 20141024–5147.
*Comments Due:* 5 p.m. ET 11/14/14.

*Docket Numbers:* ER15–192–000.
*Applicants:* Arizona Public Service Company.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Unexecuted Transmission Service Agreements with NRS to be effective 12/31/9998.
*Filed Date:* 10/24/14.
*Accession Number:* 20141024–5159.
*Comments Due:* 5 p.m. ET 11/14/14.

*Docket Numbers:* ER15–193–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2014–10–27_ATC D–T Update Batch 3 to be effective 12/27/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5031.
*Comments Due:* 5 p.m. ET 11/17/14.

*Docket Numbers:* ER15–194–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2014–10–27_SA 2707 NSP-Odell Wind Farm GIA (G826) to be effective 10/28/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5086.
*Comments Due:* 5 p.m. ET 11/17/14.

*Docket Numbers:* ER15–195–000.
*Applicants:* ISO New England Inc., New England Power Pool Participants Committee.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Various Revisions to FCM Rules to be effective 12/26/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5100.
*Comments Due:* 5 p.m. ET 11/17/14.

*Docket Numbers:* ER15–196–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3651; Queue No. V4–041 to be effective 11/24/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5113.
*Comments Due:* 5 p.m. ET 11/17/14.

*Docket Numbers:* ER15–197–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2014–10–27_Amend Section 34.2 re: Transmission Losses to be effective 1/1/2015.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5131.
*Comments Due:* 5 p.m. ET 11/17/14.

*Docket Numbers:* ER15–198–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3652; Queue No. V4–042 to be effective 11/24/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5144.
*Comments Due:* 5 p.m. ET 11/17/14.

*Docket Numbers:* ER15–199–000.
*Applicants:* MidAmerican Energy Company.
*Description:* Request for Waiver of MISO Tariff Resource Adequacy Requirements of MidAmerican Energy Company.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5153.
*Comments Due:* 5 p.m. ET 11/17/14.

*Docket Numbers:* ER15–200–000.
*Applicants:* ISO New England Inc., Northeast Utilities Service Company.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): CVP Towantic, LLC Large Generator Interconnection Agreement to be effective 11/1/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5171.
*Comments Due:* 5 p.m. ET 11/17/14.

Take notice that the Commission received the following public utility holding company filings:

*Docket Numbers:* PH15–3–000.
*Applicants:* Starwood Energy Group Global, L.L.C.

*Description:* Starwood Energy Group Global, L.L.C. submits FERC 65–B Waiver Notification of Material Change in Facts.

*Filed Date:* 10/27/14.

*Accession Number:* 20141027–5160.

*Comments Due:* 5 p.m. ET 11/17/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 27, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–26151 Filed 11–3–14; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER12–2381–001.

*Applicants:* MP2 Energy NE LLC.

*Description:* Notice of Change in Status of the MP2 Energy NE LLC.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5014.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER13–310–001.

*Applicants:* MP2 Energy NJ LLC.

*Description:* Notice of Change in Status of the MP2 Energy NJ LLC.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5021.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER13–1069–004.

*Applicants:* MP2 Energy LLC.

*Description:* Notice of Change in Status of the MP2 Energy LLC.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5016.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER15–201–000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): CCSF IA—47th Quarterly Filing of Facilities Agreements to be effective 9/30/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5002.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER15–202–000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): UFA for the Copper Mountain Solar 4 Project to be effective 10/29/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5003.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER15–203–000.

*Applicants:* Evergreen Gen Lead, LLC.

*Description:* Baseline eTariff Filing per 35.1: Filing of Rate Schedule and Request for Waiver to be effective 12/28/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5059.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER15–204–000.

*Applicants:* Idaho Power Company.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): SA No. 4.335 Construction Agreement—IPC and NorthWestern Re Peterson Flats to be effective 12/31/9998.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5087.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER15–205–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2403R1 Sunflower-ITC Interconnection Agreement to be effective 12/31/9998.

*Filed Date:* 10/27/14.

*Accession Number:* 20141027–5217.

*Comments Due:* 5 p.m. ET 11/17/14.

*Docket Numbers:* ER15–206–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2252R3 Cottonwood Wind Project GIA to be effective 10/14/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5111.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER15–207–000.

*Applicants:* Milford Wind Corridor Phase II, LLC.

*Description:* Initial rate filing per 35.12 Filing of Tenant in Common Agreements to be effective 12/28/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5135.

*Comments Due:* 5 p.m. ET 11/18/14.

*Docket Numbers:* ER15–208–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 2934; Queue No. W2–080 to be effective 10/5/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5139.

*Comments Due:* 5 p.m. ET 11/18/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 28, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–26153 Filed 11–3–14; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP15–65–000.

*Applicants:* Gulf South Pipeline Company, LP.

*Description:* § 4(d) rate filing per 154.312: General Section 4 Rate Case to be effective 12/1/2014.

*Filed Date:* 10/24/14.

*Accession Number:* 20141024–5086.

*Comments Due:* 5 p.m. ET 11/5/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but

intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedings**

*Docket Numbers:* RP14–916–001.
*Applicants:* Clear Creek Storage Company, L.L.C.
*Description:* Compliance filing per 154.203: Clear Creek Compliance Filing to be effective 10/16/2014.
*Filed Date:* 10/24/14.
*Accession Number:* 20141024–5029.
*Comments Due:* 5 p.m. ET 11/5/14.

*Docket Numbers:* RP14–917–001.
*Applicants:* Rendezvous Pipeline Company, LLC.
*Description:* Compliance filing per 154.203: Rendezvous Compliance Filing to be effective 10/16/2014.
*Filed Date:* 10/24/14.
*Accession Number:* 20141024–5032.
*Comments Due:* 5 p.m. ET 11/5/14.

*Docket Numbers:* RP14–952–001.
*Applicants:* Destin Pipeline Company, L.L.C.
*Description:* Compliance filing per 154.203: Show Cause Compliance Refiling to be effective 10/16/2014.
*Filed Date:* 10/24/14.
*Accession Number:* 20141024–5155.
*Comments Due:* 5 p.m. ET 11/5/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 27, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–26154 Filed 11–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP15–66–000.
*Applicants:* Natural Gas Pipeline Company of America.
*Description:* § 4(d) rate filing per 154.204: Macquarie Energy Neg Rate Filing to be effective 11/1/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5189.
*Comments Due:* 5 p.m. ET 11/10/14.

*Docket Numbers:* RP15–67–000.
*Applicants:* Midcontinent Express Pipeline LLC.
*Description:* § 4(d) rate filing per 154.204: Devon Gas Negotiated Rate to be effective 11/1/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5193.
*Comments Due:* 5 p.m. ET 11/10/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedngs**

*Docket Numbers:* RP14–1198–002.
*Applicants:* Eastern Shore Natural Gas Company.
*Description:* Compliance filing per 154.203: Compliance with Order on Filing in Compliance with Order to Show Cause to be effective 10/27/2014.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5181.
*Comments Due:* 5 p.m. ET 11/10/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 28, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–26152 Filed 11–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* PR15–3–000.
*Applicants:* Pelico Pipeline, LLC.
*Description:* Tariff filing per 284.123(b)(2) + (g): Rate Case to be effective 11/1/2014; TOFC: 1310.
*Filed Date:* 10/27/14.
*Accession Number:* 20141027–5032.
*Comments Due:* 5 p.m. ET 11/17/14.
*284.123(g) Protests Due:* 5 p.m. ET 12/26/14.

*Docket Numbers:* RP15–68–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) rate filing per 154.204: 10/28/14 Negotiated Rates—Cargill Incorporated (RTS) 3085–21 & 22 to be effective 11/1/2014.
*Filed Date:* 10/28/14.
*Accession Number:* 20141028–5074.
*Comments Due:* 5 p.m. ET 11/10/14.

*Docket Numbers:* RP15–69–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) rate filing per 154.204: 10/28/14 Negotiated Rates—United Energy Trading, LLC (HUB) to be effective 11/1/2014.
*Filed Date:* 10/28/14.
*Accession Number:* 20141028–5075.
*Comments Due:* 5 p.m. ET 11/10/14.

*Docket Numbers:* RP15–70–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) rate filing per 154.204: 10/28/14 Negotiated Rates—Emera Energy Services (RTS) 2715–20 to be effective 11/1/2014.
*Filed Date:* 10/28/14.
*Accession Number:* 20141028–5077.
*Comments Due:* 5 p.m. ET 11/10/14.

*Docket Numbers:* RP15–71–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) rate filing per 154.204: 10/28/14 Negotiated Rates—Tenaska Gas Storage (HUB) 1175–89 to be effective 11/1/2014.
*Filed Date:* 10/28/14.
*Accession Number:* 20141028–5080.
*Comments Due:* 5 p.m. ET 11/10/14.

*Docket Numbers:* RP15–72–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) rate filing per 154.204: 10/28/14 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 11/1/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5113.

*Comments Due:* 5 p.m. ET 11/10/14.

*Docket Numbers:* RP15–73–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) rate filing per 154.204: 10/28/14 Negotiated Rates—Rainbow Energy Marketing Corp. (HUB) 7400–89 to be effective 11/1/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5114.

*Comments Due:* 5 p.m. ET 11/10/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

**Filings in Existing Proceedings**

*Docket Numbers:* RP14–945–001.

*Applicants:* WBI Energy Transmission, Inc.

*Description:* Compliance filing per 154.203: Compliance Filing on Order to Show Cause to be effective 10/16/2014.

*Filed Date:* 10/28/14.

*Accession Number:* 20141028–5039.

*Comments Due:* 5 p.m. ET 11/10/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated October 29, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–26156 Filed 11–3–14; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OEI–2011–0096; FRL–9918–82–OEI]**

## Proposed Information Collection Request; Comment Request; Cross-Media Electronic Reporting Rule

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Cross-Media Electronic Reporting Rule'' (EPA ICR No. 2002.06, OMB Control No. 2025–0003) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before January 5, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OEI–2011–0096, online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Karen Seeh, Office of Environmental Information, (2823T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–1175; fax number: 202–566–1684; email address: *seeh.karen@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* The scope of this ICR is the electronic reporting components of CROMERR, which is designed to: (i) Allow EPA to comply with the Government Paperwork Elimination Act of 1998; (ii) provide a uniform, technology-neutral framework for electronic reporting across all EPA programs; (iii) allow EPA programs to offer electronic reporting as they become ready for CROMERR; and (iv) provide states with a streamlined process—together with a uniform set of standards—for approval of their electronic reporting provisions for all their EPA-authorized programs. Responses to the collection of information are voluntary. In order to accommodate CBI, the information collected must be in accordance with the confidentiality regulations set forth in 40 CFR Part 2, Subpart B. Additionally, EPA will ensure that the information collection procedures comply with the Privacy Act of 1974 and the OMB Circular 108.

*Form Numbers:* None.

*Respondents/affected entities:* Entities that report electronically to EPA and

state or local government authorized programs; and state and local government authorized programs implementing electronic reporting.

*Respondent's obligation to respond:* Voluntary, required to obtain or retain a benefit (Cross-Media Electronic Reporting Rule (CROMER) established to ensure compliance with the Government Paperwork Elimination Act (GPEA)).

*Estimated number of respondents:* 102,387 (total).

*Frequency of response:* On occasion.

*Total estimated burden:* 38,491 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $2,086,380 (per year), including $1,438,861 in annualized labor costs and $647,519 in annualized capital or operation & maintenance costs.

*Changes in Estimates:* There is a decrease of 1,272 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease occurred primarily because there was a decrease in the total annual number of employees complying with CROMERR's identity proofing requirements. In estimating the annual number of employees complying with the CROMERR's identity proofing requirements for this ICR, EPA was able to take advantage of improvements in data software and hardware capabilities and thus, develop estimates based on actual data instead of the complex calculations used in the currently approved ICR. In particular, EPA was able to obtain actual numbers and growth rates for the annual number of subscriber agreements submitted to CDX over the past several years. These data were used to improve the estimate for the annual number of subscriber agreements submitted by direct reporters. EPA believes that the respondent estimates included in this ICR are a reasonable approximation of the actual respondent universe.

Dated: October 28, 2014.

**Connie Dwyer,**

*Director, Information Exchange and Services Division.*

[FR Doc. 2014–26178 Filed 11–3–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL 9918–79–ORD]**

## Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods: Designation of Two New Reference Methods and Two New Equivalent Methods

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of designation of two reference methods and two equivalent methods for monitoring ambient air quality.

**SUMMARY:** Notice is hereby given that the Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR Part 53, two new reference methods and two new equivalent methods. The reference methods include one for measuring $PM_{2.5}$, and one for measuring $PM_{10-2.5}$ in the ambient air. The two equivalent methods are one for measuring carbon monoxide (CO) and one for measuring ozone ($O_3$) in the ambient air.

**FOR FURTHER INFORMATION CONTACT:** Robert Vanderpool, Human Exposure and Atmospheric Sciences Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Email: *Vanderpool.Robert@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with regulations at 40 CFR part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs), as set forth in 40 CFR part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR part 58 by States and other agencies for determining compliance with the NAAQSs.

The EPA hereby announces the designation of one new reference method for measuring $PM_{2.5}$, one new reference method for measuring $PM_{10-2.5}$, one new equivalent method for measuring concentrations of carbon monoxide (CO), and one equivalent method for measuring ozone ($O_3$) in the ambient air. These designations are made under the provisions of 40 CFR part 53, as amended on August 31, 2011 (76 FR 54326–54341).

The new reference method for $PM_{2.5}$ is a manual monitoring method based on a particular $PM_{2.5}$ sampler and is identified as follows:

RFPS–1014–219, ''Tisch Environmental Model TE-Wilbur2.5 $PM_{2.5}$ Low-Volume Air Particulate Sampler,'' configured as a $PM_{2.5}$ reference method, with firmware version 1.70 or later and a TE–$PM_{10}$–D $PM_{10}$ size-selective inlet as specified in 40 CFR 50 Appendix L Figs. L–2 thru L–19, with either a BGI VSCC™ Very Sharp Cut Cyclone particle size separator or WINS impactor, and operated for 24 sample periods at a flow rate of 16.67 L/min, using 47 mm PTFE membrane filter media, and in accordance with the Tisch Environmental Model TE-Wilbur2.5 $PM_{2.5}$ Low-Volume Air Particulate Sampler instruction manual and with the requirements and sample collection filters as specified in 40 CFR part 50, Appendix L.

The new $PM_{10-2.5}$ reference method utilizes a pair of filter samplers than have been designated individually as reference methods, one for $PM_{2.5}$ and the other one for $PM_{10}$, and have been shown to meet the requirements specified in Appendix O of 40 CFR part 50. The $PM_{2.5}$ and $PM_{10}$ samplers are designated as reference methods RFPS–1014–219 and RFPS–0714–216, respectively. The newly designated $PM_{10-2.5}$ sampler is identified as follows:

RFPS–1014–220, ''Tisch Environmental Model TE-Wilbur Low-Volume Air Particulate Sampler Pair'' for the determination of coarse particulate matter as $PM_{10-2.5}$, consisting of a pair of Tisch Environmental Model TE-Wilbur samplers, with one being the TE-Wilbur 2.5 $PM_{2.5}$ sampler (RFPS–1014–219) and the other being a TE-Wilbur 10 $PM_{10}$ sampler (RFPS–0714–216), and operated in accordance with the associated TE-Wilbur instruction manual. This designation applies to $PM_{10-2.5}$ measurements only.

The application for reference method determination for the $PM_{2.5}$ method was received by the Office of Research and Development on September 29, 2014 and the $PM_{10-2.5}$ method application was received on October 8, 2014. These monitors are commercially available from the applicant, Tisch Environmental, Inc., 145 S. Miami Avenue, Village of Cleves, OH 45002.

The newly designated equivalent method for CO is a mercury replacement-UV photometric method and is identified as follows:

EQCA–0814–217, ''Peak Laboratories, Model 910–170 Carbon Monoxide Analyzer'', (Mercury replacement—UV photometric method) operated on any

full scale range between 0–50 ppm, at any operating temperature from 20 °C to 30 °C, using a back-flushing GC scrubber, 99.9999% nitrogen carrier gas at a gas pressure of 60–80 psig, with a column temperature of 105 °C, and a detector temperature of 265 °C; inlet flow of 20–100 mL/min; in accordance with the associated instrument manual, and with or without any of the following options: Rack mount kit, internal sample pump, 4–20 mA output module, particle filter, and data collection software.

The application for equivalent method determination for the CO method was received by the Office of Research and Development on January 3, 2011. This monitor is commercially available from the applicant, Peak Laboratories, LLC, 2330 Old Middlefield Way Suite 10, Mountain View, CA 94043.

One new $O_3$ equivalent method is an automated monitoring method (analyzer) utilizing a measurement principle based on ultraviolet absorption photometry. The newly designated equivalent method is identified as follows:

EQOA–0914–218, ''2B Technologies Model 106–L or OEM–106–L Ozone Monitor'' operated in a range of 0–0.5 ppm in an environment of 20–30 °C, with temperature and pressure compensation, internal dewLine for humidity control, using a 1 minute average, with a 12V DC source supplied by a 100–240V AC power adapter, operated according to the Model 106 Ozone Monitor Operation Manual and with or without the following: Cigarette lighter adapter or a 12V DC battery for portable operation, external PTFE or PVDF inlet filter and holder, USB data port with computer cable.

The application for equivalent method determination for the $O_3$ method was received by the Office of Research and Development on June 24, 2014. This monitor is commercially available from the applicant, 2B Technology, Inc., 2100 Central Ave., Suite 105, Boulder, CO 80303.

Test monitors representative of these methods have been tested in accordance with the applicable test procedures specified in 40 CFR part 53, as amended on August 31, 2011. After reviewing the results of those tests and other information submitted in the application, EPA has determined, in accordance with part 53, that these methods should be designated as equivalent methods.

As designated reference and equivalent methods, these methods are acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the methods must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (e.g., configuration or operational settings) specified in the applicable designated method description (see the identification of the method above).

Use of the methods also should be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I,'' EPA/600/R–94/038a and ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program'' EPA–454/B–08–003, December, 2008. Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR part 58.

Consistent or repeated noncompliance should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these reference and equivalent methods is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR part 58. Questions concerning the commercial availability or technical aspects of the method should be directed to the applicant.

Dated: October 24, 2014.

**Jennifer Orme-Zavaleta,**

*Director, National Exposure Research Laboratory.*

[FR Doc. 2014–26165 Filed 11–3–14; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9917–88–OEI; EPA–HQ–OEI–2014–0466]**

## Notification of a New System of Records Notice for the Labor and Employee Relations Information System (LERIS)

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The U.S. Environmental Protection Agency's (EPA) Office of Administration and Resources Management is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). The Labor and Employee Relations Information System (LERIS) is being created to meet the needs of the Labor and Employee Relations (LER) Specialists, Attorney Advisors and Agency Leadership. This system will enable LER employees to access case information across the EPA for use in determining appropriate disciplinary penalties as well as reporting trends in LER issues. The system is accessed from an Internet browser using the Agency's secured portal.

**DATES:** Persons wishing to comment on this system of records notice must do so by December 15, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2014–0466, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: oei.docket@epa.gov.*
- *Fax:* 202–566–1752.
- *Mail:* OEI Docket, Environmental Protection Agency, Mail code: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OEI–2014–0466. 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 for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the

Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, (e. g., CBI or other information for which disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

**FOR FURTHER INFORMATION CONTACT:** Mitch Berkenkemper (202) 564–4702.

**SUPPLEMENTARY INFORMATION:**

## General Information

The U.S. Environmental Protection Agency (EPA) plans to create a Privacy Act system of records for the Labor and Employee Relations Information System (LERIS). LERIS will be used by LER Specialists, personnel or labor attorneys in the Office of Regional Counsel and EPA headquarters, LER attorneys in the EPA headquarters, and attorneys in the Office of General Counsel for the processing of grievances, demands to bargain, information requests and unfair labor practices filed by unions on behalf of their bargaining unit members, and processing disciplinary actions or performance-based actions against employees for misconduct or deficient job performance. LERIS will enable LER employees to access case information across the Agency for use in determining appropriate disciplinary penalties when those grievances, complaints, unfair labor practices or disciplinary actions lead to formal judicial or administrative hearings before a judge. The system will also report trends in LER issues.

The implementation of LERIS will have no effect on the privacy of individuals. The system is password-protected and access is restricted to Agency Human Resources (HR) specialists and legal staff who have a work-related need to utilize the information in the system. Permission-level assignments allow users access only to those functions for which they are authorized. All records are maintained in secure, access-controlled areas or buildings. The system is accessed from an internet browser using the Agency's secured portal and requires a user to have an established log-in name and password.

The system is maintained at a contractor's Xiolink facility in St. Louis, Missouri. LERIS is maintained by the Office of Human Resources, Labor and Employee Relations Division.

Dated: September 23, 2014.

**Renee P. Wynn,**

*Acting Assistant Administrator and Chief Information Officer.*

### EPA–68

**SYSTEM NAME:**

Labor and Employee Relations Information System (LERIS)

**SYSTEM LOCATION:**

Xiolink Facility, 1111 Olive St., St. Louis, MO 63101.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former EPA employees, including Health and Human Services (HHS) Public Health Service Commissioned Officers assigned to the EPA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system will contain general human resources elements, including First/Middle/Last Name, Appointment Type, Appointment Not-to-Exceed Date (if applicable), Service Computation Date for Leave Accrual Purposes, Service Computation Date for Retirement Eligibility Purposes, Position Title, Pay Plan, Occupational Series, Grade, Step, Supervisory Code, Bargaining Unit Status Code, Organizational Breakdown of Position's Location (''Organization Level 1'' through ''Organizational Level 8,'' as applicable) and Duty Station. The system will contain Labor Relations case file information regarding administrative grievances, Grievances of the Parties, negotiated grievances, formal discussions/meetings, union information requests, negotiations, unfair labor practice (ULP) charges, and unit clarification petitions. The system will contain Employee Relations case file information regarding employee counseling for misconduct or poor performance, disciplinary actions, adverse actions, performance-based actions, performance assistance plans, performance improvement plans, reasonable accommodation requests and Merit System Protection Board (MSPB) appeals.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. Chapter 71; 5 CFR 771; 5 CFR 752; 5 CFR 432.

**PURPOSE (S):**

These records are maintained in LERIS to administer EPA's Labor and Employee Relations program. They also provide the basic source of factual data about a person's federal employment while in the service and after his or her separation. Records in LERIS have various uses by Agency personnel offices, including employee's rights and benefits under pertinent laws and regulations governing Federal employment; and other information needed to provide personnel services. These records and their automated equivalents may also be used to locate individuals for personnel research.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

*General routine uses* A, B, C, D, E, and L apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

- Storage: These records are maintained in digital formats on servers and storage hard disks. The computer storage devices are located at the contractor's Xiolink facility in St. Louis, MO. Backup copies of this information are maintained at an alternate processing site in Bellevue, NE. Data is on hard disk media and retained per client requirements. Additional backup copies of each application are taken annually and retained for 7 years.
- Retrievability: These records are retrieved by the employee identification number or name.
- Safeguards: Computer records are maintained in a secure password-protected environment. Access to computer records is limited to those who have a need to know the information contained in the records. Permission-level assignments allow users access only to those functions for which they are authorized. All records are maintained in secure, access-controlled areas or buildings.

• Retention and Disposal: Records stored in the system are subject to records schedule 756.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Human Resources, Office of Administration and Resources Management, U.S. Environmental Protection Agency, WJC North, 1200 Pennsylvania Avenue NW., MC 3601, Washington, DC 20460.

**NOTIFICATION PROCEDURE:**

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the EPA FOIA Office, Attn: Privacy Act Officer, WJC West, MC 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

**RECORD ACCESS PROCEDURE:**

Individuals seeking access to information in this system of records about themselves are required to provide adequate identification (e.g. driver's license, military identification card, employee badge or identification card and, if necessary, proof of authority). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

**CONTESTING RECORDS PROCEDURE:**

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

**RECORD SOURCE CATEGORIES:**

The individual on whom the record is maintained, Agency officials such as managers and supervisors, HR specialists and assistants who process personnel actions, and HR Shared Service Centers.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 2014–26175 Filed 11–3–14; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0690]**

## Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before January 5, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0690.

*Title:* Section 101.17, Performance Requirements for the 38.6–40.0 GHz Frequency Band.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities; Not-for-profit institutions; and State, local, or tribal government.

*Number of Respondents:* 5 respondents; 44 responses.

*Estimated Time per Response:* 2 hours.

*Frequency of Response:* Reporting requirement at the end of the10-year license term.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for these information collections are contained in 47 U.S.C. 4(i), 303(c), 303(g), 303(r), and 309(j) of the Communications Act of 1934, as amended.

*Total Annual Burden:* 30 hours.

*Total Annual Cost:* $17,400.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* There may be a need for confidentiality. Applicants may request confidentiality and request confidential treatment in connection with their substantial service showings pursuant to 47 CFR 0.459 of the Commission's rules.

*Needs and Uses:* The Commission is submitting this expiring information collection to the Office of Management and Budget (OMB) as an extension to obtain the full three year clearance from them.

The information collection requirements that are contained in Section 101.17 of the Commission's rules require that all 38.6–40.0 GHz band licensees demonstrate substantial service at the time of license renewal (at the end of the ten year license term). A licensee's substantial service showing should include, but not be limited to, the following information for each channel for which they hold a license, in each Economic Area (EA) or a portion of the EA covered by their license, in order to qualify for renewal of that license. The information is used by the Commission staff to satisfy requirements for licensees to demonstrate substantial service at the time of license renewal. Also, the information is used by the Commission to determine whether the licensee is providing service which rises to the level of ''substantial'' requiring the following information:

(1) A description of the 38.6–40.0 GHz band licensee's current service in terms of geographic coverage;

(2) A description of the 38.6–40.0 GHz band licensee's current service in terms

of population served, as well as any additional service provided during the license term; and

(3) A description of the 38.6–40.0 GHz band licensee's investments in its system(s) (type of facilities constructed and their operational status is required).

Any licensees adjudged not to be providing substantial service will not have their license renewed.

Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2014–26115 Filed 11–3–14; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0027]**

## Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before January 5, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0027.

*Title:* Application for Construction Permit for Commercial Broadcast Station, FCC Form 301; FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule A.

*Form Number:* FCC Form 301.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business and other for-profit entities; Not for profit entities; State, local or Tribal governments.

*Number of Respondents and Responses:* 3,775 respondents and 7,211 responses.

*Estimated Time per Response:* 1–6.25 hours.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure requirement.

*Total Annual Burden:* 17,372 hours.

*Total Annual Costs:* $68,901,963.

*Obligation To Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Impact Assessment(s):* No impact(s).

*Needs and Uses:* FCC Form 301 is used to apply for authority to construct a new commercial AM, FM, or TV broadcast station and to make changes to existing facilities of such a station. It may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request, by filing though an application on FCC Form 301, upgrades on adjacent and co-channels, modifications to adjacent channels of the same class, and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists that would comply with allotment standards with respect to minimum distance separation and principal community coverage and that would be suitable for tower construction. For applicants to seek a community of license change through this one-step process, the proposed facility must be mutually exclusive with the applicant's existing facility, and the new facility must comply with the Commission's standards with respect to minimum distance separation and principal community coverage. Applicants availing themselves of this procedure must also attach an exhibit demonstrating that the proposed community of license change comports with the fair, efficient, and equitable distribution of radio service, pursuant to Section 307(b) of the Communications Act of 1934, as amended (the ''Act'').

FCC Form 301 also accommodates commercial FM applicants applying in a Threshold Qualifications Window (''TQ Window'') for a Tribal Allotment. A commercial FM applicant applying in the TQ Window, who was not the original proponent of the Tribal Allotment at the rulemaking stage, must demonstrate that it would have qualified in all respects to add the particular Tribal Allotment for which it is applying. Additionally, a petitioner seeking to add a Tribal Allotment to the FM Table of Allotments must file Form 301 when submitting its Petition for Rulemaking. The collection also accommodates applicants applying in a TQ Window for a Tribal Allotment that had been added to the FM Table of Allotments using the Tribal Priority under the new ''threshold qualifications'' procedures adopted in the Third R&O, FCC 11–190.

To receive authorization for commencement of Digital Television (''DTV'') operations, commercial broadcast licensees must file FCC Form 2100, Schedule A for a construction permit. The application may be filed anytime after receiving the initial DTV allotment and before mid-point in the applicant's construction period. The Commission will consider the application as a minor change in facilities. Applicants will not have to provide full legal or financial qualification information.

This collection also includes the third party disclosure requirement of 47 CFR 73.3580. This rule requires applicants to provide local public notice, in a newspaper of general circulation published in a community in which a station is located, of requests for new or major changes in facilities and for changes of a station's community of license by AM and non-reserved band

FM permittees and licensees. The notice must be completed within 30 days of tendering the application and must be published at least twice a week for two consecutive weeks in a three-week period. A copy of the notice and the application must be placed in the station's public inspection file, pursuant to Section 73.3527.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of the Managing Director.*

[FR Doc. 2014–26114 Filed 11–3–14; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Employee Thrift Advisory Council; Sunshine Act; Notice of Meeting

**TIME AND DATE:** 10:00 a.m. (Eastern Time) November 12, 2014.

**PLACE:** 10th Floor Board Meeting Room, 77 K Street NE., Washington DC 20002.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

**Open to the Public**

1. Approval of the minutes of the May 19, 2014 ETAC Meeting
2. Mutual Fund Window
3. Participant Demographic Report
4. New Participant Experience
5. New Business

**CONTACT PERSON FOR MORE INFORMATION:** Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: October 31, 2014.

**Megan Grumbine,**

*Deputy General Counsel, Federal Retirement Thrift Investment Board.*

[FR Doc. 2014–26310 Filed 10–31–14; 4:15 pm]

**BILLING CODE 6760–01–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0037; Docket 2014–0055; Sequence 19]**

### Federal Acquisition Regulation; Submission to OMB for Review; Presolicitation Notice and Response

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning pre- solicitation notice and response. A notice was published in the **Federal Register** at 79 FR 49316 on August 20, 2014. No comments were received.

**DATES:** Submit comments on or before December 4, 2014.

**ADDRESSES:** Submit comments identified by Information Collection 9000–0037, Presolicitation Notice and Response, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB Control number 9000–0037. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0037, Presolicitation Notice and Response''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0037, Presolicitation Notice and Response'' on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd floor, Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0037, Presolicitation Notice and Response.

*Instructions:* Please submit comments only and cite Information Collection 9000–0037, Presolicitation Notice and Response, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, Acquisition Policy Division, GSA 202–219–0202 or *Cecelia.davis@gsa.gov.*

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Presolicitation notices are used by the Government for several reasons, one of which is to aid prospective contractors in submitting proposals without undue expenditure of effort, time, and money. The Government also uses the presolicitation notices to control printing and mailing costs. The presolicitation notice response is used to determine the number of solicitation documents needed and to assure that interested offerors receive the solicitation documents. The responses are placed in the contract file and referred to when solicitation documents are ready for mailing. After mailing, the responses remain in the contract file and become a matter of record.

**B. Annual Reporting Burden**

*Respondents:* 5,310.

*Responses per Respondent:* 8.

*Annual Responses:* 42,480.

*Hours per Response:* .08.

*Total Burden Hours:* 3,398.

**C. Public Comments**

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

*Obtaining Copies Of Proposals:* Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0037, Presolicitation Notice and Response, in all correspondence.

Dated: October 30, 2014.

**Edward Loeb,**

*Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2014–26194 Filed 11–3–14; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–15–0314]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

**Proposed Project**

The National Survey of Family Growth (NSFG)—(0920–0314, expires 04/30/2015)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on ''family formation, growth, and dissolution,'' as well as ''determinants of health'' and ''utilization of health care'' in the United States. This three-year clearance request includes the data collection in 2015–2017 for the continuous NSFG.

The National Survey of Family Growth (NSFG) was conducted periodically between 1973 and 2002, continuously in 2006–2010, and continuously starting in Fall 2011, by the National Center for Health Statistics, CDC. Each year, about 14,000 households are screened, with about 5,000 participants interviewed annually. Participation in the NSFG is completely voluntary and confidential. Interviews average 60 minutes for males and 80 minutes for females. The response rate since 2006 has been about 77 percent for both males and females.

The NSFG program produces descriptive statistics which document factors associated with birth and pregnancy rates, including contraception, infertility, marriage, divorce, and sexual activity, in the U.S. household population 15–44 years; and behaviors that affect the risk of sexually transmitted diseases (STD), including HIV, and the medical care associated with contraception, infertility, and pregnancy and childbirth. Beginning in 2015, the NSFG will expand its age range to represent the U.S. household population 15–49 years.

NSFG data users include the DHHS programs that fund it, including CDC/NCHS and ten others (The Eunice Kennedy Shriver National Institute for Child Health and Human Development (NIH/NICHD); the Office of Population Affairs (DHHS/OPA); the Office of the Assistant Secretary for Planning and Evaluation (DHHS/OASPE); the Children's Bureau (DHHS/ACF/CB); the ACF's Office of Planning, Research, and Evaluation; the CDC's Division of HIV/AIDS Prevention (CDC/DHAP); the CDC's Division of STD Prevention (CDC/DSTD); the CDC's Division of Reproductive Health (CDC/DRH); the CDC's Division of Cancer Prevention and Control (CDC/DCPC); and the CDC's Division of Birth Defects and Developmental Disabilities (DBDDD)). The NSFG is also used by state and local governments; private research and action organizations focused on men's and women's health, child well-being, and marriage and the family; academic researchers in the social and public health sciences; journalists, and many others.

This submission requests approval for three years. Questionnaire revisions are requested for fieldwork starting in September 2015. A small set of additional changes may be requested in the future, to be responsive to emerging public policy issues. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|
| 1. Screener Respondents | 14,000 | 1 | 3/60 | 700 |
| 2. Interview Females | 2,750 | 1 | 1.5 | 4,125 |
| 3. Interview Males | 2,250 | 1 | 1.0 | 2,250 |
| 4. Verification Questions | 1,400 | 1 | 5/60 | 117 |
| 5. Testing Questions | 250 | 1 | 1 | 250 |
| Total | | | | 7,442 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2014–26084 Filed 11–3–14; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–15–14ADD]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

National Occupational Research Agenda (NORA) 2016 Decade Review—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The National Institute for Occupational Safety and Health (NIOSH) is responsible for conducting research and making recommendations to prevent worker injury and illness, as authorized in Section 20(a)(1) of the Occupational Safety and Health Act (29 U.S.C. 669). In 1995–6, NIOSH saw an opportunity to enhance its ability to accomplish its mission through partnerships that involved a broad national stakeholder base in occupational safety and health. With stakeholder input, NIOSH developed and launched a decade-long partnership program titled the National Occupational Research Agenda (NORA) in 1996. Participation in NORA includes stakeholders from universities, large and small businesses, professional societies, government agencies, and worker organizations. After an internal management review of the first decade of NORA, conducted in 2005, NIOSH launched the second decade of NORA (2006–2016) structured for even greater national impact. This information collection is a necessary part of a larger internal NIOSH management review of the second decade of NORA. The results of this review will inform NIOSH decisions about how to structure a third decade of NORA (2016–2026) for maximum effectiveness and impact.

The second decade of NORA was based on a new sector structure to better move research to practice within workplaces. The work of the sectors is managed through a partnership structure of sector councils. Each council develops and maintains an agenda for the decade for its sector. The sector agendas become part of the national agenda for improvements in occupational safety and health through research and partnerships. Representing all stakeholders, the councils use an open process to set goals, develop strategies, encourage partnerships, and promote improved workplace practices.

NIOSH is requesting a 12-month OMB approval to administer a survey to NORA council members and leaders. The collection of information is necessary for NIOSH management to assess the efficiency and effectiveness of the NORA sector councils. The target population is all current and former members and leaders of each of the ten NORA Sector Councils. The web-based questionnaire requests information on satisfaction with the efficiency of the council and its processes, on impacts made in the sector during the second decade, and suggestions for improving the effectiveness and impact of NORA in the future. Without this data collection, NIOSH's internal management review of NORA would lack critical stakeholder input from its many non-Federal partners.

A 16-item questionnaire has been developed and will be sent to all 352 non-Federal NORA Sector council members or leaders. A pilot test of the questionnaire was conducted by asking eight NIOSH employees who are a leader of a NORA sector council to complete the questionnaire and provide feedback. Respondents to the pilot test estimated the questionnaire requires approximately 15 minutes to complete. The total estimated burden is 88 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hrs.) |
|---|---|---|---|---|
| Council member or leader | Council Questionnaire | 352 | 1 | 15/60 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2014–26132 Filed 11–3–14; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Advisory Committee on Breast Cancer in Young Women (ACBCYW)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

*Times and Dates:* 9:00 a.m.–5:30 p.m. EST, December 4, 2014; 8:00 a.m.–12:00 p.m. EST, December 5, 2014.

*Place:* CDC, 4770 Buford Highway, Chamblee Building 107 1B/1C, Atlanta, Georgia 30341.

This meeting is also accessible by teleconference and web access. Teleconference and web access login information is as follows:

*Toll-Free Telephone:* 1–800–621–3587, Participant passcode: 9679129. There is also a toll number for anyone outside of the USA: TOLL NUMBER: 1–517–308–9263, Participant passcode: 96791NET CONFERENCE AND WEB URL: For December 4, 2014: *https://www.mymeetings.com/nc/join/* Conference number: PW9240020, Audience passcode: 9679129.

For December 5, 2014: *https://www.mymeetings.com/nc/join/* Conference number: PW9240028, Audience passcode: 9679129.

Participants can join the event directly at: *https://www.mymeetings.com/nc/join.php?i=PW9240020&p=9679129&t=c.*

*Status:* Open to the public, limited only by the space and phone lines available.

*Purpose:* The committee provides advice and guidance to the Secretary, HHS; the Assistant Secretary for Health; and the Director, CDC, regarding the formative research, development, implementation and evaluation of evidence-based activities designed to prevent breast cancer (particularly among those at heightened risk) and promote the early detection and support of young women who develop the disease. The advice provided by the Committee will assist in ensuring scientific quality, timeliness, utility, and dissemination of credible appropriate messages and resource materials.

*Matters for Discussion:* The agenda will include discussions on the current and emerging topics related to breast cancer in young women. These may include public health communication, breast cancer in young women digital and social media campaigns, and CDC updates. Topics will address efforts increase awareness around breast cancer risk, breast health, symptoms, diagnosis, and treatment of breast cancer in young women.

Agenda items are subject to change as priorities dictate.

Online Registration Required: In order to expedite the security clearance process required for entry into a Federal building, all ACBCYW attendees must register for the meeting online at least 7 days in advance at *http://www.cdc.gov/cancer/breast/what_cdc_is_doing/meetings.htm.* Please complete all the required fields before submitting your registration and submit no later than November 28, 2014. Each meeting day, attendees must provide CDC staff and security with driver's license/state issued ID, or passport.

*Contact Person for More Information:* Temeika L. Fairley, Ph.D., Designated Federal Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 5770 Buford Hwy. NE., Mailstop K52, Atlanta, Georgia 30341, Telephone (770) 488–4518, Fax (770) 488–4760. Email: *acbcyw@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and Agency for Toxic Substances and Disease Registry.

**Claudette Grant,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2014–26082 Filed 11–3–14; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Board of Scientific Counselors, Office of Infectious Diseases (BSC, OID); Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

*Time and Date:* 10:00–11:00 a.m. EST, November 20, 2014.

*Place:* Teleconference.

*Status:* The meeting is open to the public; the toll free dial in number is 1–877–951–7311 with a pass code of 1588067.

*Purpose:* The BSC, OID, provides advice and guidance to the Secretary, Department of Health and Human Services; the Director, CDC; the Director, OID; and the Directors of the National Center for Immunization and Respiratory Diseases, the National Center for Emerging and Zoonotic Infectious Diseases, and the National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, CDC, in the following areas: strategies, goals, and priorities for programs; research within the national centers; and overall strategic direction and focus of OID and the national centers.

*Matters for Discussion:* Discussions will focus on current responses and national center priorities.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Robin Moseley, M.A.T., Designated Federal Officer, OID, CDC, 1600 Clifton Road NE., Mailstop D10, Atlanta, Georgia 30333, Telephone: (404) 639–4461.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Claudette Grant,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2014–26083 Filed 11–3–14; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10527]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to

be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by January 5, 2015.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:**

## Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

### CMS–10527 Annual Eligibility Redetermination, Product Discontinuation and Renewal Notices

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

### Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Annual Eligibility Redetermination, Product Discontinuation and Renewal Notices; *Use:* Section 1411(f)(1)(B) of the Affordable Care Act directs the Secretary of Health and Human Services (the Secretary) to establish procedures to redetermine the eligibility of individuals on a periodic basis in appropriate circumstances. Section 1321(a) of the Affordable Care Act provides authority for the Secretary to establish standards and regulations to implement the statutory requirements related to Exchanges, QHPs and other components of title I of the Affordable Care Act. Under section 2703 of the PHS Act, as added by the Affordable Care Act, and sections 2712 and 2741 of the PHS Act, enacted by the Health Insurance Portability and Accountability Act of 1996, health insurance issuers in the group and individual markets must guarantee the renewability of coverage unless an exception applies.

The final rule ''Patient Protection and Affordable Care Act; Annual Eligibility Redeterminations for Exchange Participation and Insurance Affordability Programs; Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges'' (79 FR 52994), provides that an Exchange may choose to conduct the annual redetermination process for a plan year (1) in accordance with the existing procedures described in 45 CFR 155.335; (2) in accordance with procedures described in guidance issued by the Secretary for the coverage year; or (3) using an alternative proposed by the Exchange and approved by the Secretary. The guidance document ''Guidance on Annual Redeterminations for Coverage for 2015'' contains the procedures that the Secretary is specifying for the 2015 coverage year, as noted in (2) above. These procedures will be adopted by the Federally-facilitated Exchange. Under this option, the Exchange will provide three notices. These notices may be combined.

The final rule also amends the requirements for product renewal and re-enrollment (or non-renewal) notices to be sent by Qualified Health Plan (QHP) issuers in the Exchanges and specifies content for these notices. The accompanying guidance document ''Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market'' provides standard notices for product discontinuation and renewal to be sent by issuers of individual market QHPs and issuers in the individual market. Issuers in the small group market may use the draft Federal standard small group notices released in the June 26, 2014 bulletin ''Draft Standard Notices When Discontinuing or Renewing a Product in the Small Group or Individual Market,'' or any forms of the notice otherwise permitted by applicable laws and regulations. States that are enforcing the Affordable Care Act may develop their own standard notices, for product discontinuances, renewals, or both, provided the State-developed notices are at least as protective as the Federal standard notices. *Form Number:* CMS–10527; *Frequency:* Annual; *Affected Public:* Private Sector, State Governments; *Number of Respondents:* 2,945; *Number of Responses:* 12,224; *Total Annual Hours:* 149,186. (For policy questions regarding this collection, contact Usree Bandyopadhyay at 410–786–6650.)

Dated: October 29, 2014.

**Martique Jones,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2014–26041 Filed 11–3–14; 8:45 am]

BILLING CODE 4120–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–10522]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect

information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by December 4, 2014.

**ADDRESSES:** When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Executive Summary Form for Research Identifiable Data; *Use:* The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare, Medicaid and State Children's Health Insurance Programs. We collect data to support the Agency's mission and operations. These data include information about Medicare beneficiaries, Medicare claims, Medicare providers, and Medicaid eligibility and claims. We disclose the identifiable data consistent with the routine uses identified in the Privacy Act Systems of Records notices that are published in the **Federal Register** and the limitations on uses and disclosures that are set out in the HIPAA Privacy Rule.

All requests for identifiable data are received and reviewed by the Division of Privacy Operations & Compliance (DPOC) in the Office of E-Health Standards and Services. The DPOC staff and the CMS Privacy Officer review the requests to determine if there is legal authorization for disclosure of the data. If legal authorization exists, the request is reviewed to ensure that the minimal data necessary is requested and approved for the project. Requests for identifiable data for research purposes must be submitted to and approved by the CMS Privacy Board. To assist the CMS Privacy Board with its review of research data requests, OIPDA has developed the Executive Summary (ES) forms. The ES collects all the information that the CMS Privacy Board needs to review and make a determination on whether the request meets the requirements for release of identifiable data for research purposes. We currently have three versions of the ES Form and an ES Supplement for Requestors of the National Death Index (NDI) Causes of Death Variables. Each meets the need for a different type of requestor. *Form Number:* CMS–10522 (OMB control number: 0938–New); *Frequency:* On occasion; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 325; *Total Annual Responses:* 325; *Total Annual Hours:* 650. (For policy questions regarding this collection contact Kim Elmo at 410–786–0161).

Dated: October 29, 2014.

**Martique Jones,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2014–26040 Filed 11–3–14; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Family Violence Prevention and Services: Grants to States; Native American Tribes and Alaskan Native Villages; and State Domestic Violence Coalitions.

*OMB No.:* 0970–0280.

*Description:* The Family Violence Prevention and Services Act (FVPSA), 42 U.S.C. 10401 et seq., authorizes the Department of Health and Human Services to award grants to States, Territories, Tribes or Tribal Organizations, and State Domestic Violence Coalitions for family violence prevention and intervention activities. The proposed information collection activities will be used to make grant award decisions and to monitor grant performance.

*Respondents:* State Agencies and Territories Administering FVPSA Grants; Tribal Governments and Tribal Organizations; and State Domestic Violence Coalitions.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| State Grant Application | 53 | 1 | 10 | 530 |
| Tribal Grant Application | 150 | 1 | 5 | 750 |
| State Domestic Violence Coalition Application | 56 | 1 | 10 | 560 |
| State FVPSA Grant Performance Progress Report | 53 | 1 | 10 | 530 |
| Tribal FVPSA Grant Performance Progress Report | 150 | 1 | 10 | 1,500 |
| State Domestic Violence Coalition Performance Progress Report | 56 | 1 | 10 | 560 |

*Estimated Total Annual Burden Hours:* 4,430.

*Additional Information:*

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

*OMB Comment:*

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2014–26101 Filed 11–3–14; 8:45 am]

BILLING CODE 4184–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Annual Statistical Report on Children in Foster Homes and Children in Families Receiving Payment in Excess of the Poverty Income Level from a State Program Funded Under Part A of Title IV of the Social Security Act.

*OMB No.:* 0970–0004.

*Description:* The Department of Health and Human Services is required to collect these data under section 1124 of Title I of the Elementary and Secondary Education Act, as amended by Public Law 103–382. The data are used by the U.S. Department of Education for allocation of funds for programs to aid disadvantaged elementary and secondary students. Respondents include various components of State Human Service agencies.

*Respondents:* The 52 respondents include the 50 States, the District of Columbia, and Puerto Rico.

ANNUAL BURDEN ESTIMATES

| Instrument title | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Annual Statistical Report on Children in Foster Homes and Children Receiving Payments in Excess of the Poverty Level From a State Program Funded Under Part A of Title IV of the Social Security Act | 52 | 1 | 264.35 | 13,746.20 |

*Estimated Total Annual Burden Hours:* 13,746.20.

*Additional Information:*

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

*OMB Comment:*

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2014–26138 Filed 11–3–14; 8:45 am]

BILLING CODE 4184–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–N–0341]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Updating Labeling for Susceptibility Test Information in Systemic Antibacterial Drug Products and Antimicrobial Susceptibility Testing Devices

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by December 4, 2014.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0638. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

## Guidance for Industry on Updating Labeling for Susceptibility Test Information in Systemic Antibacterial Drug Products and Antimicrobial Susceptibility Testing Devices—(OMB Control Number 0910–0638)—Extension

The Food and Drug Administration Amendments Act of 2007 (FDAAA) includes a requirement that FDA identify and periodically update susceptibility test interpretive criteria for antibacterial drug products and make those findings publicly available. As a result of this provision, the guidance explains the importance of making available to health care providers the most current information regarding susceptibility test interpretive criteria for antibacterial drug products. To address concerns about antibacterial drug product labeling with out-of-date information on susceptibility test interpretive criteria, quality control parameters, and susceptibility test methods, the guidance describes procedures for FDA, applications holders, and antimicrobial susceptibility testing device manufacturers to ensure that updated susceptibility test information is available to health care providers. Where appropriate, FDA will identify susceptibility test interpretive criteria, quality control parameters, and susceptibility test methods by recognizing annually, in a **Federal Register** notice, standards developed by one or more nationally or internationally recognized standard development organizations. FDA recognized standards will be available to application holders of approved antibacterial drug products for updating their product labeling.

Application holders can use one of the following approaches to meet their responsibilities to update their product labeling under the guidance and FDA regulations: Submit a labeling supplement that relies upon a standard recognized by FDA in a **Federal Register** notice or submit a labeling supplement that includes data supporting a proposed change to the microbiology information in the labeling. In addition, application holders should include in their annual report an assessment of whether the information in the ''Microbiology'' subsection of their product labeling is current or whether changes are needed. This information collection is already approved by OMB under control numbers 0910–0572 (the requirement in 21 CFR 201.56(a)(2) to update labeling when new information becomes available that causes the labeling to become inaccurate, false, or misleading) and 0910–0001 (the requirement in 21 CFR 314.70(b)(2)(v) to submit labeling supplements for certain changes in the product's labeling and the requirement in 21 CFR 314.81(b)(2)(i) to include in the annual report a brief summary of significant new information from the previous year that might affect the labeling of the drug product).

In addition, under the guidance, if the information in the applicant's product labeling differs from the standards recognized by FDA in the **Federal Register** notice, and the applicant believes that changes to the labeling are not needed, the applicant should provide written justification to FDA why the recognized standard does not apply to its drug product and why changes are not needed to the ''Microbiology'' subsection of the product's labeling. This justification should be submitted as general correspondence to the product's application, and a statement indicating that no change is currently needed and the supporting justification should be included in the annual report. Based on our knowledge of the need to update information on susceptibility test interpretive criteria, susceptibility test methods, and quality control parameters in the labeling for systemic antibacterial drug products for human use, and our experience with the FDAAA requirement and the guidance recommendations during the past 16 months, we estimate that, annually, approximately two applicants will submit the written justification described previously and in the guidance, and that each justification will take approximately 16 hours to prepare and submit to FDA as general correspondence and as part of the annual report.

In the **Federal Register** of April 7, 2014 (79 FR 19099), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one comment. The comment expressed support for FDA's efforts to review updated breakpoints published by appropriate nationally or internationally recognized standard setting bodies, and then determine whether to recognize these recommendations in an annual **Federal Register** notice based upon the best available scientific and clinical evidence. The comment also urged FDA and outside organizations to prioritize the harmonization of breakpoints, taking into account possible differences in doses and dosing schedules used in different parts of the world. The comment also expressed support for the provisions in the Antibiotic Development to Advance Patient Treatment (ADAPT) Act, H.R. 3742. The comment said that the ADAPT Act would direct FDA to publish quarterly on its Web site new or updated breakpoints set by an appropriate standard setting organization and recognized by the Agency. The comment said it would also support additional statutory changes to remove breakpoint information from the paper labeling of antibacterial drugs and establish a scheme whereby FDA may clear antimicrobial susceptibility testing devices that incorporate breakpoints that have been set by an outside standard setting body and recognized by the FDA.

FDA appreciates the comment and we will continue our efforts on updating information on susceptibility test interpretive criteria, susceptibility test methods, and quality control parameters in the labeling for systemic antibacterial drug products for human use.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Justification Submitted as General Correspondence and in the Annual Report | 2 | 1 | 2 | 16 | 32 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 28, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–26140 Filed 11–3–14; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–N–0420]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Testing Communications on Food and Drug Administration-Regulated Products Used in Animals

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by December 4, 2014.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0689. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd.; COLE–14526, Silver Spring, MD 20993–0002 *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Testing Communications on FDA/Center for Veterinary Medicine (CVM)-Regulated Products Used in Animals (21 U.S.C. 393 (d)(2)(D))—OMB Control Number 0910–0689—Reinstatement**

FDA is authorized by section 1003(d)(2)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)(D)) to conduct educational and public information programs relating to the safety of CVM-regulated products. FDA must conduct needed research to ensure that such programs have the highest likelihood of being effective. FDA expects that improving communications about the safety of regulated animal drugs, feed, food additives, and devices will involve many research methods, including individual indepth interviews, mall-intercept interviews, focus groups, self-administered surveys, gatekeeper reviews, and omnibus telephone surveys.

The information collected will serve three major purposes. First, as formative research it will provide critical knowledge needed about target audiences to develop messages and campaigns about the use of FDA-regulated products for use in animals. Knowledge of consumer and veterinary professional decision-making processes will provide the better understanding of target audiences that FDA needs to design effective communication strategies, messages, labels, and labeling. These communications will aim to improve public understanding of the risks and benefits of using regulated animal drugs, feed, food additives, and devices by providing users with a better context in which to place risk information more completely.

Second, as initial testing, it will allow FDA to assess the potential effectiveness of messages and materials in reaching and successfully communicating with their intended audiences. Testing messages with a sample of the target audience will allow FDA to refine messages while still in the developmental stage. Respondents will be asked to give their reaction to the messages in either individual or group settings.

Third, as evaluative research, it will allow FDA to ascertain the effectiveness of the messages and the distribution method of these messages in achieving the objectives of the message campaign. Evaluation of campaigns is a vital link in continuous improvement of communications at FDA.

In the **Federal Register** of June 16, 2014 (79 FR 34312) FDA published a 60-day notice requesting public comment on the proposed collection of information. One comment was submitted; however, it was not responsive to the four collection of information topics solicited and therefore is not discussed in this document.

FDA estimates the burden of this collection of information based on recent prior experience with the various types of data collection methods described in this document:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 U.S.C. 393(d)(2)(D) | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Individual Indepth Interviews | 360 | 1 | 360 | 0.75 | 270 |
| General Public Focus Group Interviews | 288 | 1 | 288 | 1.5 | 432 |
| Intercept Interviews: Central Location | 600 | 1 | 600 | 0.25 | 150 |
| Intercept Interviews: Telephone | [2] 10,000 | 1 | 10,000 | 0.08 | 800 |
| Self-Administered Surveys | 2,400 | 1 | 2,400 | 0.25 | 600 |

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

| 21 U.S.C. 393(d)(2)(D) | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Gatekeeper Reviews | 400 | 1 | 400 | 0.50 | 200 |
| Omnibus Surveys | 2,400 | 1 | 2,400 | 0.17 | 408 |
| Total (General Public) | 16,448 | | 16,448 | | 2,860 |
| Veterinarian/Scientific Expert Focus Group Interviews | 288 | 1 | 288 | 0.75 | 216 |
| Total (Veterinarians/Scientific Experts) | 288 | 1 | 288 | | 216 |
| Total (Overall) | 16,736 | 1 | 16,736 | | 3,076 |

[1] There are no capital costs or operating or maintenance costs associated with this collection of information.
[2] These are brief interviews with callers to test message concepts and strategies following their call-in request to an FDA Center 1–800 number.

Annually, FDA projects about 30 studies with 16,736 respondents, using a variety of research methods and lasting an average of 0.17 hours each (varying from 0.08–1.5 hours).

Dated: October 28, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–26141 Filed 11–3–14; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1161]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food Safety Survey

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by December 4, 2014.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0345. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Road, COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Food Safety Survey—(OMB Control Number 0910–0345)—Reinstatement

#### I. Background

Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2)), we are authorized to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. The Food Safety Survey measures consumers' knowledge, attitudes, and beliefs about food safety. Previous versions of the survey were collected in 1988, 1993, 1998, 2001, 2006, and 2010. Data from the previous Food Safety Surveys and from this proposed survey will be used to evaluate two Healthy People 2020 objectives: (1) Increase the proportion of consumers who follow key food safety practices (Objective FS–5) and (2) reduce severe allergic reactions to food among adults with a food allergy diagnosis (Objective FS–4) (Ref. 1). Data from this survey will also be used to measure progress toward the United States Department of Agriculture's Food Safety Inspection Service's Fiscal Year 2011-Fiscal Year 2016 Strategic Plan goal of ensuring that, ''Consumers, including vulnerable and underserved populations, adopt food safety best practices'' (Ref. 2). Additionally, Food Safety Survey data are used to measure trends in consumer food safety habits including hand and cutting board washing, cooking practices, and use of food thermometers. Finally, data are used to evaluate educational messages and to inform policymakers about consumer attitudes about technologies such as food irradiation and biotechnology.

The proposed Food Safety Survey will contain many of the same questions and topics as previous Food Safety Surveys to facilitate measuring trends in food safety knowledge, attitudes, and behaviors over time. The proposed survey will also be updated to explore emerging consumer food safety topics and expand understanding of previously asked topics. For example, recent papers in both the United States (Ref. 3) and Europe (Refs. 4 and 5) have pointed to changing epidemiology of listeriosis where adults over 60 years old have the highest rates of the illness. One reason for the increase in listeriosis rates among those over 60 years old could be increasing host susceptibility due to widened use of immunocompromising medications. We plan to include questions on the proposed survey to document the proportion of those over 60 years old who self-report taking a defined list of major immunocompromising medications. In conjunction with our established questions about safe food handling and eating potentially risky foods, the additional questions will expand our understanding of listeriosis among those over 60. Other new topics planned to be covered on the survey include: Consumer understanding of mechanically tenderized beef, awareness of foodborne pathogens such as *Toxoplasma gondii,* and awareness of the risks associated with eating raw sprouts.

The methods for the proposed Food Safety Survey will be largely the same as those used with the previous Food Safety Surveys. One major difference is that, unlike the data collection mode for previous Food Safety Surveys that used only land telephone lines, the proposed survey will include cell phones in addition to landlines. A nationally representative sample of 4,000 adults

(2,400 landline and 1,600 cell phone) will be selected at random for the telephone interviews. The survey will also include an oversample of Hispanics and Blacks to ensure a minimum of 400 each. Additionally, 50 non-respondents will be asked to participate in a short version of the survey from which we will conduct a non-response analysis. Participation in the survey will be voluntary. Cognitive interviews and a pre-test will be conducted prior to fielding the survey.

In the **Federal Register** of November 1, 2013 (78 FR 65661), we published a 60-day notice requesting public comment on the proposed collection of information. We received two letters in response to the notice, each containing one comment. The comments, and our responses, are discussed in the following paragraphs. For ease of reading, we preface each comment with a numbered ''Comment''; and each response by a corresponding numbered ''Response.'' We have numbered each comment to help distinguish between different topics. The number assigned to each comment is for organizational purposes only and does not signify the comment's value, or importance, or the order in which it was received.

(Comment 1) One comment asked if a sample size of 4,000 was sufficient for this study, and suggested that FDA work with the Centers for Disease Control (CDC) on questions related to *Toxoplasma gondii.*

(Response 1) We believe that a sample size of 4,000 adults is sufficient for this study since this study evaluates consumer knowledge, attitudes, and perceptions related to food safety. It is not a clinical study looking at the effects of *Toxoplasma gondii* in the U.S. population. We consult with our Federal partners, including the CDC and the U.S. Department of Agriculture to make sure this survey meets their needs.

(Comment 2) One comment suggested that we add questions to the survey about preparing offals at home, washing raw poultry and meat, and cooking turkeys in the oven overnight.

(Response 2) We agree that these are interesting additional topics and have added questions about washing raw poultry and cooking turkeys to the survey. Due to space constraints, we are unable to add questions about preparing offals at home to the survey questionnaire. This topic will be considered for future research.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Cognitive interview screener | 75 | 1 | 75 | 0.083 (5 minutes) | 6 |
| Cognitive interview | 9 | 1 | 9 | 1 | 9 |
| Pretest screener | 45 | 1 | 45 | 0.0167 (1 minute) | 1 |
| Pretest | 18 | 1 | 18 | 0.33 (20 minutes) | 6 |
| Survey screener | 10,000 | 1 | 10,000 | 0.0167 (1 minute) | 167 |
| Survey | 4,000 | 1 | 4,000 | 0.33 (20 minutes) | 1,320 |
| Non-response survey screener | 125 | 1 | 125 | 0.0167 (1 minute) | 2 |
| Non-response survey | 50 | 1 | 50 | 0.167 (10 minutes) | 8 |
| Total | | | | | 1,519 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimate of the number of respondents and the average burden per response on our experience with previous Food Safety Surveys. We will use a cognitive interview screener with 75 individuals to recruit prospective interview participants. We estimate that it will take a screener respondent approximately 5 minutes (0.083 hours) to complete the cognitive interview screener, for a total of 6 hours, rounded down from 6.225 hours. We will conduct cognitive interviews with nine participants. We estimate that it will take a participant approximately 1 hour to complete the interview, for a total of 9 hours. Prior to the administration of the Food Safety Survey, we plan to conduct a pretest to identify and resolve potential survey administration problems. We will use a pretest screener with 45 individuals; we estimate that it will take a respondent approximately 1 minute (0.0167 hours) to complete the pretest screener, for a total of 1 hour, rounded up from 0.7515 hours. The pretest will be conducted with 18 participants; we estimate that it will take a participant 20 minutes (0.33 hours) to complete the pretest, for a total of 6 hours, rounded up from 5.94 hours. We will use a survey screener to select an eligible adult respondent in each household reached by landline and cell phone telephone numbers to participate in the survey. A total of 10,000 individuals in the 50 states and the District of Columbia will be screened by telephone. We estimate that it will take a respondent 1 minute (0.0167 hours) to complete the screening, for a total of 167 hours. We estimate that 4,000 eligible adults will participate in the survey, each taking 20 minutes (0.33 hours), for a total of 1,320 hours. Additionally, we will administer a non-response survey using a short version of the survey from which we will conduct a non-response analysis. We will use a non-response survey screener with 125 individuals; we estimate that it will take a respondent approximately 1 minute (0.0167 hours) to complete the non-response survey screener, for a total of 2 hours, rounded down from 2.0875 hours. The non-response survey will be conducted with 50 participants; we estimate that it will take a participant 10 minutes (0.167 hours) to complete the non-response survey, for a total of 8 hours, rounded down from 8.35 hours. This is a correction to our previous estimate of 5 hours to complete the non-response survey. Thus, the total estimated burden is 1,519 hours, which incorporates the correction of the estimate to complete the non-response survey.

## II. References


1. U.S. Department of Health and Human Services, ''Healthy People 2020—Improving the Lives of Americans,'' July 30, 2013. Available at *http://www.healthypeople.gov/2020/default.aspx.*
2. U.S. Department of Agriculture, Food Safety Inspection Service, ''Strategic Plan FY 2011–2016,'' April 6, 2012. Available at *http://www.fsis.usda.gov/wps/portal/informational/aboutfsis/strategic-planning/fy-2011-2016-strategic-plan/ct_index.*
3. Pouillot, R., K. Hoelzer, K. A. Jackson, et al. ''Relative Risk of Listeriosis in Foodborne Diseases Active Surveillance

Network (FoodNet) Sites According to Age, Pregnancy, and Ethnicity,'' *Clinical Infectious Diseases,* 54(S5): S401–410, 2012.
4. Goulet, V., C. Hedberg, A. Le Monnier, et al. ''Increasing Incidence of Listeriosis in France and other European Countries,'' *Emerging Infectious Diseases,* 14(5): 734–740, 2008.
5. Muñoz, P., L. Rojas, E. Bunsow, et al. ''Listeriosis: An Emerging Public Health Problem Especially Among the Elderly,'' *Journal of Infection,* 64: 19–33, 2012.

Dated: October 29, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–26144 Filed 11–3–14; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2008–N–0312]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Extralabel Drug Use in Animals

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements associated with extralabel drug use in animals.

**DATES:** Submit electronic or written comments on the collection of information by January 5, 2015.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information''is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Extralabel Drug Use in Animals—21 CFR 530 (OMB Control Number—0910–0325)—Extension**

The Animal Medicinal Drug Use Clarification Act of 1994 allows a veterinarian to prescribe the extralabel use of approved new animal drugs. Also, it permits FDA, if it finds that there is a reasonable probability that the extralabel use of an animal drug may present a risk to the public health, to establish a safe level for a residue from the extralabel use of the drug, and to require the development of an analytical method for the detection of residues above that established safe level. Although to date we have not established a safe level for a residue from the extralabel use of any new animal drug and, therefore, have not required the development of analytical methodology, we believe that there may be instances when analytical methodology will be required. We are, therefore, estimating the reporting burden based on two methods being required annually. The requirement to establish an analytical method may be fulfilled by any interested person. We believe that the sponsor of the drug will be willing to develop the method in most cases. Alternatively, FDA, the sponsor, and perhaps a third party may cooperatively arrange for method development. The respondents may be sponsors of new animal drugs, State, or Federal Agencies, academia, or individuals.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 530.22(b) | 2 | 1 | 2 | 4,160 | 8,320 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 29, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–26143 Filed 11–3–14; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0403]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Substantiation for Dietary Supplement Claims Made Under the Federal Food, Drug, and Cosmetic Act

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on our proposed collection of certain information. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice invites comments on the information collection provisions of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) and the guidance entitled ''Guidance for Industry: Substantiation for Dietary Supplement Claims Made Under Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act.''

**DATES:** Submit either electronic or written comments on the collection of information by January 5, 2015.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Substantiation for Dietary Supplement Claims Made Under the Federal Food, Drug, and Cosmetic Act—21 U.S.C. 343(r)(6) (OMB Control Number 0910–0626)—Extension**

Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343(r)(6)) requires that a manufacturer of a dietary supplement making a nutritional deficiency, structure/function, or general well-being claim have substantiation that the claim is truthful and not misleading. Under section 403(r)(6)(A) of the FD&C Act, such a statement is one that ''claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption for a nutrient or dietary ingredient.''

The guidance document, entitled ''Substantiation for Dietary Supplement Claims Made Under section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act,'' provides our recommendations to manufacturers about the amount, type, and quality of evidence they should have to substantiate a claim under section 403(r)(6) of the FD&C Act. The guidance does not discuss the types of claims that can be made concerning the effect of a dietary supplement on the structure or function of the body, nor does it discuss criteria to determine when a statement about a dietary supplement is a disease claim. The guidance document is intended to assist manufacturers in their efforts to comply with section 403(r)(6) of the FD&C Act. Persons with access to the Internet may obtain the guidance at *http://www.fda.gov/FoodGuidances.*

Dietary supplement manufacturers collect the necessary substantiating information for their product as required by section 403(r)(6) of the FD&C Act. The guidance provides information to manufacturers to assist them in doing so. The recommendations contained in the guidance are voluntary. Dietary supplement manufacturers will only need to collect information to substantiate their product's nutritional deficiency, structure/function, or general well-being claim if they choose to place a claim on their product's label.

The standard discussed in the guidance for substantiation of a claim on the labeling of a dietary supplement is consistent with standards set by the Federal Trade Commission for dietary supplements and other health-related products that the claim be based on competent and reliable scientific evidence. This evidence standard is broad enough that some dietary supplement manufacturers may only need to collect peer-reviewed scientific journal articles to substantiate their claims; other dietary supplement manufacturers whose products have properties that are less well documented may have to conduct studies to build a body of evidence to support their claims. It is unlikely that a dietary supplement manufacturer will attempt to make a claim when the cost of obtaining the evidence to support the claim outweighs the benefits of having the claim on the product's label. It is likely that manufacturers will seek substantiation for their claims in the scientific literature.

The time it takes to assemble the necessary scientific information to support their claims depends on the product and the claimed benefits. If the product is one of several on the market making a particular claim for which

there is adequate publicly available and widely established evidence supporting the claim, then the time to gather supporting data will be minimal; if the product is the first of its kind to make a particular claim or the evidence supporting the claim is less publicly available or not widely established, then gathering the appropriate scientific evidence to substantiate the claim will be more time consuming.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| Claim type | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours |
|---|---|---|---|---|---|
| Widely known, established | 667 | 1 | 667 | 44 | 29,348 |
| Pre-existing, not widely established | 667 | 1 | 667 | 120 | 80,040 |
| Novel | 667 | 1 | 667 | 120 | 80,040 |
| Total | | | | | 189,428 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We assume that it will take 44 hours to assemble information needed to substantiate a claim on a particular dietary supplement when the claim is widely known and established. We believe it will take closer to 120 hours to assemble supporting scientific information when the claim is novel or when the claim is pre-existing but the scientific underpinnings of the claim are not widely established. These are claims that may be based on emerging science, where conducting literature searches and understanding the literature takes time. It is also possible that references for claims made for some dietary ingredients or dietary supplements may primarily be found in foreign journals and in foreign languages or in the older, classical literature where it is not available on computerized literature databases or in the major scientific reference databases, such as the National Library of Medicine's literature database, all of which increases the time of obtaining substantiation.

In the **Federal Register** of January 6, 2000 (65 FR 1000), we published a final rule on statements made for dietary supplements concerning the effect of the product on the structure or function of the body. In that final rule, we estimated that there were 29,000 dietary supplement products marketed in the United States (65 FR 1000 at 1045). Assuming that the flow of new products is 10 percent per year, then 2,900 new dietary supplement products will come on the market each year. The structure/function final rule estimated that about 69 percent of dietary supplements have a claim on their labels, most probably a structure/function claim (65 FR 1000 at 1046). Therefore, we assume that supplement manufacturers will need time to assemble the evidence to substantiate each of the 2,001 claims (2,900 × 69 percent) made each year. If we assume that the 2,001 claims are equally likely to be pre-existing widely established claims, novel claims, or pre-existing claims that are not widely established, then we can expect 667 of each of these types of claims to be substantiated per year. Table 1 of this document shows that the annual burden hours associated with assembling evidence for claims is 189,428 (the sum of 667 × 44 hours, 667 × 120 hours, and 667 × 120 hours).

Dated: October 28, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–26142 Filed 11–3–14; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–N–1698]**

### Food and Drug Administration Activities for Patient Participation in Medical Product Discussions; Establishment of a Public Docket

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; Establishment of docket; Request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the establishment of a public docket for comments on FDA activities performed under the Food and Drug Administration Safety and Innovation Act (FDASIA), Patient Participation in Medical Product Discussions. This notice announces FDA's intent to gather input from stakeholders on strategies to obtain the views of patients during the medical product development process and ways to consider patients' perspectives during regulatory discussions. This notice provides background on ongoing patient engagement activities, so that stakeholders can consider both current and new activities that involve patient participation and perspectives during medical product regulatory discussions.

**DATES:** Although FDA welcomes comments at any time, to help FDA address issues related to Patient Participation in Medical Products Discussions in a timely fashion, comments should be submitted by December 4, 2014.

**ADDRESSES:** Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Andrea Furia-Helms, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5319, Silver Spring, MD 20993–0002, *Andrea.Furia@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On July 9, 2012, the President signed into law FDASIA (Pub. L. 112–144). FDASIA expands the FDA's authorities and strengthens the Agency's ability to safeguard and advance public health in several areas including increasing stakeholder involvement in FDA regulatory processes. Specifically, section 1137 of FDASIA directs the Secretary of HHS to ''develop and implement strategies to solicit the views of patients during the medical product development process and consider the perspectives of patients during regulatory discussions, including by—(1) fostering participation of a patient representative who may serve as a special government employee in

appropriate agency meetings with medical product sponsors and investigators; and (2) exploring means to provide for identification of patient representatives who do not have any, or have minimal, financial interests in the medical products industry.''

FDA has formed an Agency-wide working group to explore approaches and procedures as well as to align strategies across the Agency for patient participation in accordance with the statute. Involvement of the patient community brings the unique perspective of patients, family members, caregivers, and patient advocates to the decision-making processes of the FDA, and FDA is currently using a variety of tools to help ensure that the patient community is involved in medical product discussions to enhance benefit-risk assessment. FDA assesses the benefit-risk of new drugs and certain devices on a case-by-case basis. In this assessment, FDA may consider, among other things, the degree of unmet medical need and the severity and morbidity of the condition or disease the drug or device is intended to treat or diagnose. This approach has been critical to increasing patient access to new treatments for cancer, other serious diseases, and rare diseases, where existing therapies have been few and limited in their effectiveness.

Currently, patient representatives can serve as Special Government Employees (SGEs) in order to participate as a member of an FDA's federal advisory committee meeting about medical products undergoing the FDA review process for marketing approval and other regulatory issues. Patient representatives serve as committee members on advisory committees managed by the Office of the Commissioner, Center for Drug Evaluation and Research, Center for Biologics Evaluation and Research, and Center for Devices and Radiological Health. SGE patient representatives may also serve on special assignments to provide feedback and perspective on product reviews in progress. These SGE activities are in addition to the many other activities in which FDA obtains patient perspectives, such as open public hearings on specific diseases or drug development issues, and as speakers at FDA-sponsored conferences and workshops.

FDASIA includes the reauthorization of the Prescription Drug User Fee Act (PDUFA) that provides FDA with the necessary resources to maintain a predictable and efficient review process for human drug and biological products. This is the fifth authorization of PDUFA (otherwise known as ''PDUFA V''), which was, as directed by Congress, developed in consultation with drug industry representatives, patient and consumer advocates, health care professionals, and other public stakeholders. Under PDUFA V, FDA intends to conduct at least 20 public meetings that aim to more systematically gather patients' perspectives on their conditions and available therapies to treat those conditions (Patient Focused Drug Development). PDUFA V also includes an initiative to enhance FDA's review of patient-reported outcome study endpoints and endpoint assessment tools.

FDASIA also includes the reauthorization of the Medical Device User Fee Act (MDUFA) that provides FDA the necessary resources to increase the efficiency of regulatory processes in order to reduce the time it takes to bring safe and effective medical devices to the U.S. market. This third authorization of MDUFA (otherwise known as ''MDUFA III''), was a result of more than a year of public input, negotiations with industry representatives, and discussions with patient and consumer stakeholders. Under MDUFA III, FDA has established the Patient Preference Initiative to provide the information, guidance, and framework necessary to incorporate patient preferences on the benefit-risk tradeoffs of medical devices into the full spectrum of medical device regulatory processes and to inform medical device innovation by the larger medical device community. In the process, the initiative aims to advance the science of measuring medical device preferences of patients, caregivers, and providers. Once the Patient Preference Initiative helps to define or refine the methods to measure patient preferences, FDA intends to incorporate patient views into the total product life cycle of medical devices.

FDA is opening a docket for 30 days to provide an opportunity for interested stakeholders to submit comments on ''strategies to solicit the views of patients during the medical product development process and consider the perspectives of patients during regulatory discussions'' under section 1137 of FDASIA. FDA is interested in comments on both current and new activities that would involve patient participation in regulatory discussions, as well as comments on ways to assess patient participation activities.

## II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: October 29, 2014.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2014–26145 Filed 11–3–14; 8:45 am]

BILLING CODE 4164–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://beta.samhsa.gov/workplace.*

**FOR FURTHER INFORMATION CONTACT:** Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 7–1051, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

**SUPPLEMENTARY INFORMATION:** The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

**HHS-Certified Instrumented Initial Testing Facilities**

Gamma-Dynacare Medical Laboratories, 6628 50th Street NW., Edmonton, AB Canada T6B 2N7, 780–784–1190

**HHS-Certified Laboratories**

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400 (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370 (Formerly: SmithKline Beecham Clinical Laboratories)

Redwood Toxicology Laboratory, 3700650 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix,

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

AZ 85040, 602–438–8507/800–279–0027
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085

**Summer King,**
*Statistician.*

[FR Doc. 2014–26131 Filed 11–3–14; 8:45 am]
BILLING CODE 4160–20–P

## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. DHS–2014–0048]**

## President's National Security Telecommunications Advisory Committee

**AGENCY:** National Protection and Programs Directorate, DHS.

**ACTION:** Committee Management; Notice of Partially Closed Federal Advisory Committee Meeting.

**SUMMARY:** The President's National Security Telecommunications Advisory Committee (NSTAC) will meet on Wednesday, November 19, 2014, in Washington DC The meeting will be partially closed to the public.

**DATES:** The NSTAC will meet in a closed session on Wednesday, November 19, 2014, from 8:30 a.m. to 10:30 a.m. and in an open session on Wednesday, November 19, 2014, from 10:40 a.m. to 2:40 p.m.

**ADDRESSES:** The open, public session will be held at the Department of Homeland Security Immigration and Customs Enforcement facility, 500 12th Street SW., Washington DC, and will begin at 10:40 a.m. For information on facilities or services for individuals with disabilities, to request special assistance at the meeting, or to attend in person contact *nstac@dhs.gov* as soon as possible.

We are inviting public comment on the issues the NSTAC will consider, as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated briefing materials that will be discussed at the meeting will be available at *www.dhs.gov/nstac* for review as of November 5, 2014. Comments must be identified by docket number DHS–2014–0048 and may be submitted by *one* of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Email: *NSTAC@dhs.gov.* Include the docket number in the subject line of the message.
- Fax: 703–235–5962, Attn: Sandy Benevides.
- Mail: Designated Federal Officer, National Security Telecommunications Advisory Committee, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane, Mail Stop 0615, Arlington VA 20598–0615.

*Instructions:* All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received by the NSTAC, go to *http://www.regulations.gov,* referencing docket number DHS–2014–0048.

A public comment period will be held during the open portion of the meeting on Wednesday, November 19, 2014, from 1:35 p.m. to 2:05 p.m., and speakers are requested to limit their comments to three minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact Sandy Benevides at 703–235–5408 or *Sandra.Benevides@dhs.gov* to register as a speaker by close of business on November 17, 2014. Speakers will be accommodated in order of registration within the constraints of the time allotted to public comment.

**FOR FURTHER INFORMATION CONTACT:** Helen Jackson, NSTAC Designated Federal Officer, Department of Homeland Security, telephone (703) 235–5321 or *Helen.Jackson@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. Appendix. The NSTAC advises the President on matters related to national security and emergency preparedness (NS/EP) telecommunications policy.

*Agenda:* The committee will meet in the open session to engage in an update of the Federal Communications Commission's current priorities; a discussion of the Department of Justice's Anti-Trust Guidelines; the current priorities and accomplishments of the First Responder Network Authority; a panel discussion of the interdependencies between the Communications and Electric Power Sector. The NSTAC members will deliberate and vote on the *NSTAC Report to the President on the Cybersecurity Implications of the Internet of Things* and the *NSTAC Report to the President on Information and Communications Technology Mobilization.* Both reports will be available at *www.dhs.gov/nstac* as of November 5, 2014.

The NSTAC will meet in a closed session to hear a classified briefing regarding emerging threats to the communications infrastructure and to discuss the potential future NSTAC study topics.

*Basis for Closure:* In accordance with 5 U.S.C. § 552b(c), *The Government in the Sunshine Act,* it has been determined that two agenda items require closure as the disclosure of the information would not be in the public interest.

The first of these agenda items, the classified briefing, will provide members with information on nation-state capabilities and strategic threats. Such threats target national communications infrastructure and impact industry's long-term competitiveness and growth, as well as the Government's ability to mitigate threats. Malicious actors continue to advance their techniques to exploit critical infrastructure networks and poses serious challenges for the communications sector. Disclosure of these threats would provide criminals who wish to intrude into commercial and Government networks with information on potential vulnerabilities and mitigation techniques, also weakening existing cybersecurity defense tactics. This briefing will be classified at the top secret level, thereby exempting disclosure of the content by statute. Therefore, this portion of the meeting is required to be closed pursuant to 5 U.S.C. § 552b(c)(1)(A).

The second agenda item, the discussion of potential NSTAC study topics, will address areas of critical cybersecurity vulnerabilities and priorities for Government. Government officials will share data with NSTAC members on initiatives, assessments, and future security requirements across public and private networks. The data to be shared includes specific vulnerabilities within cyberspace that affect the Nation's communications and information technology infrastructures and proposed mitigation strategies. Disclosure of this information to the public would provide criminals with an incentive to focus on these vulnerabilities to increase attacks on our cyber and communications networks. Therefore, this portion of the meeting is likely to significantly frustrate implementation of proposed DHS actions and is required to be closed pursuant to 5 U.S.C. 552b(c)(9)(B).

Dated: October 28, 2014.

**Helen Jackson,**

*Designated Federal Officer for the NSTAC.*

[FR Doc. 2014–26097 Filed 11–3–14; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

**[Docket No. DHS–2014–0057]**

### Privacy Act of 1974; Department of Homeland Security/U.S. Customs and Border Protection (DHS/CBP)–009 Electronic System for Travel Authorization (ESTA) System of Records

**AGENCY:** Department of Homeland Security, Privacy Office.

**ACTION:** Notice of Privacy Act System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to update a current DHS system of records titled, ''Department of Homeland Security/U.S. Customs and Border Protection—DHS/CBP–009 Electronic System for Travel Authorization (ESTA) System of Records.'' This system of records allows the U.S. Customs and Border Protection (CBP) at DHS to collect and maintain records on nonimmigrant aliens seeking to travel to the United States under the Visa Waiver Program and other persons, including U.S. citizens and lawful permanent residents, whose name is provided to DHS as part of a nonimmigrant alien's ESTA application. The system is used to determine whether the applicant is eligible to travel to and enter the United States under the Visa Waiver Program by vetting the ESTA application information against selected security and law enforcement databases at DHS, including but not limited to the use of CBP's TECS (not an acronym) and the Automated Targeting System (ATS). In addition, ATS retains a copy of ESTA application data to identify ESTA applicants who may pose a security risk to the United States. ATS maintains copies of key elements of certain databases in order to minimize the impact of processing searches on the operational systems and to act as a backup for certain operational systems. DHS may also vet ESTA application information against security and law enforcement databases at other Federal agencies to enhance DHS's ability to determine whether the applicant poses a security risk to the United States and is eligible to travel to and enter the United States under the Visa Waiver Program. The results of this vetting may inform DHS's assessment of whether the applicant's travel poses a law enforcement or security risk and whether the application should be approved.

As part of the Department's ongoing effort to promote transparency regarding its collection of information, DHS/CBP is updating: (1) The categories of individuals covered by the system, and (2) categories of records in the system to include revised eligibility questions and additional data elements collected on the ESTA application. DHS issued a Final Rule to exempt this system of records from certain provisions of the Privacy Act on August 31, 2009 (74 FR 45070). These regulations remain in effect.

Furthermore, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in DHS's inventory of systems of records, located on the DHS Web site at *http://www.dhs.gov/system-records-notices-sorns.*

**DATES:** This updated system will be effective upon the public display of this notice. Although this system is effective upon publication, DHS will accept and consider comments from the public and evaluate the need for any revisions to this notice.

**ADDRESSES:** You may submit comments on this notice, including the applicability of the exemptions set forth in the August 31, 2009 Final Rule (74 FR 45070) to the new categories of individuals and categories of records, identified by docket number DHS–2014–0057, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact: John Connors, (202) 344–1610, CBP Privacy Officer, Privacy and Diversity Office, 1300 Pennsylvania Ave. NW., Washington, DC 20229. For privacy questions, please contact: Karen L. Neuman, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) is updating a current DHS system of records titled, ''DHS/CBP–009 Electronic System for Travel Authorization (ESTA) System of Records.''

In the wake of the tragedy of September 11, 2001, Congress enacted the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53. Section 711 of that Act sought to address the security vulnerabilities associated with Visa Waiver Program (VWP) travelers not being subject to the same degree of screening as other international visitors. As a result, section 711 requires DHS to develop and implement a fully automated electronic travel authorization system to collect biographical and other information necessary to evaluate the security risks and eligibility of an applicant to travel to the United States under the VWP. The VWP is a travel facilitation program that has evolved since the terrorist attack on the Nation on September 11, 2001, to include more robust security standards that are designed to prevent terrorists and other criminal actors from exploiting the Program to enter the country.

ESTA is a Web-based system that DHS/CBP developed in 2008 to determine the eligibility of foreign nationals to travel by air or sea to the United States under the VWP. Applicants submit biographic information and answer eligibility questions using the ESTA Web site. CBP uses the information submitted to ESTA to make a determination regarding whether the applicant's intended travel poses a law enforcement or security risk. CBP vets the ESTA applicant information against selected security and law enforcement databases, including the use of TECS and the Automated Targeting System (ATS). ATS also retains a copy of ESTA application data to identify ESTA applicants who may pose a security risk to the United States. ATS maintains copies of key elements of certain databases in order to minimize the

impact of processing searches on the operational systems and to act as a backup for certain operational systems. DHS may also vet ESTA application information against security and law enforcement databases at other Federal agencies to enhance DHS's ability to determine whether the applicant poses a security risk to the United States and is eligible to travel to and enter the United States under the Visa Waiver Program. The results of this vetting may inform DHS's assessment of whether the applicant's travel poses a law enforcement or security risk. The ESTA eligibility determination is made prior to a visitor boarding a carrier en route to the United States.

The System of Records Notice (SORN) for ESTA, last published on July 30, 2012 (77 FR 44642), is being updated with new categories of individuals and new categories of records to provide notice of new data elements and eligibility questions on the ESTA application. The categories of covered individuals is being updated to accurately reflect information in the system that could pertain to U.S. citizens, U.S. businesses or entities, and lawful permanent residents. The new data elements on the ESTA application provide the Department with enhanced vetting capability while the eligibility questions have been revised to reflect the new data elements and promote readability and make the questions easier to understand by the general public.

Aligning with the 9/11 Commission's recommendation to address the vulnerabilities associated with less stringent screening of VWP travelers, CBP has added the following data elements to the ESTA application to make the screening of VWP travelers more robust:

- Other Names or Aliases
- Other Country of Citizenship
  - If yes, passport number on additional citizenship passport
- City of Birth
- Home Address
- Parents' Names
- Email Address
- Telephone Number
- National Identification Number
- Current Job Title
- Current or Previous Employer Name
- Current or Previous Employer Address
- Current or Previous Employer Telephone Number
- Emergency Point of Contact Information Name
- Emergency Point of Contact Information Telephone Number
- Emergency Point of Contact Information Email Address
- U.S. Point of Contact Name
- U.S. Point of Contact Address
- U.S. Point of Contact Telephone Number

The addition of these data elements provides additional security in the ESTA application process by enhancing ESTA's vetting capability to identify individuals who may pose a threat to the United States, thereby reducing the likelihood that an applicant with derogatory security records will be automatically approved for a travel authorization. Moreover, the additional data elements also reduces the number of inconclusive matches to derogatory records during the vetting process, which will decrease the number of applicants who are required to apply for a visa due to ambiguity concerning their identity.

When a person submits an ESTA application, CBP examines the application by screening the applicant's data through ATS (to screen for terrorists or threats to aviation and border security) and TECS (for matches to persons identified to be of law enforcement interest). The additional data elements will help resolve potentially inconclusive matches by providing additional data to confirm an applicant's identity. Inconclusive matches ultimately result in a denial of the ESTA application, which results in an applicant being directed to a U.S. embassy or consulate to apply for a visa.

DHS/CBP has authority to operate this system under Title IV of the Homeland Security Act of 2002, 6 U.S.C. 201, *et seq.,* and Section 217(h)(3) of the Immigration and Nationality Act, 8 U.S.C. 1187(h)(3).

Consistent with DHS's information sharing mission, information stored in ESTA may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. Information stored in ESTA may also be shared with other Federal security and counterterrorism agencies, as well as on a case-by-case basis to appropriate state, local, tribal, territorial, foreign, or international government agencies. This external sharing takes place after DHS determines that it is consistent with the routine uses set forth in this system of records notice.

Additionally, for ongoing, systematic sharing, DHS completes an information sharing and access agreement with Federal partners to establish the terms and conditions of the sharing, including documenting the need to know, authorized users and uses, and the privacy protections for the data. This updated system will be included in DHS's inventory of systems of records, located on the DHS Web site at *http://www.dhs.gov/system-records-notices-sorns.*

## II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Given the importance of providing privacy protections to international travelers, even prior to the collection of these new data elements that may include information about U.S. persons, DHS always administratively applied the privacy protections and safeguards of the Act to all international travelers subject to ESTA. With the addition of the new data elements, ESTA now falls squarely within the mixed system policy and DHS will continue to extend the administrative protections of the Privacy Act to information about travelers and non-travelers whose information is provided to DHS as part of the ESTA application.

Below is the description of the DHS/CBP–009 Electronic System for Travel Authorization (ESTA) System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

### System of Records

Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)–009.

**SYSTEM NAME:**

**DHS/CBP–009 Electronic System for Travel Authorization (ESTA)**

**SECURITY CLASSIFICATION:**

Unclassified. The data may be retained on classified networks but this does not change the nature and character of the data until it is combined with classified information.

**SYSTEM LOCATION:**

Records are maintained at the CBP Headquarters in Washington, DC, and in field offices. Records are replicated from the operational system and maintained on the DHS unclassified and classified networks.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Categories of individuals covered by this system include:

1. Foreign nationals who seek to enter the United States by air or sea under the VWP; and

2. Persons, including U.S. Citizens and lawful permanent residents, whose information is provided in response to ESTA application questions.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

VWP travelers obtain the required travel authorization by electronically submitting an application consisting of biographical and other data elements via the ESTA Web site. The categories of records in ESTA include:

- Full Name (First, Middle, and Last);
- Other names or aliases, if available;
- Date of birth;
- City of birth;
- Gender;
- Email address;
- Telephone number (home, mobile, work, other);
- Home address (address, apartment number, city, state/region);
- IP address;
- ESTA application number;
- Country of residence;
- Passport number;
- Passport issuing country;
- Passport issuance date;
- Passport expiration date;
- Department of Treasury pay.gov payment tracking number (i.e., confirmation of payment; absence of payment confirmation will result in a ''not cleared'' determination);
- Country of citizenship;
- Other citizenship (country, passport number);
- National identification number, if available;
- Date of anticipated crossing;
- Carrier information (carrier name and flight or vessel number);
- City of embarkation;
- Address while visiting the United States (number, street, city, state);
- Emergency point of contact information (name, telephone number, email address);
- U.S. Point of Contact (name, address, telephone number);
- Parents' names;
- Current job title;
- Current or previous employer name;
- Current or previous employer street address;
- Current or previous employer telephone number; and
- Any change of address while in the United States.

The categories of records in ESTA also include responses to the following questions:

- Do you currently have any of the following diseases:
  - Chancroid
  - Gonorrhea
  - Granuloma Inguinale
  - Leprosy, infectious
  - Lymphogranuloma venereum
  - Syphilis, infectious
  - Active Tuberculosis
- Have you ever been arrested or convicted for a crime that resulted in serious damage to property, or serious harm to another person or government authority?
- Have you ever violated any law related to possessing, using, or distributing illegal drugs?
- Do you seek to engage in or have you ever engaged in terrorist activities, espionage, or sabotage; or genocide?
- Have you ever committed fraud or misrepresented yourself or others to obtain, or assist others to obtain, a visa or entry into the United States?
- Are you currently seeking employment in the United States or you were you previously employed in the United States without prior permission from the U.S. government?
- Have you ever been denied a U.S. visa you applied for with your current or previous passport, or have you ever been refused admission to the United States or withdrawn your application for admission at a U.S. port of entry? If yes, when and where?
- Have you ever stayed in the United States longer than the admission period granted to you by the U.S. government?

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Title IV of the Homeland Security Act of 2002, 6.U.S.C. 201 *et seq.,* the Immigration and Naturalization Act, as amended, including 8 U.S.C. 1187(a)(11) and (h)(3), and implementing regulations contained in Part 217, title 8, Code of Federal Regulations; and the Travel Promotion Act of 2009, Public Law 111–145, 22 U.S.C. 2131.

**PURPOSE(S):**

The purpose of this system is to collect and maintain a record of nonimmigrant aliens who want to travel to the United States under the VWP, and to determine whether applicants are eligible to travel to and enter the United States under the VWP by vetting their information—and other information that the Secretary of Homeland Security determines is necessary, including information about other persons included on the ESTA application—against various security and law enforcement databases and identifying applicants who pose a security risk to the United States. This vetting includes consideration of the applicant's IP address, along with the other application data.

The Department of Treasury pay.gov tracking number (associated with the payment information provided to pay.gov and stored in the Credit/Debit Card Data System, DHS/CBP–003 Credit/Debit Card Data System (CDCDS), 76 FR 67755 (November 2, 2011)) will be used to process ESTA and third party administrator fees and to reconcile issues regarding payment between ESTA, CDCDS, and Pay.gov. Payment information will not be used for vetting purposes and is stored in a separate system (CDCDS) from the ESTA application data.

DHS maintains a replica of some or all of the data in ESTA on the unclassified and classified DHS networks to allow for analysis and vetting consistent with the above stated uses, purposes, and this published notice.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The U.S. or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations for the purpose of protecting the vital health interests of a data subject or other persons (e.g., to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health threat or risk);

I. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation;

J. To a federal, state, tribal, local, international, or foreign government agency or entity for the purpose of consulting with that agency or entity: (1) To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program; (2) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a DHS component or program; or (3) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual;

K. To federal and foreign government intelligence or counterterrorism agencies or components when DHS becomes aware of an indication of a threat or potential threat to national or international security to assist in countering such threat, or to assist in anti-terrorism efforts;

L. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws including treaties and reciprocal agreements;

M. To an organization or individual in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, to the extent the information is relevant to the protection of life or property;

N. To the carrier transporting an individual to the United States, but only to the extent that CBP provides information that the ESTA status is not applicable to the traveler, or, if applicable, that the individual is authorized to travel, not authorized to travel, pending, or has not applied.

O. To the Department of Treasury's Pay.gov, for payment processing and payment reconciliation purposes;

P. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings;

Q. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

DHS/CBP stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

**RETRIEVABILITY:**

Records may be retrieved by any of the data elements supplied by the applicant.

**SAFEGUARDS:**

DHS/CBP safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. CBP has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RETENTION AND DISPOSAL:**

Application information submitted to ESTA generally expires and is deemed ''inactive'' two years after the initial submission of information by the applicant. In the event that a traveler's passport remains valid for less than two

years from the date of the ESTA approval, the ESTA travel authorization will expire concurrently with the passport. Information in ESTA will be retained for one year after the ESTA travel authorization expires. After this period, the inactive account information will be purged from online access and archived for 12 years. Data linked at any time during the 15-year retention period (generally 3 years active, 12 years archived), to active law enforcement lookout records, will be matched by CBP to enforcement activities, and/or investigations or cases, including ESTA applications that are denied authorization to travel, will remain accessible for the life of the law enforcement activities to which they may become related. NARA guidelines for retention and archiving of data will apply to ESTA and CBP continues to negotiate with NARA for approval of the ESTA data retention and archiving plan. Records replicated on the unclassified and classified networks will follow the same retention schedule.

Payment information is not stored in ESTA, but is forwarded to pay.gov and stored in CBP's financial processing system, CDCDS, pursuant to the DHS/CBP–018, CDCDS system of records notice.

When a VWP traveler's ESTA data is used for purposes of processing his or her application for admission to the United States, the ESTA data will be used to create a corresponding admission record in the DHS/CBP–016 Non-Immigrant Information System (NIIS). This corresponding admission record will be retained in accordance with the NIIS retention schedule, which is 75 years.

**SYSTEM MANAGER AND ADDRESS:**

Director, Office of Automated Systems, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

**NOTIFICATION PROCEDURE:**

Applicants may access their ESTA information to view and amend their applications by providing their ESTA number, birth date, and passport number. Once they have provided their ESTA number, birth date, and passport number, applicants may view their ESTA status (authorized to travel, not authorized to travel, pending) and submit limited updates to their travel itinerary information. If an applicant does not know his or her application number, he or she can provide his or her name, passport number, date of birth, and passport issuing country to retrieve his or her application number.

In addition, ESTA applicants and other individuals whose information is included on ESTA applications may submit requests and receive information maintained in this system as it relates to data submitted by or on behalf of a person who travels to the United States and crosses the border, as well as, for ESTA applicants, the resulting determination (authorized to travel, pending, or not authorized to travel). However, the Secretary of Homeland Security has exempted portions of this system from certain provisions of the Privacy Act related to providing the accounting of disclosures to individuals because it is a law enforcement system. CBP will, however, consider individual requests to determine whether or not information may be released. In processing requests for access to information in this system, CBP will review not only the records in the operational system but also the records that were replicated on the unclassified and classified networks, and based on this notice provide appropriate access to the information.

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and Headquarters FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''FOIA Contact Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his or her agreement for you to access his or her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

**RECORD ACCESS PROCEDURES:**

See ''Notification procedure'' above.

**CONTESTING RECORD PROCEDURES:**

See ''Notification procedure'' above.

**RECORD SOURCE CATEGORIES:**

Records are obtained from the online ESTA application at *https://esta.cbp.dhs.gov/esta/.*

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

No exemption shall be asserted with respect to information maintained in the system as it relates to data submitted by or on behalf of a person who travels to visit the United States and crosses the border, nor shall an exemption be asserted with respect to the resulting determination (authorized to travel, pending, or not authorized to travel). Information in the system may be shared with law enforcement and/or intelligence agencies pursuant to the above routine uses. The Privacy Act requires DHS to maintain an accounting of the disclosures made pursuant to all routines uses. Disclosing the fact that a law enforcement or intelligence agency has sought and been provided particular records may affect ongoing law enforcement activities. As such, pursuant to 5 U.S.C. 552a(j)(2), DHS will claim exemption from Sections (c)(3), (e)(8), and (g) of the Privacy Act of 1974, as amended, as is necessary and appropriate to protect this information. Further, DHS will claim exemption from Section (c)(3) of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(k)(2) as is necessary and appropriate to protect this information.

Dated: September 30, 2014.

**Karen L. Neuman,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. 2014–26100 Filed 11–3–14; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2014–0975]**

### Notice of a Public Meeting To Prepare for the Twenty-third Session of the Assembly of the International Mobile Satellite Organization

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of public meeting.

**SUMMARY:** The U.S. Coast Guard will hold a public meeting on subject matters that will be addressed at the Twenty-third Session of the Assembly of the International Mobile Satellite Organization.

**DATES:** A public meeting will be held on Thursday, November 13, 2014, from 1:30 p.m. to 2 p.m.

**ADDRESSES:** The meeting will be held at the headquarters of the Radio Technical Commission for Maritime Services in Suite 605, 1611 New Kent Street, Arlington, Virginia 22209.

**FOR FURTHER INFORMATION CONTACT:** Larry S. Solomon at (202)475–3556 or by email at *larry.s.solomon@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The purpose of this public meeting is to prepare for the Twenty-third Session of the International Mobile Satellite Organization (IMSO) Assembly to be held on November 25–28, 2014 at the headquarters of the International Maritime Organization in London, United Kingdom. The primary topics that will be considered at the public meeting include:

- Oversight and performance of the Global Maritime Distress and Safety System; and, issues relating to the oversight of potential new GMDSS providers;
- Oversight, performance, audits, charging formulas and proposals for the Long Range Identification and Tracking System;
- Appointment of a new Director General of IMSO and proposed revisions to the functions of the Director General;
- Directorate matters and review of restructuring the Directorate; and
- Financial matters, including arrangements for the development, endorsement and agreement of IMSO budgets and business plans.

Members of the public may attend this meeting up to the seating capacity of the room. No advance notification is necessary. The Radio Technical Commission for Maritime Services Headquarters building is accessible by public transportation, and privately owned conveyance. Public parking in the vicinity of the building is readily available.

Members of the public are encouraged to participate and join in discussions, subject to the discretion of the moderator. Persons wishing to make formal presentations should provide advance notice to Larry S. Solomon at (202) 475–3556 or by email at *larry.s.solomon@uscg.mil* as soon as possible.

Dated: October 29, 2014.

**F. J. Sturm,**

*U.S. Coast Guard, Acting Director of Commercial Regulations and Standards.*

[FR Doc. 2014–26187 Filed 11–3–14; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5803–N–01]**

### Manufactured Home Construction and Safety Standards; Request for Recommended Changes

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** Consistent with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, this notice invites interested persons to submit proposed changes to update and revise HUD's Manufactured Home Construction and Safety Standards. These proposed changes will be submitted to the Manufactured Housing Consensus Committee (MHCC) for review and consideration as part of its responsibility to provide periodic recommendations to HUD to adopt, revise, and interpret the HUD standards.

**DATES:** To ensure consideration, proposed changes from the public must be received at the address provided herein no later than December 31, 2014.

**ADDRESSES:** Proposed changes to the Manufactured Home Construction and Safety Standards are to be mailed to Home Innovation Research Labs, 400 Prince Georges Blvd., Upper Marlboro, MD 20774, Attention: Kevin Kauffman or are to be submitted to the following URL address: *mhcc.homeinnovation.com.*

**FOR FURTHER INFORMATION CONTACT:** Pamela Beck Danner, Administrator and Designated Federal Official (DFO), Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 7th Street SW., Room 9168, Washington, DC 20410, telephone number 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** Section 604(a) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000 (42 U.S.C. 5401 et seq.) (the Act) establishes the MHCC. Among other things, the MHCC is responsible for providing periodic recommendations to HUD to adopt, revise, and interpret the manufactured housing construction and safety standards. HUD's Manufactured Home Construction and Safety Standards are codified at 24 CFR part 3280. According to Section 604(a)(4) of the Act, the MHCC is required to consider revisions not less than once during each 2-year period.

Today's notice requests that interested persons provide proposed changes for revising or updating HUD's Manufactured Home Construction and Safety Standards. Consistent with the Act, recommendations are requested that further HUD's efforts to increase the quality, durability, safety and affordability of manufactured homes; facilitate the availability of affordable manufactured homes and increase homeownership for all Americans; and encourage cost-effective and innovative construction techniques for manufactured homes. To permit the MHCC to fully consider the proposed changes, commenters are encouraged to provide at least the following information:

- The specific section of the current Manufactured Home Construction and Safety Standards that require revision or update; or whether the recommendation would require a new standard;
- Specific detail regarding the recommendation including a statement of the problem intended to be corrected or addressed by the recommendation, how the recommendation would resolve or address the problem, and the basis of the recommendation; and
- Information regarding whether the recommendation would result in increased costs to manufacturers or consumers and the value of the benefits derived from HUD's implementation of

the recommendation, should be provided and discussed to the extent feasible.

The Act requires that an administering organization administer the process for the MHCC's development and interpretation of the Federal Standards and Procedural and Enforcement Regulations. The administering organization that has been selected by HUD to administer this process is Home Innovation Research Labs, Inc. This Notice requests that proposed revisions to the Federal standards be submitted to the MHCC for consideration through the administering organization, Home Innovation Research Labs, Inc. This organization will be responsible for ensuring delivery of all appropriately prepared proposed changes to the MHCC for its review and consideration.

### Paperwork Reduction Act

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB Control Number 2535–0116. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Dated: October 29, 2014.

**Teresa B. Payne,**

*Deputy Administrator, Office of Manufactured Housing Programs.*

[FR Doc. 2014–26198 Filed 11–3–14; 8:45 am]

**BILLING CODE 4210–67–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1092 (Review)]**

## Diamond Sawblades and Parts Thereof From China; Termination of Previously Instituted Five-Year Review and Institution of Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on diamond sawblades and parts thereof from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 4, 2014. As indicated below, in light of prior proceedings in this matter, the Commission reserves the right to waive its regulations concerning filing of comments on whether to conduct an expedited review. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* November 4, 2014.

**FOR FURTHER INFORMATION CONTACT:** Michael Szustakowski (202–205–3169), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.* On November 4, 2009, the Department of Commerce issued an antidumping duty order on imports of diamond sawblades and parts thereof from China (74 FR 57145, November 4, 2009). The effective date of the order was January 23, 2009. On December 2, 2013, the Commission instituted a five-year review on the antidumping duty order on imports of diamond sawblades and parts thereof from China (78 FR 72116, Dec. 2, 2013). The U.S. Department of Commerce (Commerce) initiated its five-year review of the order on the same day (78 FR 72061, Dec. 2, 2013). On May 20, 2014, the Commission determined to conduct a full review of the order (*Explanation of Commission Determination on Adequacy in Diamond Sawblades and Parts Thereof from China, Inv. No. 731–TA–1092 (Review)).*

The Diamond Sawblades Manufacturers' Coalition (DSMC), an association of domestic producers of diamond sawblades, subsequently filed an action in the U.S. Court of International Trade (CIT) to declare that the five-year reviews that Commerce initiated and the Commission instituted were *ultra vires* because they began prematurely. On September 23, 2014, the CIT issued a judgment in favor of DSMC, directed the Commission to cease further work on the five-year review it previously instituted, and to instead institute a review on November 4, 2014. *Diamond Sawblades Mfrs. Coalition* v. *United States,* Slip Op. 14–111 (Ct. Int'l Trade Sept. 23, 2014). Accordingly, pursuant to the CIT order in *Diamond Sawblades Manufacturers' Coalition,* we are hereby terminating the previously instituted sunset review, effective September 23, 2014.

Pursuant to the judgment of the CIT, the Commission is instituting this review to determine whether revocation of the antidumping duty order on diamond sawblades and parts thereof from China would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission is mindful, however, that both domestic and respondent interested parties responded to the notice of institution it published on December 2, 2013, and that in light of these responses the Commission determined that conducting a full review was appropriate.

In order to avoid duplication of effort and to streamline these proceedings, the Commission is not requiring those interested parties that submitted adequate responses to the December 2, 2013 institution notice to submit full responses to this notice. Instead, each such party may simply submit no later than December 4, 2014 a response indicating that: (1) It incorporates the contents of its response to the December 2, 2013 institution notice and (2) that it is willing to participate in this review by providing information requested to the Commission. Any such party, should it desire, may also provide additional information of the nature specified below. Parties that did not submit an adequate response to the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 14–5–322, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

December 2, 2013 institution notice may also provide additional information of the nature specified below no later than December 4, 2014.

Should those parties that submitted adequate responses to the December 2, 2013 institution notice indicate their desire to participate in this review, the Commission intends to issue a notice stating that it will conduct a full review. In light of this, the Commission reserves the right to waive the process specified in 19 CFR 207.62(b) for submitting comments to the Commission on whether to conduct an expedited review should it be unnecessary given the unusual circumstances of this proceeding.

*Definitions.* The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined the *Domestic Like Product* as diamond sawblades and parts thereof, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission determined that the *Domestic Industry* comprised the assemblers in addition to all domestic producers of finished diamond sawblades and component parts.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is January 23, 2009.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the proceeding and public service list.* Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.* Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register.** Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.* Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.* The nature of written responses to the notice by those parties that submitted adequate responses to the December 2, 2013 notice of institution is specified above. Pursuant to section 207.61 of the Commission's rules, each interested party that did not provide an adequate response to the December 2, 2013 notice but desires to respond to this notice must provide the information specified below. The deadline for filing such responses is December 4, 2014. As stated above, the Commission reserves the right to waive the provision of section 207.62(b) of the Commission's rules concerning whether the Commission should conduct an expedited or full review. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Regarding electronic filing requirements under the Commission's rules, see also the Commission's Handbook on E-filing, available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

*Inability to provide requested information.* Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse

inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

*Information To Be Provided in Response to this Notice of Institution:* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2012, except as noted (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other

products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: October 29, 2014.

By order of the Commission.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2014–26099 Filed 11–3–14; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1012 (Second Review)]**

## Certain Frozen Fish Fillets From Vietnam

### Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on certain frozen fish fillets from Vietnam would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### Background

The Commission instituted this review on June 2, 2014 (79 FR 31345) and determined on September 5, 2014, that it would conduct an expedited review (79 FR 56826).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

The Commission completed and filed its determination in this review on October 30, 2014. The views of the Commission are contained in USITC Publication 4498 (October 2014), entitled *Certain Frozen Fish Fillets FSrom Vietnam: Investigation No. 731–TA–1012 (Second Review).*

Issued: October 30, 2014.

By order of the Commission.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2014–26157 Filed 11–3–14; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–915]**

## Certain Set-Top Boxes, Gateways, Bridges, and Adapters and Components Thereof; Commission Determination Not To Review an Initial Determination Granting Complainants' Unopposed Motion To Terminate the Investigation on the Basis of Settlement; Termination of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 17) granting the unopposed motion of complainants ViXS Systems, Inc., of Toronto, Ontario, Canada and ViXS USA, Inc. of Austin, Texas (collectively ''ViXS'') to terminate the above-referenced investigation as to respondent Entropic Communications, Inc. of San Diego, California (''Entropic'') on the basis of a settlement agreement. The investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 21, 2014, based on a Complaint filed by ViXS, as supplemented and amended. 79 FR 29204 (May 21, 2014). The Complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain set-top boxes, gateways, bridges, and adapters and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,301,900; 7,099,951; 7,200,855; and 7,406,598. The Complaint further alleges the existence of a domestic industry. The Commission's Notice of Investigation named as respondents Entropic; DirectTV, LLC of El Segundo, California (''DirectTV''); Wistron NeWeb Corporation of Hsinchu, Taiwan and Winstron Corporation of Taipei Hsien, Taiwan (collectively ''Wistron''); and CyberTAN Technology, Inc. of Hsinchu, Taiwan (''CyberTAN''). The Office of Unfair Import Investigations was also named as a party to the investigation.

The Commission later terminated the investigation with respect to certain asserted claims of the patents-in-suit, thus limiting the investigation to products incorporating Entropic chips and, in effect, terminating the investigation with respect to respondents DirectTV, Wistron, and CyberTAN. Notice (Aug. 25, 2014); Order No. 9 (Aug. 15, 2014).

On September 15, 2014, ViXS filed a motion to terminate this investigation based on a settlement agreement between ViXS and Entropic. The motion stated that the respondents do not oppose the motion. On September 29, 2014, the Commission investigative attorney (Mr. Taylor) filed a response in support of the motion.

On October 7, 2014, the ALJ issued the subject ID granting ViXS's motion for termination of the investigation. The ALJ found that the joint motion complied with the requirements of section 210.21(b)(1) of the Commission's Rules of Practice and Procedure (19 CFR 210.21(b)(1)) and that there are no extraordinary circumstances that would prevent the requested terminations. The ALJ also found that granting the motion

would not be contrary to the public interest.

No petitions for review of the subject ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

Issued: October 30, 2014.

By order of the Commission.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2014–26158 Filed 11–3–14; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On October 28, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Connecticut in the lawsuit entitled *United States* v. *City of Derby, Connecticut,* Civil Action No. 3:14–cv–01594–WWE.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, *et seq.,* seeking to recover costs incurred in performing a removal action at the O'Sullivan's Island Superfund Site in the City of Derby, Connecticut. Under the proposed ability-to-pay Consent Decree, the City will pay $675,000.00 to EPA. The United States covenants not to sue the City under Section 107 of CERCLA to recover past response costs.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division and should refer to *United States* v. *City of Derby, Connecticut,* D.J. Ref. No. 90–11–3–10354. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| To submit comments: | Send them to: |
|---|---|
| By email ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611. |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.00 (25 cents per page reproduction cost) payable to the United States Treasury.

**Robert E. Maher Jr.,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2014–26180 Filed 11–3–14; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Spectrum Consortium

Notice is hereby given that, on September 24, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Spectrum Consortium (''NSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: ADS Corporation, Arlington, VA; AEA, Inc., Anacortes, WA; ATDI Government Services, LLC, Fairfax, VA; BAE Systems, Nashua, NH; Carnegie Mellon University, Pittsburgh, PA; Cognitive Radio Technologies, LLC, Lynchburg, VA; Comsearch, Warren, RI; Darkblade Systems Corporation, Stafford, VA; Disney/ABC TV Group, New York, NY; Draper Laboratory, Cambridge, MA; Eigen Wireless, Liberty Lake, WA; Exelis, Inc., McLean, VA; Federated Wireless, Boston, MA; Georgia Tech Applied Research Corporation, Atlanta, GA; Gonzaga University, Spokane, WA; Honeywell, Morristown, NJ; Hughes Network Systems, Gaithersburg, MD; ICF International, Fairfax, VA; Innovative Solutions Consortium, Leesburg, VA; Lockheed Martin Corporation, Washington, DC; Monterey Consultants, Inc., Dayton, OH; Nokia Networks, Chicago, IL; Northrop Grumman Corporation, Falls Church, VA; Nouveau Innovation Alliance, LLC, Dayton, OH; Oceus Networks, Reston, VA; Peha Consulting, Washington, DC; Raytheon BBN Technologies, Cambridge, MA; Roberson and Associates, LLC, Chicago, IL; Rockwell Collins, Inc., Cedar Rapids, IA; Rumpf Associates International, Inc., Alexandria, VA; S2 Corporation, Bozeman, MT; SECUTOR US, LLC, Clifton, VA; Shared Spectrum Corporation, Vienna, VA; Shenandoah Research and Technology, Luray, VA; Silvus Technologies, Los Angeles, CA; Space Data Association, Malvern, PA; Spectronn, Holmdel, NJ; SRC, Inc., North Syracuse, NY; Stat Tech, Inc, Alexandria, VA; Stevens Institute of Technology, Hoboken, NJ; Strategic Contrivance, LLC, Annandale, VA; TCI International, Inc., Fremont, CA; Telecommunications Industry Association (TIA), Washington, DC; Test Equipment Plus, Inc., La Center, WA; University of Illinois, Urbana, IL; University of Kansas, Lawrence, KS; University of Mississippi, Oxford, MS; University of Nebraska-Lincoln, Lincoln, NE; University of Oklahoma, Norman, OK; University of Pittsburgh, Pittsburgh, PA; University of Washington, Seattle, WA; URS Federal Support Services, Inc., Germantown, MD; VA Tech Applied Research Corporation, Blacksburg, VA; Vanu, Inc., Cambridge, MA; VIStology, Inc. Framingham, MA; Wireless Innovation Forum, Reston, VA; and xG Technology Inc., Sarasota, FL. The general areas of NSC's planned activities are (i) maturing technologies that assist in improved electromagnetic spectrum awareness, sharing, and use; (ii) experimentation to better inform the optimal allocation of those technologies for both public and private objectives; (iii) demonstration of new technologies to increase trust among spectrum stakeholders; and (iv) policy development to ensure

technologies do not outpace the appropriate guidance for their best use.

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2014–26105 Filed 11–3–14; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993; Opendaylight Project, Inc.

Notice is hereby given that, on October 1, 2014 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenDaylight Project, Inc. (''OpenDaylight'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Infinera, Sunnyvale, CA; and Transmode Systems AB, Stockholm, SWEDEN, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenDaylight intends to file additional written notifications disclosing all changes in membership.

On May 23, 2013, OpenDaylight filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 1, 2013 (78 FR 39326).

The last notification was filed with the Department on July 11, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 11, 2014 (79 FR 46875).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2014–26103 Filed 11–3–14; 8:45 am]

BILLING CODE P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Comment Request for Information Collection for Migrant and Seasonal Farmworkers (MSFWs) Monitoring Report and Complaint/Referral Records (Extension Without Revisions)

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)] (PRA). The PRA helps ensure that respondents can provide requested data in the desired format with minimal reporting burden (time and financial resources), collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the routine three year extension of the expiration date for two forms which collect data: ETA 5148, Services to Migrant and Seasonal Farmworkers Report, and ETA 8429, Complaint/Referral Record (currently due to expire April 30, 2015).

**DATES:** Submit written comments to the office listed in the addresses section below on or before January 5, 2015.

**ADDRESSES:** Send written comments to Kimberly Vitelli, Office of Workforce Investment, Room C4510, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3639 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202- 693–3015. Email: *Vitelli.Kimberly@dol.gov.* To obtain a copy of the proposed information collection request (ICR), and for further information, please contact the person listed above or Juan Regalado at *Regalado.Juan@dol.gov,* telephone number: 415–625–7904 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Employment and Training Administration (ETA) regulations at 20 CFR 651, 653, and 658 under the Wagner-Peyser Act, as amended by the 1998 Workforce Investment Act (WIA), set forth the requirements to ensure that Migrant and Seasonal Farmworkers (MSFWs) receive services that are qualitatively equivalent and quantitatively proportionate to the services provided to non-MSFWs. The Workforce Innovation and Opportunity Act, enacted July 22, 2014, supersedes WIA and becomes effective July 1, 2015. Therefore this information collection may be adjusted in the future, through a formal public comment process.

Quarterly MSFW reporting is required by 20 CFR 653.108 (q), which mandates State Workforce Agencies (SWAs) to review their performance on a quarterly basis to ensure compliance with CFR 653.100. The data collected represents the minimum information necessary to assure SWA compliance with federal regulations. (See 20 CFR 653.100 through 653.113).

The regulations at 20 CFR 658.400 through 658.418 ensure that SWAs handle complaints appropriately and uniformly. The One-Stop Career Center (OSCC) Complaint/Referral Record, ETA 8429 is required to be used by SWAs to process complaints pursuant to 20 CFR 658.413. (See 20 CFR 658.400 through 658.418)

**II. Review Focus**

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**III. Current Actions**

*Type of Review:* extension without revisions.

*Title:* Migrant and Seasonal Farmworkers (MSFWs) Monitoring Report and Complaint/Referral Records.

*OMB Number:* 1205–0039.

*Affected Public:* individuals and households, and state/local/tribal governments.

*Estimated Total Annual Respondents:* 3586.

*Estimated Total Annual Responses:* 3786.

*Estimated Total Annual Burden Hours:* 8521.

*Total Estimated Annual Other Costs Burden:* 0.

We will summarize and/or include in the request for OMB approval of the ICR, the comments received in response to this comment request; they will also become a matter of public record.

**Portia Wu,**

*Assistant Secretary for Employment and Training, Labor.*

[FR Doc. 2014–26169 Filed 11–3–14; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Workforce Investment Act: Native American Employment and Training Council

**AGENCY:** Employment and Training Administration, U.S. Department of Labor.

**ACTION:** Cancellation notice of meeting.

**SUMMARY:** The following Federal Advisory Committee Act meeting has been cancelled. No earlier announcement of the cancellation was possible.

**DATES:** The meeting previously scheduled to convene on November 5–6, 2014, has been cancelled and will be re-scheduled at a later date. This notice was published in the **Federal Register** on September 10, 2014, Volume 79, Number 175, page 53787.

**FOR FURTHER INFORMATION CONTACT:** Ms. Athena R. Brown, Designated Federal Officer, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, Room S–4209, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number (202) 693–3737 (VOICE) (this is not a toll-free number).

**Portia Wu,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. 2014–26168 Filed 11–3–14; 8:45 am]

**BILLING CODE 4501–FR–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

### Meeting of National Council on the Humanities

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

**DATES:** The meeting will be held on Thursday, November 13, 2014 from 10:30 a.m. until 12:30 p.m., and Friday, November 14, 2014, from 9:00 a.m. until adjourned.

**ADDRESSES:** The meeting will be held at Constitution Center, 400 7th Street SW., Washington, DC 20506. See Supplementary Information section for room numbers.

**FOR FURTHER INFORMATION CONTACT:** Lisette Voyatzis, Committee Management Officer, 400 7th Street SW., 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov*. Hearing-impaired individuals who prefer to contact us by phone may use NEH's TDD terminal at (202) 606–8282.

**SUPPLEMENTARY INFORMATION:** The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). The Committee meetings of the National Council on the Humanities will be held on November 13, 2014, as follows: The policy discussion session (open to the public) will convene at 10:30 a.m. until approximately 11:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 11:30 a.m. until 12:30 p.m.

Challenge Grants: Room 4089.

Digital Humanities/Public Programs: Room P003.

Education Programs: Conference Room C.

Federal/State Partnership: Room P002.

Preservation and Access: Room 4002.

Research Programs: Room 2002.

The plenary session of the National Council on the Humanities will convene on November 14, 2014, at 9:00 a.m. in the Conference Center at Constitution Center. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting
B. Reports
1. Introductory Remarks
2. Presentation
3. Staff Report
4. Chief of Staff/White House and Congressional Affairs Report
5. Budget Report
6. Reports on Policy and General Matters
a. Challenge Grants
b. Digital Humanities
c. Public Programs
d. Education Programs
e. Federal/State Partnership
f. Preservation and Access
g. Research Programs

The remainder of the plenary session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Please note that individuals planning to attend the public sessions of the meeting are subject to security screening procedures. If you wish to attend any of the public sessions, please inform NEH as soon as possible by contacting Ms. Katherine Griffin at (202) 606–8322 or *kgriffin@neh.gov*. Please also provide advance notice of any special needs or accommodations, including for a sign language interpreter.

Dated: October 27, 2014.

**Lisette Voyatzis,**

*Committee Management Officer.*

[FR Doc. 2014–25999 Filed 11–3–14; 8:45 am]

**BILLING CODE 7536–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0230]**

## Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of three amendment requests. The amendment requests are for Catawba Nuclear Station, Units 1 and 2; R.E. Ginna Nuclear Power Plant; and St. Lucie Plant, Units 1 and 2. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. In addition, each amendment request contains sensitive unclassified non-safeguards information (SUNSI).

**DATES:** Comments must be filed by December 4, 2014. A request for a hearing must be filed by January 5, 2015. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by November 14, 2014.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0230. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Janet C. Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1384, email: *Janet.Burkhardt@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2014–0230 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0230.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852.

*B. Submitting Comments*

Please include Docket ID NRC–2014–0230 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

### II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

### III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the

Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

*A. Opportunity To Request a Hearing and Petition for Leave To Intervene*

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger of the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

*B. Electronic Submissions (E-Filing)*

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to

offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Duke Energy Carolinas, LLC., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station (Catawba), Units 1 and 2, York County, South Carolina

*Date of amendment request:* June 23, 2014. A redacted, publicly-available, version is available in ADAMS under Accession No. ML14176A109.

*Description of amendment request:* This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would implement a measurement uncertainty recapture power uprate at Catawba Unit 1 that would increase authorized core power level from 3411 megawatts thermal (MWt) to 3469 MWt. This is an increase of approximately 1.7 percent Rated Thermal Power (RTP). The increase in thermal power is based on the use of Cameron (a.k.a. Caldon) instrumentation to determine core power level with a power measurement uncertainty of approximately 0.3 percent.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment changes the rated thermal power from 3411 MWt to 3469 MWt; an increase of approximately 1.7% Rated Thermal Power. Duke Energy's evaluations have shown that all structures, systems and components (SSCs) are capable of performing their design function at the uprated power of 3469 MWt. A review

of station accident analyses found that all acceptance criteria are still met at the uprated power of 3469 MWt.

The radiological consequences of operation at the uprated power conditions have been assessed. The proposed power uprate does not affect release paths, frequency of release, or the analyzed reactor core fission product inventory for any accidents previously evaluated in the Updated Final Safety Analysis Report. Analyses performed to assess the effects of mass and energy releases remain valid. All acceptance criteria for radiological consequences continue to be met at the uprated power level.

The proposed change does not involve any change to the design or functional requirements of the safety and support systems. That is, the increased power level neither degrades the performance of, nor increases the challenges to any safety systems assumed to function in the plant safety analysis.

While power level is an input to accident analyses, it is not an initiator of accidents. The proposed change does not affect any accident precursors and does not introduce any accident initiators. The proposed change does not impact the usefulness of the Surveillance Requirements (SRs) in evaluating the operability of required systems and components.

In addition, evaluation of the proposed TS [Technical Specification] changes demonstrates that the availability of equipment and systems required to prevent or mitigate the radiological consequences of an accident is not significantly affected. Since the impact on the systems is minimal, it is concluded that the overall impact on the plant safety analysis is negligible.

Therefore, the proposed amendment does not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new accident scenarios, failure mechanisms, or single failures are introduced as a result of the proposed change. The installation of the Cameron LEFM [Leading Edge Flow Meter] CheckPlus™ System has been analyzed and failures of the system will have no adverse effect on any safety related system or any SSCs required for transient mitigation. SSCs previously required for the mitigation of a transient continue to be capable of fulfilling their intended design functions. The proposed change has no adverse effect on any safety related system or component and does not change the performance or integrity of any safety related system.

The proposed change does not adversely affect any current system interfaces or create any new interfaces that could result in an accident or malfunction of a different kind than previously evaluated. Operation at the uprated power level does not create any new accident initiators or precursors. Credible malfunctions are bounded by existing accident analyses of record or new evaluations demonstrating that applicable criteria are still met with the proposed changes.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Although the proposed amendment increases the Catawba Unit 1 operating power level, the unit retains its margin of safety because it is only increasing power by the amount equal to the reduction in uncertainty in the heat balance calculation. The margins of safety associated with the power uprate are those pertaining to core thermal power. These include fuel cladding, reactor coolant system pressure boundary, and containment barriers. Analyses demonstrate that the current design basis continues to be met after the measurement uncertainty recapture (MUR) power uprate. Components associated with the reactor coolant system pressure boundary structural integrity, including pressure-temperature limits, vessel fluence, and pressurized thermal shock are bounded by the current analyses. Systems will continue to operate within their design parameters and remain capable of performing their intended safety functions.

The current Catawba safety analyses, including the design basis radiological accident dose calculations, bound the power uprate.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Lara S. Nichols, Associate General Counsel, Duke Energy Corporation, 526 South Church Street—EC07H, Charlotte, North Carolina, 28202.

*NRC Branch Chief:* Robert J. Pascarelli.

Exelon Generation Company, LLC., Docket No. 50–244, R.E. Ginna Nuclear Power Plant (Ginna), Wayne County, New York

*Date of amendment request:* March 28, 2013. A publicly-available version is in ADAMS under Accession Nos. ML13093A064 and ML13093A065.

*Description of amendment request:* This proposed amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment requests approval of a new fire protection licensing basis of National Fire Protection Association Standard 805 (NFPA 805), which complies with the requirements of 10 CFR 50.48(a) and 50.48(c), and Regulatory Guide 1.205, Revision 1, ''Risk-Informed, Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants,'' dated December 2009 (ADAMS Accession No. ML092730314).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The purpose of the proposed amendment is to permit Ginna to adopt a new fire protection licensing basis that complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in Regulatory Guide 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection requirements that are an acceptable alternative to the 10 CFR 50 Appendix R required fire protection features (69 FR 33536, June 16, 2004).

Operation of Ginna in accordance with the proposed amendment does not increase the probability or consequences of accidents previously evaluated. Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based requirements of NFPA 805 have been satisfied. The Updated Final Safety Analysis Report (UFSAR) documents the analyses of

design basis accidents at Ginna. The proposed amendment does not affect accident initiators, nor does it alter design assumptions, conditions, or configurations of the facility that would increase the probability of accidents previously evaluated. Further, the changes to be made for fire hazard protection and mitigation do not adversely affect the ability of structures, systems, or components to perform their design functions for accident mitigation, nor do they affect the postulated initiators or assumed failure modes for accidents described and evaluated in the UFSAR. Structures, systems, or components required to safely shutdown the reactor and to maintain it in a safe shutdown condition will remain capable of performing their design functions.

NFPA 805, taken as a whole, provides an acceptable alternative for satisfying General Design Criterion 3 of Appendix A to 10 CFR 50, meets the underlying intent of the NRC's existing fire protection regulations and guidance, and provides for defense-in-depth. The goals, performance objectives, and performance criteria specified in Chapter 1 of the standard ensure that, if there are any increases in core damage frequency or risk, the increase will be small and consistent with the intent of the Commission's Safety Goal Policy.

The proposed amendment will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated, and equipment required to mitigate an accident remains capable of performing the assumed function(s). The applicable radiological dose criteria will continue to be met.

Based on the above discussion, it is concluded that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any kind of accident previously evaluated?

Response: No.

Operation of Ginna in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not alter the requirements or functions for systems required during accident conditions. Implementation of the new fire protection licensing basis, which complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in Regulatory Guide 1.205, will not result in new or different accidents.

The proposed amendment does not introduce new or different accident initiators, nor does it alter design assumptions, conditions, or configurations of the facility in such a manner as to introduce new or different accident initiators. The proposed amendment does not adversely affect the ability of structures, systems, or components to perform their design function. Structures, systems, or components required to safely shutdown the reactor and maintain it in a safe shutdown condition remain capable of performing their design functions.

The requirements of NFPA 805 address only fire protection and the impacts of fire on the plant that have previously been evaluated. Thus, implementation of the proposed amendment would not create the possibility of a new or different kind of accident beyond those already analyzed in the UFSAR. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced, and there will be no adverse effect or challenges imposed on any safety-related system as a result of the proposed amendment.

Based on the above discussion, it is concluded that the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The purpose of the proposed amendment is to permit Ginna to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Regulatory Guide 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR 50 Appendix R required fire protection features (69 Fed. Reg. 33536, June 16, 2004).

The overall approach of NFPA 805 is consistent with the key principles for evaluating license basis changes, as described in Regulatory Guide 1.174, is consistent with the defense-in-depth philosophy, and maintains sufficient safety margins. Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance based methods do not result in a significant reduction in the margin of safety.

Operation of Ginna in accordance with the proposed amendment does not involve a significant reduction in the margin of safety. The proposed amendment does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed amendment does not adversely affect existing plant safety margins or the reliability of equipment assumed to mitigate accidents in the UFSAR. The proposed amendment does not adversely affect the ability of structures, systems, or components to perform their design function. Structures, systems, or components required to safely shut down the reactor and to maintain it in a safe shutdown condition remain capable of performing their design functions.

Based on the above discussion, it is concluded that the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Gautam Sen, Sr. Counsel—Exelon Generation Company, LLC, 750 East Pratt Street, 17th Floor, Baltimore, Maryland, 21202.

*NRC Branch Chief:* Benjamin G. Beasley.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Units 1 and 2, St. Lucie County, Florida

*Date of amendment request:* June 30, 2014, as supplemented by letter dated August 19, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML14192A022 and ML14241A422, respectively.

*Description of amendment request:* This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendments would revise the Cyber Security Plan (CSP) implementation schedule to change the completion date for Milestone 8. Milestone 8 pertains to the date that full implementation of the CSP for all safety, security, and emergency preparedness functions will be achieved.

*Basis for proposed no significant hazards consideration determination:*

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the Cyber Security Plan implementation schedule is administrative in nature. The change does not alter accident analysis assumptions, add any initiators or affect the function of plant systems or the manner in which systems are operated, maintained, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability or the structures, systems and components relied upon to mitigate the consequences of postulated accidents and has no impact on the probability or consequences of an accident previously evaluated. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the Cyber Security Plan implementation schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems and a component relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions of operation, limiting safety systems settings and safety limits specified in the technical specifications. The proposed change to the Cyber Security Plan implementation schedule is administrative in nature. Because there is no change in these established safety margins as result of this change, the proposed change does not involve a significant reduction in a margin of safety. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review; it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* William S. Blair, Managing Attorney—Nuclear, Florida Power & Light, 700 Universe Blvd., MS LAW/JB, Juno Beach, Florida, 33408–0420.

*Acting NRC Branch Chief:* Lisa M. Regner.

*Duke Energy Carolinas, LLC., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina*

Exelon Generation Company, LLC., Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Units 1 and 2, St. Lucie County, Florida

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation.

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland, 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within five days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within five days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

*It is so ordered.*

Dated at Rockville, Maryland, 21st day of October, 2014.

For the Nuclear Regulatory Commission.

**Richard J. Laufer,**

*Acting, Secretary of the Commission.*

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

| Day | Event/activity |
|---|---|
| 0 | Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests. |
| 10 | Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding. |
| 60 | Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply). |
| 20 | U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). |
| 25 | If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access. |
| 30 | Deadline for NRC staff reply to motions to reverse NRC staff determination(s). |
| 40 | (Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI. |
| A | If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff. |
| A + 3 | Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order. |
| A + 28 | Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. |
| A + 53 | (Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI. |
| A + 60 | (Answer receipt +7) Petitioner/Intervenor reply to answers. |
| >A + 60 | Decision on contention admission. |

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

[FR Doc. 2014–25530 Filed 11–3–14; 8:45 am]
**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2015–3 and R2015–2; Order No. 2231]**

## New Postal Product

**AGENCY:** Postal Regulatory Commission.
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an addition of Discover Financial Services Agreement to the market-dominant product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* November 17, 2014.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Introduction
II. Notice of Filing
III. Ordering Paragraphs

### I. Introduction

On October 27, 2014, the Postal Service filed a request pursuant to 39 U.S.C. 3622 and 3641, as well as 39 CFR 3010 and 3020, *et seq.,* to add a Discover Financial Services (Discover) negotiated service agreement to the market-dominant product list.[1]

*Request.* In support of its Request, the Postal Service filed a copy of the Board of Governors' Resolution No. 14–07, authorizing a negotiated service agreement with Discover; a copy of the contract; proposed descriptive language changes to the Mail Classification Schedule; a proposed data collection plan; a statement of supporting justification as required by 39 CFR 3020.32, which the Postal Service also asserts satisfies the requirements of 39 CFR 3010.42(b)–(e); and a financial model.

The Postal Service believes that the Discover negotiated service agreement conforms to the policies of the Postal Accountability and Enhancement Act, and meets the statutory standards supporting the desirability of a special classification under 39 U.S.C. 3622(c)(10). *Id.* at 3. In particular, the Postal Service believes the agreement has the potential to enhance the Postal Service's long-term financial position, and it will not cause unreasonable harm to the marketplace. *Id.*

*Related contract.* The Postal Service indicates that the agreement is designed to increase the total aggregate contribution that the Postal Service receives from mail eligible under its agreement with Discover. *Id.* at 5. The Postal Service states that the implementation date of the agreement will be December 1, 2014 or on a date mutually agreed upon by the Postal Service and Discover, and will expire three years from the implementation date, unless otherwise terminated pursuant to the provisions of the agreement.[2] *Id.* at 1; Attachment B at 6.

The Postal Service contends that the agreement consists of the following four key components: (1) Annual revenue growth thresholds; (2) a baseline mail volume; (3) tiered rebates based on aggregate gross revenue; and (4) a nonperformance penalty to be paid if the annual revenue growth threshold is not met. *Id.* at 6–10.

- Discover must meet or exceed annual revenue growth thresholds (*i.e.,* 3–6%) to qualify for specific rebate percentages under a tiered structure. The baseline revenue amount to calculate the annual growth thresholds is $304,053,073.
- Discover must also meet or exceed a baseline volume amount annually (1,256,212,059 pieces in the first year, subsequent contract years' eligible volume depends on volume in prior years) in order to qualify for a rebate.
- The agreement provides for a tiered rebate structure for a portion of the postage paid for eligible mail if such mail (i) meets or exceeds specified annual revenue thresholds, and (ii) exceeds the aggregate total baseline volume for mail eligible under the agreement. *Id.* at 5. The tier 1 and 2 rebates are 2.25% and 2.5%, respectively.
- If Discover does not meet the annual revenue growth thresholds provided for in the agreement, Discover must pay the Postal Service a nonperformance penalty of 10% of the difference between the annual revenue growth threshold and the annual revenue actually generated by Discover for mail eligible under the agreement.

*Similarly situated mailers.* With respect to potential similarly situated mailers, the Postal Service states that it is ready to negotiate and implement functionally equivalent agreements with such mailers. *Id.,* Attachment E at 4. It believes that in assessing the desirability of a similar agreement, the defining characteristics of Discover are its size, large aggregate Standard Mail and First Class postage; its expanding Standard Mail advertising volume; and its declining First Class Mail billing and statement volume. *Id.* at 13.

*Notice.* The Postal Service represents that it will inform customers of the new classification changes and associated price effects through publication in the **Federal Register**. *Id.* at 2.

### II. Notice of Filing

The Commission establishes Docket Nos. MC2015–3 and R2015–2 for consideration of the Request pertaining to the proposed new product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filing in the captioned dockets are consistent with the policies of 39 U.S.C. 3622 and 3642 as well as 39 CFR parts 3010 and 3020. Comments are due no later than November 17, 2014. The filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints John P. Klingenberg to serve as Public Representative in these dockets.

### III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2015–3 and R2015–2 for consideration of the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, John P. Klingenberg is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than November 17, 2014.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[1] Notice of the United States Postal Service of Filing Request to Add Discover Financial Services Negotiated Service Agreement to the Market-Dominant Product List, October 27, 2014 (Request).

[2] Pursuant to 39 U.S.C. 3622(c), the Postal Service is required, among other things, to provide public notice of the rate adjustment and provide an opportunity for review by the Commission of at least 45 days before the implementation of any adjustment in rates under section 3622. Accordingly, it initially appears that the implementation date may be no earlier than December 11, 2014, provided the other conditions in Section I.G. of the proposed agreement are satisfied.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2014–26118 Filed 11–3–14; 8:45 am]

**BILLING CODE 7710–FW–P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

*Extension:*

Rule 9b–1; SEC File No. 270–429, OMB Control No. 3235–0480.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 9b–1, Options Disclosure Document (17 CFR 240.9b–1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 9b–1 (17 CFR 240.9b–1) sets forth the categories of information required to be disclosed in an options disclosure document (''ODD'') and requires the options markets to file an ODD with the Commission 60 days prior to the date it is distributed to investors. In addition, Rule 9b–1 provides that the ODD must be amended if the information in the document becomes materially inaccurate or incomplete and that amendments must be filed with the Commission 30 days prior to the distribution to customers. Finally, Rule 9b–1 requires a broker-dealer to furnish to each customer an ODD and any amendments, prior to accepting an order to purchase or sell an option on behalf of that customer.

There are 12 options markets that must comply with Rule 9b–1. These respondents work together to prepare a single ODD covering options traded on each market, as well as amendments to the ODD. These respondents file approximately 3 amendments per year. The staff calculates that the preparation and filing of amendments should take no more than eight hours per options market. Thus, the total time burden for options markets per year is 288 hours (12 options markets × 8 hours per amendment × 3 amendments). The estimated cost for an in-house attorney is $380 per hour,[1] resulting in a total internal cost of compliance for these respondents of $109,440 per year (288 hours at $380 per hour).

In addition, approximately 1,500 broker-dealers must comply with Rule 9b–1. Each of these respondents will process an average of 3 new customers for options each week and, therefore, will have to furnish approximately 156 ODDs per year. The postal mailing or electronic delivery of the ODD takes respondents no more than 30 seconds to complete for an annual time burden for each of these respondents of 78 minutes or 1.3 hours. Thus, the total time burden per year for broker-dealers is 1,950 hours (1,500 broker-dealers × 1.3 hours). The estimated cost for a general clerk of a broker-dealer is $57 per hour,[2] resulting in a total internal cost of compliance for these respondents of $111,150 per year (1,950 hours at $57 per hour).

The total time burden for all respondents under this rule (both options markets and broker-dealers) is 2,238 hours per year (288 + 1,950), and the total internal cost of compliance is $220,590 ($109,440 + $111,150).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 29, 2014.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26128 Filed 11–3–14; 8:45 am]

**BILLING CODE 8011–01–P**

[1] The $380 per hour figure for an Attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[2] The $57 per hour figure for a General Clerk is from SIFMA's *Office Salaries in the Securities Industry 2013,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. The staff believes that the ODD would be mailed or electronically delivered to customers by a general clerk of the broker-dealer or some other equivalent position.

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

*Extension:*

Form N–PX; SEC File No. 270–524, OMB Control No. 3235–0582.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is ''Form N–PX (17 CFR 274.129) under the Investment Company Act of 1940, Annual Report of Proxy Voting Record.'' Rule 30b1–4 (17 CFR 270.30b1–4) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) requires every registered management investment company, other than a small business investment company registered on Form N–5 (''Funds''), to file Form N–PX not later than August 31 of each year. Funds use Form N–PX to file annual reports with the Commission containing their complete proxy voting record for the most recent twelve-month period ended June 30.

The Commission estimates that there are approximately 2,500 Funds registered with the Commission, representing approximately 10,000 Fund portfolios, which are required to file Form N–PX.[1] The 10,000 portfolios

[1] The estimate of 2,500 Funds is based on the number of management investment companies currently registered with the Commission. We estimate, based on data from the Investment Company Institute and other sources, that there are approximately 5,700 Fund portfolios that invest primarily in equity securities, 500 ''hybrid'' or bond

Continued

are comprised of 6,200 portfolios holding equity securities and 3,800 portfolios holding no equity securities. The staff estimates that portfolios holding no equity securities require approximately a 0.17 hour burden per response and those holding equity securities require 7.2 hours per response. The overall estimated annual burden is therefore approximately 45,300 hours ((6,200 responses × 7.2 hours per response for equity holding portfolios) + (3,800 responses × 0.17 hours per response for non-equity holding portfolios)). Based on the estimated wage rate, the total cost to the industry of the hour burden for complying with Form N–PX would be approximately $14.5 million.

The Commission also estimates that portfolios holding equity securities will bear an external cost burden of $1,000 per portfolio to prepare and update Form N–PX. Based on this estimate, the Commission estimates that the total annualized cost burden for Form N–PX is $6.2 million (6,200 responses × $1,000 per response = $6,200,000).

The collection of information under Form N–PX is mandatory. The information provided under the form is not kept confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov*.

portfolios that may hold some equity securities, 3,200 bond Funds that hold no equity securities, and 600 money market Funds, for a total of 10,000 portfolios required to file Form N–PX.

Dated: October 29, 2014.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26129 Filed 11–3–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73457; File No. SR–CTA/CQ–2014–02]**

## Consolidated Tape Association; Order Approving the Twentieth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and Fourteenth Substantive Amendment to the Restated Consolidated Quotation Plan

October 29, 2014.

### I. Introduction

On August 6, 2014, the Chicago Board Options Exchange, Incorporated, on behalf of Participants in the Second Restatement of the Consolidated Tape Association (''CTA'') Plan and the Restated Consolidated Quotation (''CQ'') Plan (collectively the ''Participants'') [1] filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 608 thereunder,[3] a proposal to amend the Second Restatement of the CTA Plan and Restated CQ Plan (collectively, the ''Plans'').[4] The proposal represents the twentieth substantive amendment to the CTA Plan (''Twentieth Amendment to the CTA Plan'') and the fourteenth substantive amendment to the CQ Plan (''Fourteenth Amendment to the CQ Plan''), and reflects changes unanimously adopted by the Participants. The Twentieth Amendment to the CTA Plan and the Fourteenth Amendment to the CQ Plan (collectively ''the Amendments'') would amend the Plans to change certain voting requirements under the CTA Plan and the CQ Plan. The proposed Amendments were published for comment in the **Federal Register** on October 7, 2014.[5] No comment letters were received in response to the Notice. This order approves the proposed Amendments to the Plans.

### II. Description of the Proposal

The Amendments propose (a) to change the voting requirement for amending the capacity planning process under both the CTA Plan and the CQ Plan from a unanimous vote to the affirmative vote of a majority of all Participants entitled to vote, (b) to change the voting requirement for reducing a fee under both the CTA Plan and the CQ Plan from unanimity to the affirmative vote of two-thirds of all Participants entitled to vote, and (c) to change the voting requirement for establishing a new fee or to delete an existing fee under the CQ Plan from unanimity to the affirmative vote of two-thirds of all Participants entitled to vote.

### III. Discussion

After careful review, the Commission finds that the Amendments to the Plans are consistent with the requirements of the Act and the rules and regulations thereunder,[6] and, in particular, Section 11A(a)(1) of the Act [7] and Rule 608 thereunder [8] in that they are necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system. The Commission believes a majority vote, rather than a unanimous vote, will provide the CTA and the CQ Plan's Operating Committee greater flexibility to revise the capacity planning process when they find it beneficial to do so. The Commission notes that the Nasdaq/UTP Plan requires a majority vote to effect changes to the capacity planning process.

Similarly, the Commission believes that a two-thirds majority vote to reduce or eliminate an existing fee or establish

[1] Each participant executed the proposed amendment. The Participants are: BATS Exchange, Inc., BATS–Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE Arca, Inc. and NYSE MKT LLC.

[2] 15 U.S.C. 78k–1.

[3] 17 CFR 242.608.

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (temporarily authorizing the CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (January 28, 1980) (permanently authorizing the CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is a ''national market system plan'' under Rule 608 under the Act, 17

[5] *See* Securities Exchange Act Release No. 73285 (October 1, 2014), 79 FR 60555 (''Notice'').

[6] The Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78k–1(a)(1).

[8] 17 CFR 240.608.

a new fee should provide the Participants more flexibility to change fees. Current voting requirements for reducing or eliminating an existing fee or for establishing a new fee vary widely under the CTA and CQ Plans.[9] The proposed Amendments harmonize requirements under the Plans for effecting fee-related changes. As a result of the proposed Amendments, both Plans would require a two-thirds vote to establish or increase a fee or to eliminate or reduce a fee. These changes would provide Participants with greater flexibility with respect to the Plans' fee schedule. The changes would also harmonize voting requirements under the CTA Plan and the CQ Plan with corresponding requirements under the OPRA Plan.

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 11A of the Act,[10] and the rules thereunder, that the proposed Amendments to the CTA and CQ Plans are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Kevin M. O'Neil,**

*Deputy Secretary.*

[FR Doc. 2014–26119 Filed 11–3–14; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Notice at 60555.

[10] 15 U.S.C. 78k–1.

[11] 17 CFR 200.30–3(a)(27).

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, November 6, 2014 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution settlement of administrative proceedings;

Adjudicatory matter;

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: October 30, 2014.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2014–26235 Filed 10–31–14; 11:15 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73464; File No. SR–NYSEArca–2014–120]**

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading Shares of the Sit Rising Rate Fund Under NYSE Arca Equities Rule 8.200

October 29, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 16, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Sit Rising Rate Fund under NYSE Arca Equities Rule 8.200. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

NYSE Arca Equities Rule 8.200, Commentary .02 permits the trading of Trust Issued Receipts (''TIRs'') either by listing or pursuant to unlisted trading privileges (''UTP'').[4] The Exchange proposes to list and trade shares (''Shares'') of the Sit Rising Rate Fund (''Fund'') pursuant to NYSE Arca Equities Rule 8.200. The Fund is a series of the ETF Managers Group Commodity Trust I (the ''Trust''), a Delaware statutory trust.[5]

The Exchange notes that the Commission has previously approved the listing and trading of other issues of TIRs on the American Stock Exchange LLC,[6] trading on NYSE Arca pursuant to UTP,[7] and listing on NYSE Arca.[8] In

[4] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

[5] The Trust submitted a registration statement with respect to the Fund on Form S–1 under the Securities Act of 1933 (''1933 Act'') on October 7, 2014 (File No. 333–199190) (the ''Registration Statement''). The description of the Fund and the Shares contained herein are based, in part, on the Registration Statement.

[6] *See, e.g.,* Securities Exchange Act Release No. 58161 (July 15, 2008), 73 FR 42380 (July 21, 2008) (SR–Amex–2008–39).

[7] *See, e.g.,* Securities Exchange Act Release No. 58163 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR–NYSEArca–2008–73).

[8] *See, e.g.,* Securities Exchange Act Release No. 70209 (August 15, 2013), 78 FR 51269 (June 24, 2013) (SR–NYSEArca–2013–60); Securities Exchange Act Release No. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR–NYSEArca–2008–91).

addition, the Commission has approved the listing and trading of other exchange-traded fund-like products linked to the performance of underlying currencies and commodities.[9]

According to the Registration Statement, the Fund's sponsor and investment manager is ETF Managers Capital LLC (''ETFMC'' or the ''Sponsor''), a limited liability company that is a commodity pool operator (''CPO'') that is registered with the Commodity Futures Trading Commission (''CFTC'')[10] and is a member of the National Futures Association (''NFA''). U.S. Bancorp Fund Services will be the transfer agent and for the Shares and administrator for the Fund. Esposito Securities LLC (the ''Distributor'') will provide statutory and wholesaling distribution services.

Fund's Investment Objective and Strategy

The Fund's investment objective will be to profit from rising interest rates by tracking the performance of a portfolio (the ''Benchmark Portfolio'') consisting of exchange traded futures contracts and options on futures on 2, 5 and 10-year U.S. Treasury securities (''Treasury Instruments'') weighted to achieve a targeted negative 10-year average effective portfolio duration (the ''Benchmark Component Instruments''). The Fund will seek to achieve its investment objective by investing in the Benchmark Component Instruments currently constituting the Benchmark Portfolio. The Benchmark Portfolio will be maintained by Sit Fixed Income Advisors II, LLC (''Sit'') and will be rebalanced, reconstituted, or both, monthly, typically on the 15th of each month and on the next business day if the 15th is a holiday, weekend, or other day on which the national exchanges are closed, to maintain a negative 10-year average effective duration. The Benchmark Portfolio will maintain a net short position in Treasury Instruments. There will normally be substantially more net short exposure than net long exposure. The Fund will not use futures contracts or options to obtain leveraged investment results. The Benchmark Component Instruments constituting the Benchmark Portfolio and anticipated rebalancing dates, as well as the daily holdings of the Fund, will be available on the Fund's Web site at *www.risingratefund.com*.

The weightings of the Treasury Instruments constituting the Benchmark Portfolio and the Fund will be based on each maturity's duration contribution. Longer duration treasuries will account for a more meaningful portion of the Fund's price sensitivity to changes in interest rates. As of October 9, 2014, the Benchmark Portfolio consisted of:

| Treasury instrument (%) | % of Portfolio |
|---|---|
| 2 Year U.S. Treasury Futures | 45 |
| 5 Year U.S. Treasury Futures | 30 |
| 5 Year U.S. Treasury Call Options | 15 |
| 10 Year U.S. Treasury Put Options | 10 |
| | 100 |

The relative weightings of the Benchmark Component Instruments will be shifted between maturities only when there are material changes in the shape of the yield curve, for example, if the Federal Reserve began raising short term interest rates more than long term interest rates. In such an instance, Sit, which maintains the Benchmark Portfolio, will increase the weightings of the 2-year and reduce the weighting in the 10-year maturity Treasury Instruments. Conversely, Sit will do the opposite if the Federal Reserve began raising long term interest rates more than short term interest rates. Reconstitution and rebalancing each will occur monthly, on the 15th, unless there are radical changes in the yield curve such that effective duration is outside of a range from negative nine to negative 11-year average effective duration, in which case Sit will adjust the maturities of the Treasury Instruments before the next expected monthly reconstitution.

The Benchmark Portfolio will be invested in Benchmark Component Instruments and rebalanced, as noted above, to maintain a negative average effective portfolio duration of approximately 10 years. Duration is a measure of estimated price sensitivity relative to changes in interest rates. Portfolios with longer durations are typically more sensitive to changes in interest rates. For example, if interest rates rise by 1%, the market value of a security with an effective duration of 5 years would decrease by 5%, with all other factors being constant, and likewise the market value of a security with an effective duration of negative 5 years would increase by 5%, with all other factors being constant. Duration estimates are based on certain assumptions by Sit and are subject to a number of limitations. Duration is a more accurate estimate of price sensitivity provided interest rate changes are small and occur equally in short-term and long-term securities. Investments in debt securities typically decrease in value when interest rates rise. The risk is usually greater for longer-term debt securities.

The Fund will incur certain expenses in connection with its operations. The Fund will hold cash or cash equivalents such as U.S. Treasuries or other high credit quality, short-term fixed-income or similar securities (such as shares of money market funds and collateralized repurchase agreements) for direct investment or as collateral for the Treasury Instruments and for other liquidity purposes and to meet redemptions that may be necessary on an ongoing basis. These expenses and income from the cash and cash equivalent holdings may cause imperfect correlation between changes in the Fund's NAV and changes in the Benchmark Portfolio, because the Benchmark Portfolio does not reflect expenses or income.

Net Asset Value

According to the Registration Statement, the net asset value (''NAV'') of the Fund will be calculated by taking the current market value of its total assets, subtracting any liabilities, and dividing that total by the total number of outstanding shares.

The Administrator will calculate the NAV daily and the NAV will be released after 4:00 p.m. Eastern Time (''E.T.''), the end of the Core Trading Session on the Exchange. For purposes of calculating NAV, the Administrator will use the closing price of the Treasury Instruments on the U.S. exchanges on which the Treasury Instruments are traded (primarily on the exchanges within the Chicago Mercantile Exchange Group of exchanges (collectively, the ''CME'')).

Reverse repurchase agreements will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in such instruments.

[9] *See, e.g.,* Securities Exchange Act Release Nos. 56131 (July 25, 2007), 77 FR 42212 (August 1, 2007) (SR–NYSEArca–2007–57) (order approving listing and trading on NYSE Arca of shares of eight issues of Commodity Trust Shares); 57456 (March 7, 2008), 73 FR 13599 (March 13, 2008) (SR–NYSEArca–2007–91) (order granting accelerated approval for NYSE Arca listing and trading of shares of the iShares GS Commodity Trusts); 59781 (April 17, 2009), 74 FR 18771 (April 24, 2009) (SR–NYSEArca–2009–28) (order granting accelerated approval for NYSE Arca listing and trading of shares of the ETFS Silver Trust); 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40) (order granting accelerated approval for NYSE Arca listing the ETFS Gold Trust); 62527 (July 19, 2010), 75 FR 43606 (July 26, 2010) (SR–NYSEArca–2010–44) (order approving listing and trading on NYSE Arca of shares of the United States Commodity Index Fund).

[10] The Sponsor is not a broker-dealer or affiliated with a broker-dealer.

Intraday Indicative Value (''IIV'')

According to the Registration Statement, the Exchange will calculate and disseminate throughout the core trading session on each trading day an updated IIV for the Fund. The IIV will be calculated by using the Fund's prior day's closing NAV per share as a base and updating that value throughout the trading day to reflect changes in the most recently reported trade price for the Benchmark Component Instruments. The net asset value of the Fund's cash and cash equivalent holdings, on the other hand, will not be updated throughout the day.

The IIV will be calculated on a per share basis every 15 seconds on a delayed basis during the Core Trading Session (9:30 a.m. E.T. to 4:00 p.m. E.T.) on the Exchange. The normal trading hours of the CME are 10:00 a.m. to 2:30 p.m. E.T. This means that there is a gap in time at the beginning and the end of each day during which the Fund's Shares are traded on the Exchange but real-time CME trading prices for contracts traded on the CME are unavailable. During such gaps in time the IIV will be calculated based on the end of day price of such contracts from the CME's immediately preceding trading session.

According to the Registration Statement, the Fund will provide the independent third party calculator with information to calculate the IIV, but the Fund will not be involved in the actual calculation of the IIV and is not responsible for the calculation or dissemination of the IIV. The Fund makes no warranty as to the accuracy of the IIV. The IIV should not be viewed as a ''real-time'' update of NAV because the IIV is not calculated in the same manner as NAV, which will be computed once per day.

The Exchange disseminates the IIV through the facilities of CTA/CQ High Speed Lines. In addition, the IIV is published on the NYSE Arca's Web site and is available through on-line information services such as Bloomberg and Reuters.

According to the Registration Statement, dissemination of the IIV provides additional information that is not otherwise available to the public and is useful to investors and market professionals in connection with the trading of the Fund Shares on the Exchange. Investors and market professionals are able throughout the trading day to compare the market price of the Fund and the IIV. If the market price of the Fund Shares diverges significantly from the IIV, market professionals will have an incentive to execute arbitrage trades. Such arbitrage trades can tighten the tracking between the market price of the Fund and the IIV and thus can be beneficial to all market participants.

The IIV should not be viewed as an actual real time update of the NAV, because the NAV is calculated only once at the end of each trading day based upon the relevant end of day values of the Fund's investments. The IIV also should not be viewed as a precise value of the Shares.

In addition to the IIV, the value of the Benchmark Portfolio (excluding the cash and cash equivalent holdings) will be calculated every 15 seconds on a delayed basis and disseminated through similar means as the IIV.

Creation and Redemption of Shares

The Fund will offer and issue Shares only in aggregations of a specified number of Shares (each, a ''Creation Unit''). Creation Unit sizes will be 25,000 Shares per Creation Unit. The Creation Unit size for a Fund may change. The Fund will create and redeem Shares from time to time in one or more ''Creation Baskets'' or ''Redemption Baskets'' as described below. The creation and redemption of baskets will only made in exchange for delivery to the Fund or the distribution by the Fund of the amount of Treasuries and any cash represented by the baskets being created or redeemed, the amount of which is based on the combined NAV of the number of shares included in the baskets being created or redeemed determined as of 4:00 p.m. E.T. on the day the order to create or redeem baskets is properly received.

On any business day other than a day when any of the NYSE Arca, the CME or the New York Stock Exchange are closed for regular trading (''Business Day''), an Authorized Purchaser [11] may place an order with the Distributor to create one or more baskets. Purchase orders must be placed by 12:00 p.m. E.T. or the close of regular trading on the NYSE Arca, whichever is earlier. The day on which the Distributor receives a valid purchase order is referred to as the purchase order date. By placing a purchase order, an Authorized Purchaser agrees to deposit Treasuries, cash or a combination of Treasuries and cash, as described below. Prior to the delivery of baskets for a purchase order, the Authorized Purchaser must also have wired to the Custodian the non-refundable transaction fee due for the purchase order.

The total deposit required to create each basket (''Creation Basket Deposit'') is the amount of Treasuries and/or cash that is in the same proportion to the total assets of the Fund (net of estimated accrued but unpaid fees, expenses and other liabilities) on the purchase order date as the number of shares to be created under the purchase order is in proportion to the total number of shares outstanding on the purchase order dates. ETFMC determines, directly in its sole discretion or in consultation with the Administrator, the requirements for Treasuries and the amount of cash, including the maximum permitted remaining maturity of a Treasury and proportions of Treasury and cash that may be included in deposits to create baskets. The Distributor will publish such requirements at the beginning of each Business Day. The amount of cash deposit required is the difference between the aggregate market value of the Treasuries required to be included in a Creation Basket Deposit as of 4:00 p.m. E.T. on the date the order to purchase is properly received and the total required deposit.

The procedures by which an Authorized Purchaser can redeem one or more baskets mirror the procedures for the creation of baskets. On any Business Day, an Authorized Purchaser may place an order with the Distributor to redeem one or more baskets. Redemption orders must be placed by 12:00 p.m. E.T. or the close of regular trading on the NYSE Arca, whichever is earlier. A redemption order so received will be effective on the date it is received in satisfactory form by the Distributor. The redemption procedures allow Authorized Purchasers to redeem baskets and do not entitle an individual shareholder to redeem any Shares in an amount less than a Redemption Basket, or to redeem baskets other than through an Authorized Purchaser.

The redemption distribution due from the Fund will be delivered to the Authorized Purchaser by 3:00 p.m. E.T. on the third business day following the redemption order date if, by 3:00 p.m. E.T. on such third business day, the Fund's account at the Depositary Trust Company (''DTC'') has been credited

[11] Authorized Purchasers will be the only persons that may place orders to create and redeem baskets. Authorized Purchasers must be (1) registered broker-dealers or other securities market participants, and (2) have an account with the Depository Trust Company. To become an Authorized Purchaser, a person must enter into an Authorized Purchaser Agreement with ETFMC. The Authorized Purchaser Agreement provides the procedures for the creation and redemption of baskets and for the delivery of the Treasuries and any cash required for such creation and redemptions. The Authorized Purchaser Agreement and the related procedures attached thereto may be amended by the Fund, without the consent of any limited partner or shareholder or Authorized Purchaser.

with the baskets to be redeemed. If the Fund's DTC account has not been credited with all of the baskets to be redeemed by such time, the redemption distribution will be delivered to the extent of whole baskets received. Any remainder of the redemption distribution will be delivered on the next business day to the extent of remaining whole baskets received if the Fund receives the fee applicable to the extension of the redemption distribution date which ETFMC may, from time to time, determine and the remaining baskets to be redeemed are credited to the Fund's DTC account by 3:00 p.m. E.T. on such next business day. Any further outstanding amount of the redemption order shall be cancelled.

The Exchange will obtain a representation prior to listing of the Fund from the Trust that the NAV per Share will be calculated daily and made available to all market participants at the same time.

The Fund will meet the initial and continued listing requirements applicable to TIRs in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. With respect to application of Rule 10A–3 [12] under the Act, the Fund will rely on the exception contained in Rule 10A–3(c)(7).[13] A minimum of 100,000 Shares of the Fund will be outstanding as of the start of trading on the Exchange.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. That is, the Fund's investments will not be used to seek performance that is a multiple (*e.g.,* 2× or 3×) or inverse multiple of the Fund's Benchmark Portfolio.

A more detailed description of the Fund as well as investment risks, creation and redemption procedures and fees is set forth in the Registration Statement.

Availability of Information Regarding the Shares

The Fund's Web site, *www.risingratefund.com,* will be publicly accessible at no charge prior to the public offering of Shares and will include a form of the prospectus for that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including (a) the current NAV per Share daily and the prior Business Day's NAV and the reported closing price; (b) the mid-point of the bid-ask price in relation to the NAV as of the time the NAV is calculated (the ''Bid-Ask Price''); (c) calculation of the premium or discount of such price against such NAV; (d) the Bid-Ask Price of Shares determined using the highest bid and lowest offer as of the time of calculation of the NAV; (e) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (f) the prospectus; and (g) other applicable quantitative information.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of the Fund.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), Shareholder Reports and Form N–CSR. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* 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. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

This Web site disclosure of the portfolio composition of the Fund will occur at the same time as the disclosure by the Sponsor of the portfolio composition to authorized participants so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public Web site as well as in electronic files provided to authorized participants. Accordingly, each investor will have access to the current portfolio composition of the Fund through the Fund's Web site.

The IIV will be calculated by using the Fund's prior day's closing NAV per share as a base and updating that value throughout the trading day to reflect changes in the most recently reported trade price for the Treasury Instruments. The IIV per Share will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.

The NAV for the Shares will be disseminated to all market participants at the same time. The Exchange will also make available on its Web site daily trading volume of the Shares and the closing prices of such Shares. The intra-day closing prices and settlement prices of the Treasury Instruments are or will be readily available from the Web sites of the relevant exchanges on which Treasury Instruments are traded (primarily the CME). The relevant exchanges trading Treasury Instruments also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites.

Quotation information from brokers and dealers or major market data vendors will be available for money market instruments and U.S. Treasuries.

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. In addition, the Fund's Web site, *www.risingratefund.com,* will display the applicable end of day closing NAV.

Availability of Information About the Benchmark Portfolio

The daily closing Benchmark Portfolio level and the percentage change in the daily closing level for the Benchmark Portfolio will be publicly available from one or more major market data vendors. Data regarding the Benchmark Portfolio, updated every 15 seconds, will also be available through a major market data vendor.

Data regarding the Treasury Instruments will also be available from the CME Web site. Data regarding the Treasury securities underlying the Treasury Instruments will be publicly available from various financial information service providers. Information relating to the weighting of Treasury Instruments and the Benchmark Portfolio methodology is also available on the Web site for Fund at *www.risingratefund.com.*

Trading Rules

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. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'')

[12] 17 CFR 240.10A–3.

[13] 17 CFR 240.10A–3(c)(7).

for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.200. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [14] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange.

The trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders acting as registered Market Makers in TIRs to facilitate surveillance. *See* ''Surveillance'' below for more information.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the underlying securities, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule [15] or by the halt or suspension of trading of the underlying securities.

The Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV occurs. If an interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[16] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and underlying Treasury Instruments with other markets and entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and underlying Treasury Instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying Treasury Instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[17] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

For components traded on exchanges, not more than 10% of the net assets of the Fund shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, not more than 10% of the net assets of a Fund in the aggregate shall consist of futures contracts or options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Basket aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV will not be calculated or publicly disseminated; (4) how information regarding the IIV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day.

The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [18] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

[14] 17 CFR 240.10A–3.

[15] *See* NYSE Arca Equities Rule 7.12.

[16] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[17] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all instruments traded by the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[18] 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. The Fund will seek to achieve its investment objective by tracking the performance of the Benchmark Portfolio. The Sponsor represents that the Trust will invest in Treasury Instruments in a manner consistent with the Trust's investment objective and will not use futures contracts or options to obtain leveraged investment results. The Sponsor is not broker-dealer or affiliated with a broker-dealer. The Sponsor represents that it will implement and maintain procedures designed to prevent the use and dissemination of material non-public information. 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. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and underlying Treasury Instruments with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and underlying Treasury Instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying Treasury Instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to TRACE. For components traded on exchanges, not more than 10% of the net assets of the Fund shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, not more than 10% of the net assets of a Fund in the aggregate shall consist of futures contracts or options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. The NAV for the Shares will be disseminated to all market participants at the same time. The Exchange will also make available on its Web site daily trading volume of the Shares and the closing prices of such Shares. The intra-day closing prices and settlement prices of the Treasury Instruments are or will be readily available from the Web sites of the relevant exchanges on which Treasury Instruments are traded (primarily the CME). The relevant exchanges trading Treasury Instruments also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites.

In addition, quotation information from brokers and dealers or major market data vendors will be available for money market instruments.

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. In addition, the Fund's Web site, *www.risingratefund.com,* will display the applicable end of day closing NAV.

The daily closing Benchmark Portfolio level and the percentage change in the daily closing level for the Benchmark Portfolio will be publicly available from one or more major market data vendors. Data regarding the Benchmark Portfolio, updated every 15 seconds, will also available on a major market data vendor. Data regarding the Treasury Instruments will also available from the CME Web site. Data regarding the Treasury securities underlying the Treasury Instruments will be publicly available from various financial information service providers. Information relating to the weighting of Treasury Instruments and the Benchmark Portfolio methodology is also available on the Web site for Fund at *www.risingratefund.com.*

Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the underlying securities, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule or by the halt or suspension of trading of the underlying securities. The Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV occurs. If an interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information is publicly available regarding the Shares, thereby promoting market transparency. The Fund's NAV will be disseminated to all market participants at the same time. The IIV will be disseminated at least every 15 seconds during the Core Trading Session. Trading in the Shares will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of trust issued receipts that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on the Exchange's behalf, has in place surveillance procedures relating to trading in the Shares and underlying Treasury Instruments and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, IIV, and quotation and last sale information for the Shares.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of Trust Issued Receipts product that will principally hold fixed income securities and derivatives thereon, and that will enhance competition among market participants,

to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–120 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–120. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–120, and should be submitted on or before November 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26125 Filed 11–3–14; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73459; File No. SR–ICEEU–2014–18]**

## Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filling of Proposed Rule Change To Provide for the Clearance of Additional Sovereign Contracts

October 29, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that on October 20, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed changes to the rules as described in Items I, II, and III below, which Items have been primarily prepared by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed changes to the rules from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The principal purpose of the change is to provide for the clearance of additional CDS contracts that are Western European sovereign CDS contracts referencing the Kingdom of Belgium and the Republic of Austria (the ''Additional WE Sovereign Contracts'').

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for proposing the Additional WE Sovereign Contracts. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is for ICE Clear Europe to offer clearing of Western European sovereign CDS contracts referencing two additional reference entities, the Kingdom of Belgium and the Republic of Austria. ICE Clear Europe currently clears CDS contracts referencing four other Western European sovereigns: Ireland, the Republic of Italy, the Portuguese Republic and the Kingdom of Spain.[3] ICE Clear Europe believes clearance of the Additional WE Sovereign Contracts will benefit the markets for credit default swaps on Western European sovereigns by offering to market participants the benefits of clearing, including reduction in counterparty risk and safeguarding of margin assets pursuant to Clearing House rules.

The Additional WE Sovereign Contracts will constitute ''Non-STEC Single Name Contracts'' for purposes of the CDS Procedures and accordingly will be governed by Paragraph 10 of the CDS Procedures, consistent with treatment of the Western European sovereign CDS contracts currently cleared by ICE Clear Europe. Clearing of the Additional WE Sovereign Contracts will not require any changes to ICE

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 34–71920 (Apr. 9, 2014) (File No. SR–ICEEU–2014–04); 79 FR 21331 (Apr. 15, 2015) (order approving rule changes to clear other Western European sovereign CDS contracts) (the ''Prior WE Sovereigns Order'').

Clear Europe's existing Clearing Rules and Procedures. In addition, clearing of the Additional WE Sovereign Contracts will not require any changes in ICE Clear Europe's risk management framework (including relevant policies) or margin model.[4] ICE Clear Europe believes that clearing of the proposed Additional WE Sovereign Contracts is consistent with the requirements of Section 17A of the Act[5] and regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[6] The Additional WE Sovereign Contracts are substantially similar to the other Western European sovereign CDS contracts currently cleared by ICE Clear Europe. The additional contracts will be cleared in the same manner as such other Western European sovereign CDS contracts, consistent with ICE Clear Europe's existing clearing arrangements and related financial safeguards, protections, risk management policies and procedures and margin methodology (including those enhancements for Western European sovereign contracts previously adopted and approved in the Prior WE Sovereigns Order). In ICE Clear Europe's view, clearing of the Additional WE Sovereign CDS contracts, under such terms and arrangements, is consistent with the prompt and accurate clearance of and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICE Clear Europe, the safeguarding of securities and funds in the custody or control of ICE Clear Europe and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[7] Clearing of the Additional WE Sovereign Contracts will also satisfy the relevant requirements of Rule 17Ad–22,[8] as discussed below.

*Financial Resources.* ICE Clear Europe will apply its existing margin methodology for Western European sovereign CDS contracts to the Additional WE Sovereign Contracts. ICE Clear Europe believes that this model will provide sufficient margin to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17Ad–22(b)(2) and Rule 17Ad–22(d)(14).[9] In addition, ICE Clear Europe believes the CDS Guaranty Fund, under its existing methodology, will, together with the required margin, provide sufficient financial resources to support the clearing of Additional WE Sovereign Contracts consistent with the requirements of Rule 17Ad–22(b)(3).[10]

*Operational Resources.* ICE Clear Europe will have the operational and managerial capacity to clear the Additional WE Sovereign Contracts as of the commencement of clearing, consistent with the requirements of Rule 17Ad–22(d)(4).[11] ICE Clear Europe believes that its existing systems used for sovereign CDS contracts are appropriately scalable to handle the clearing of the Additional WE Sovereign Contracts.

*Settlement.* ICE Clear Europe will use its existing settlement procedures (including for physical settlements), account structures and approved financial institutions as used in other sovereign CDS clearing for the Additional WE Sovereign Contracts. ICE Clear Europe believes that clearing of the Additional WE Sovereign Contracts will therefore be consistent with the requirements of Rule 17Ad–22(d)(5), (12) and (15).[12]

*Default Procedures.* ICE Clear Europe's existing Rules and default management policies and procedures for CDS will apply to the Additional WE Sovereign Contracts. ICE Clear Europe believes that the Rules and procedures allow for it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of clearing member insolvencies or defaults, including in respect of Additional WE Sovereign Contracts, in accordance with Rule 17Ad–22(d)(11).[13]

*Governance.* As discussed in further detail in the Prior WE Sovereigns Order, although the margin model applicable to Western European sovereign CDS contracts, including the Additional WE Sovereign Contracts, may result in clearing members being subject to different margin charges based on their domicile and correlation with the underlying sovereign, ICE Clear Europe believes that the margin model properly aligns the margin requirements to the risks presented by particular clearing members. Moreover, the model operates without the need for ICE Clear Europe (or its management, Board or CDS Risk Committee) to exercise discretion concerning particular clearing members or the margin levels applicable to them. As a result, in ICE Clear Europe's view, the clearing of such contracts does not result in unfair discrimination among clearing members within the meaning of Section 17A(b)(3)(F) of the Act and Rule 17Ad–22(d)(8).[14]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

ICE Clear Europe does not believe the proposed Additional WE Sovereign Contracts would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. ICE Clear Europe does not anticipate that its commencement of clearing for the Additional WE Sovereign Contracts will adversely affect the trading market for those contracts or for CDS more generally. Specifically, allowing clearing of the Additional WE Sovereign Contracts will provide market participants with the additional choice to have their transactions in these types of contracts cleared, and should generally promote the further development of the market for these contracts. Moreover, ICE Clear Europe has established fair and objective criteria for eligibility to clear the Additional WE Sovereign Contracts, consistent with its criteria for other cleared CDS.

Although clearance of Additional WE Sovereign Contracts may result in higher margin requirements for some clearing members as a result of the general wrong way risk component of the margin model, ICE Clear Europe believes that the model properly aligns margin requirements to the risks presented by such clearing members with respect to the Additional WE Sovereign Contracts. As a result, ICE Clear Europe is of the view that these changes are necessary and appropriate in furtherance of the purpose of the Act and the Commission's regulations thereunder, including the financial resources and risk management requirements of Rule 17Ad–22.[15] Furthermore, ICE Clear Europe does not believe that any such increase in margin requirements would significantly affect the ability of clearing members or other market participants to continue to clear CDS, consistent with the risk management requirements of the Clearing House, or otherwise limit market participants' choices for selecting clearing services. Accordingly ICE Clear Europe does not believe that

[4] For a description of previously approved changes to ICE Clear Europe's risk management framework to accommodate clearing of Western European sovereign CDS contracts, see the Prior WE Sovereigns Order. ICE Clear Europe has performed a variety of empirical analyses related to clearing of the Additional WE Sovereign Contracts under its margin methodology, including back tests and stress tests.

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 240.17Ad–22.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22.

[9] 17 CFR 240.17Ad–22(b)(2), (d)(14).

[10] 17 CFR 240.17Ad–22(b)(3).

[11] 17 CFR 240.17Ad–22(d)(4).

[12] 17 CFR 240.17Ad–22(d)(5), (12) and (15).

[13] 17 CFR 240.17Ad–22(d)(11).

[14] 15 U.S.C. 78q–1(b)(3)(F); 17 CFR 240.17Ad–22(d)(8).

[15] 17 CFR 240.17Ad–22.

clearance of the Additional WE Sovereign Contracts will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the acceptance of the Additional WE Sovereign Contracts for clearing have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2014–18 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2014–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings.*

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–ICEEU–2014–18 and should be submitted on or before November 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26120 Filed 11–3–14; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73463; File No. SR–MIAX–2014–54]**

## Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Exchange Rule 531, Trade Nullification and Price Adjustment Procedure

October 29, 2014.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

The Exchange is filing a proposal to add Rule 531, Trade Nullification and Price Adjustment Procedure.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to add Rule 531, Trade Nullification and Price Adjustment Procedure.[3] As proposed, Rule 531 will allow for transactions to be nullified if both parties to the transaction agree to the nullification and allow the price of transaction [sic] and authorized by the Exchange.[4] The proposal is based upon a recent filing of another options exchange.[5]

The Exchange proposes to add Rule 531, ''Trade Nullification and Price Adjustment Procedure,'' which would: (a) Allow for any trades on the Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that this proposal is only intended to be effective until the joint efforts by the exchanges to create uniform trade nullification and adjustment rules are approved and in effect. Once the uniform rule has been approved and is effective, the Exchange will amend its rules appropriately.

[4] The Exchange notes that, as proposed, Rule 6.19 [sic] will only apply to trades that were executed on the Exchange and, as such, any orders that were either fully or partially routed to, or executed, on another Exchange will not be subject to the Proposed Rule 531.

[5] *See* Securities Exchange Act Release No. 72970 (September 3, 2014), 79 FR 53498 (September 9, 2014) (SR–CBOE–2014–066).

to be nullified if both parties to the trade agree to such nullification, and (b) allow for prices of executions to be adjusted if the price adjustment is agreed upon by both parties of the trade and authorized by the Exchange.[6]

The Exchange is also proposing to add a provision to allow Members to mutually agree to adjust a price of an execution. The Exchange believes this provision is necessary given the benefits of adjusting a trade price rather than nullifying the trade completely. Because options trades are used to hedge transactions in other markets, including securities and futures, many Members, and their customers, would rather adjust prices of executions rather than nullify the transactions and, thus, lose a hedge altogether. As such, the Exchange believes it is in the best interest of investors to allow for price adjustments as well as nullifications. In addition, the Exchange believes it is in the nature of a fair and orderly market to allow for price adjustments rather than only cancellations because an adjustment will result in the least amount of disruption to the overall market. The Exchange also notes that current Exchange Rules allow for prices of trades to be adjusted at the consent of both parties if such transactions are within the current obvious error provisions.[7] The Exchange is now proposing to merely allow this practice for any trade.

As proposed, Rule 531 expressly states that trades may be subject to nullification or price adjustment only if such trades are authorized by the Exchange. As part of the authorization process, in the case of a mutual nullification or mutual price adjustment, the Exchange will only authorize if the Exchange received verification from both parties to the trade that a mutual agreement has been made. In addition, prior to an authorization for a mutual price adjustment, the Exchange will ensure the agreed upon price would have been permissible and in compliance with all Exchange and Securities and Exchange Commission Rules, as amended, at the time the original transaction was executed.[8] Finally, the proposed rule will state that the format and information required by the Exchange for this submission will be released by the Exchange via Regulatory Circular. As such, prior to Rule 531 becoming operative, the Exchange will provide Members with specific requirements via an Exchange Regulatory Circular. The circular will, among other things, state specific timeframes required for requests and the format in which the requests will be accepted by the Exchange.

To conclude, the Exchange believes that the proposed changes are in furtherance of the Act because the proposed Rule 531 will allow Members to agree to nullify transactions or adjust prices of transactions to maintain a fair and orderly market. As stated above, the Exchange intends to release a Regulatory Circular to announce the implementation of the Rule and other specifics surrounding the procedures of the implementation. In addition, prior to implementation, the Exchange will ensure it has proper policies and procedures in place to correctly administer the Rule.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)[9] of the Act in general, and furthers the objectives of Section 6(b)(5)[10] of the Act in particular, in that it is 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

More specifically, the Exchange believes that the proposed changes are consistent with the Act as they are designed to promote just and equitable principles and protect investors and the public interest. Because options trades are used to hedge transactions in other markets, including securities and futures, many market participants would rather adjust prices of executions rather than nullify the transactions and, thus, lose a hedge altogether. As such, the Exchange believes it is in the best interest of investors to allow for price adjustments as well as nullifications. In addition, the Exchange believes it is in the nature of a fair and orderly market to allow for price adjustments rather than only cancellations because an adjustment will result in the least amount of disruption to the overall market. Finally, the Exchange does not believe that the proposed changes are unfairly discriminatory because they will be applied to all Members equally.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the proposed rule change will foster competition as it will allow for less overall disruption to the market and encourage participation on the Exchange.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

[6] *See supra* note 4.

[7] The Exchange notes that no changes are being proposed to the procedures for nullification or adjustment of a trade by mutual agreement in the Exchange's obvious error rules. *See* MIAX Rule 521(c)(3). MIAX Rule 521(c)(3) provides that the ''determination as to whether a trade was automatically executed at an erroneous price may be made by mutual agreement of the affected parties to a particular transaction within the time periods specified in subparagraphs (e)(1) or (2) [of Rule 531 [sic]] below. A trade may be nullified or adjusted on the terms that all parties to a particular transaction agree. In the absence of mutual agreement by the parties, a particular trade may only be nullified or adjusted when the transaction results from an Obvious Error as provided in this Rule.'' With the effectiveness of Proposed Rule 531, members will have two options to choose from in order to have the their trades nullified or adjusted by mutual agreement: (i) request under the procedures of MIAX Rule 521(c)(3) including the timeframes in Rule 521(e)(1), (2); or (ii) request under the procedures of Proposed Rule 531 which requires the authorization of the Exchange prior to the nullification or adjustment. The Exchange believes both provisions are complimentary [sic] in that they provide protections in different situations under procedures that are correspondingly appropriate based on the situation in which a nullification or an adjustment is requested.

[8] For example, the Exchange would ensure that the mutually agreed upon price would not have traded through resting interest at the time of the initial execution.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2014–54 on the subject line.

*Paper Comments:*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2014–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–54, and should be submitted on or before November 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26124 Filed 11–3–14; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73462; File No. SR–BATS–2014–053]**

## Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

October 29, 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 October 24, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[3] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to modify its fee schedule effective immediately in order to adopt pricing charged by the Exchange for Supplemental Peg Orders and several new routing strategies, as described below.

Supplemental Peg Orders

The Exchange recently adopted a new order type, the Supplemental Peg Order, which is a non-displayed limit order described in Rule 11.9(c)(19). The Exchange proposes to modify its fee schedule to make clear that standard pricing for all other types of Non-Displayed Liquidity, as defined in the fee schedule, applies to Supplemental Peg Orders. Thus, the Exchange proposes to provide a rebate of $0.0017 per share for all Supplemental Peg Orders executed on the Exchange that add liquidity in securities priced $1.00 and above. As with all orders adding liquidity to the Exchange, Supplemental Peg Orders in securities priced below $1.00 would not receive a liquidity rebate.

Routing Strategies

The Exchange recently filed a proposed rule change to adopt several new routing options in connection with the Exchange's technology integration with EDGA Exchange, Inc. (''EDGA'') and EDGX Exchange, Inc. (''EDGX'').[4] The Exchange proposes to adopt pricing for the new routing options, as set forth below, and also proposes various structural changes to the fee schedule.

First, the Exchange adopted two new routing strategies that are similar to the Exchange's existing standard best execution routing strategies. Specifically, the Exchange adopted ROUT and ROUX, which are similar to Parallel D and Parallel 2D. Accordingly, the Exchange proposes to charge the same fee for ROUT and ROUX routed executions as it does for Parallel D and

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 73412 (October 23, 2014) (SR–BATS–2014–052), *available at http://www.sec.gov/rules/sro/bats.shtml.*

Parallel 2D routing strategies. Specifically, the Exchange proposes to charge $0.0029 per share for orders in securities priced $1.00 and above executed through ROUT and ROUX at a venue other than a dark liquidity venue (i.e., through DRT routing). As it does currently, any execution through DRT routing at a dark liquidity venue will continue to be charged $0.0020 per share. Because DRT routing can be combined with various other new routing strategies set forth below, the Exchange also proposes to modify the description in the ''Other Non-Standard Routing Options'' section of the fee schedule to explicitly state that any liquidity removed through DRT at a venue other than through the SLIM routing strategy is $0.0020 per share (SLIM currently charges $0.0026 for executions at dark liquidity venues). This reflects an expansion of the current provision that applies a rate of $0.0020 per share for BYX [sic] + DRT Destination Specific Orders to apply that same rate to all executions that remove liquidity at a dark liquidity venue. In addition, to conform to the fee charged for Parallel D and Parallel 2D routed executions in securities priced below $1.00, the Exchange proposes to charge a fee that is 0.29% of the total dollar value for any execution of a ROUT or ROUX routed order in securities priced below $1.00.

Second, the Exchange adopted various new strategies that are similar (but not identical) to existing Destination Specific routing offered by the Exchange. The Exchange proposes to conform such new strategies with pricing for the similar existing strategies as set forth below. For instance, the Exchange adopted two new routing strategies that can remove liquidity specifically targeted at NYSE, RDOT and RDOX. The Exchange proposes to charge the same fee of $0.0026 per share for RDOT and RDOX routed executions at NYSE as it does for Destination Specific executions at NYSE. The Exchange also adopted the INET routing strategy, which is specifically targeted at NASDAQ. The Exchange proposes to charge the same fee of $0.0029 per share for INET routed executions at NASDAQ as it does for Destination Specific executions at NASDAQ. Finally, the Exchange adopted the ROLF routing strategy, which is specifically targeted at the LavaFlow ECN. The Exchange proposes to charge the same fee for ROLF as it does for all Destination Specific routing at venues not included in the Exchange's One Under/Better Program (where the Exchange seeks to improve by $0.0001 per share the fee charged or rebate provided by each venue in the program). Thus, the Exchange proposes to charge $0.0030 per share for any ROLF routed execution at LavaFlow ECN.

Third, the Exchange adopted the new Post to Away routing strategy, which, for the first time on the Exchange, can result in the Exchange routing an order to an away venue to be posted to such venue. In addition to the Post to Away routing strategy, the RDOT, RDOX and INET routing strategies can also post at away venues. The Exchange proposes to adopt the following pricing for executions in securities priced $1.00 and above through these routing strategies: (1) Add liquidity at BYX through Post to Away routing: $0.0018 charge per share; (2) add liquidity at EDGX through Post to Away routing: $0.0020 rebate per share; (3) add liquidity at EDGA through Post to Away routing: $0.0005 charge per share; (4) add liquidity at NYSE through Post to Away, RDOT or RDOX routing: $0.0015 rebate per share; (5) add liquidity at NYSE ARCA through Post to Away routing for Tape B: $0.0022 rebate per share; (6) add liquidity at NYSE ARCA through Post to Away routing for Tapes A and C: $0.0021 rebate per share; (7) add liquidity at NYSE MKT through Post to Away routing: $0.0015 rebate per share; (8) add liquidity at NASDAQ through Post to Away or INET routing: $0.0015 rebate per share; (9) add liquidity at NASDAQ BX through Post to Away routing: $0.0020 charge per share. Each of the proposed fees and rebates set forth above is equal to or roughly equivalent to the standard fee or rebate (i.e., without taking any potential tiered pricing into account) that will be charged or provided pursuant to the applicable exchange's fee schedule. More importantly, the Exchange notes that these are the same fees and rebates charged and provided by the Exchange's affiliates, EDGA and EDGX, for identical routing strategies that post to away market venues. Accordingly, the Exchange is seeking to conform to such pricing schedules. In addition to standard pricing set forth above, the Exchange proposes to provide executions through the RDOT, RDOX, INET, and Post to Away routing strategies that post to away markets in securities priced below $1.00 without any fee or rebate, as this is the pricing structure in place at many of the away venues where orders can be routed and provides for a simplistic pricing model.

Fourth, the Exchange notes that although orders sent through each of the routing strategies described in the preceding paragraph can provide liquidity on away market venues, such strategies can also result in orders removing liquidity. Accordingly, the Exchange proposes to adopt fees for orders that remove liquidity through such routing strategies. For orders that remove liquidity through Post to Away routing, the Exchange proposes to charge the same fees that have been proposed for ROUT and ROUX routed executions. Specifically, the Exchange proposes to charge $0.0029 per share for orders in securities priced $1.00 and above that are routed by the Exchange through the Post to Away routing strategy and remove liquidity. The Exchange also proposes a fee that is 0.29% of the total dollar value for any execution of a Post to Away routed order in securities priced below $1.00 that removes liquidity. The Exchange also has adopted new routing strategies that can send orders to the NYSE that can, in turn, be re-routed by the NYSE. For each of these routing strategies, RDOT, RDOX and Post to Away, the Exchange proposes to adopt a fee of $0.0030 per share for any execution of an order that has been re-routed by NYSE.

Finally, the Exchange notes that it has proposed stylistic and corrective changes throughout the fee schedule. For instance, because the Exchange is adopting routing strategies that will now add liquidity to away market venues, the Exchange has proposed to include language throughout its routing fees stating whether an order adds or removes liquidity through such strategy. Similarly, in certain places where routing strategies referred to specific orders or order types rather than routing strategies, the Exchange has modified the description, which is consistent with its recent routing filing.[5] The Exchange has also proposed to eliminate references to the CYCLE and RECYCLE routing strategies. The Exchange no longer offers the CYCLE routing strategy and has eliminated such routing strategy from its rules. Similarly, the Exchange recently updated its rules to rename the RECYCLE strategy as Re-Route. However, the Exchange proposes to omit reference to Re-Route from its fee schedule (other than orders ''re-routed'' by NYSE, as described above) rather than to replace RECYCLE with Re-Route. Orders that have been routed to away market centers through a routing strategy offered by the Exchange that are posted to the Exchange's order book and subject to the Re-Route option may be routed away from the Exchange again pursuant to Rule 11.13(a)(4). The Exchange maintains the routing strategy instruction on an order when re-routing

[5] *See id.*

pursuant to the Re-Route option, and thus, charges the fee related to such routing strategy rather than to apply a specific ''Re-Route'' fee. In addition to these changes, the Exchange has proposed various additional stylistic changes, such as adopting a new sub-heading for routed executions in securities priced below $1.00, eliminating quotation marks and other minor word changes.

The Exchange proposes to implement the amendments to its fee schedule effective immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[6] Specifically, the Exchange believes that the proposed rule change is consistent with Sections 6(b)(4) of the Act and 6(b)(5) of the Act,[7] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes that the proposed rebate for liquidity added through use of Supplemental Peg Orders is reasonable and equitable because it is the same rebate provided for other types of non-displayed liquidity on the Exchange. The Exchange does not currently believe that there is any reason to differentiate Supplemental Peg Orders from other types of non-displayed liquidity. The Exchange also believes that its proposed rebate for Supplemental Peg Orders is non-discriminatory because it applies uniformly to all Members, and again, is based on existing pricing for similar orders.

The Exchange believes that the proposed changes to the Exchange's fee schedule to add fees for the ROUT and ROUX routing strategies represent a reasonable and equitable allocation of fees because they are identical to the fees charged for executions through similar routing strategies offered by the Exchange, namely Parallel D and Parallel 2D. The Exchange further believes that the proposed fees for ROUT and ROUX are non-discriminatory because they apply uniformly to all Members, and again, are based on existing pricing for similar orders. Similarly, the Exchange believes that expansion of standard DRT pricing of $0.0020 per share for all executions at a dark liquidity venue other than through SLIM routing is reasonable and equitable because it is consistent with existing pricing for executions at dark liquidity venues. In addition, the Exchange believes that this pricing is non-discriminatory because it applies uniformly to all Members and is based on existing DRT routing pricing.

The Exchange believes that the proposed changes to the Exchange's fee schedule to add fees for RDOT, RDOX, INET and ROLF routing strategies when removing liquidity represent a reasonable and equitable allocation of fees because they are identical to the fees charged for executions through similar routing strategies offered by the Exchange, namely Destination Specific orders to each applicable venue (i.e., NYSE for RDOT and RDOX, NASDAQ for INET and LavaFlow ECN through ROLF). The Exchange further believes that the proposed fees for RDOT, RDOX, INET and ROLF are non-discriminatory because they apply uniformly to all Members, and again, are based on existing pricing for similar orders.

The Exchange also believes that its proposed pricing for Post to Away routing strategies that add liquidity in securities priced $1.00 and above are reasonable and equitable because they are equal to or roughly equivalent to the standard fee or rebate that will be charged or provided pursuant to the applicable exchange's fee schedule and are identical to the same fees and rebates charged and provided by the Exchange's affiliates, EDGA and EDGX, for identical routing strategies that post to away market venues. The Exchange also believes that its proposed pricing for Post to Away routing strategies that add liquidity in securities priced below $1.00 (i.e., no fee or rebate) is reasonable and equitable because most away venues charge no fee and provide no rebate for such orders. The Exchange further believes that the proposed fees and rebates for Post to Away are non-discriminatory because they apply uniformly to all Members and, again, because they approximate the fee or rebate at the away venue.

The Exchange also believes that its proposed fees for orders that remove liquidity when sent through the Post to Away routing is reasonable and equitable because it is identical to that proposed for ROUT and ROUX, and is thus, equivalent to the Exchange's standard routing fees. The Exchange further believes that a slightly higher fee for orders re-routed by NYSE through the RDOT, RDOX and Post to Away routing strategies are is [sic] reasonable as it is the same fee charged by NYSE for routing. The Exchange again believes that its proposed fees are non-discriminatory in that they apply uniformly to all Members and are intended to generally approximate routing costs and/or to align with existing routing pricing.

Finally, the Exchange believes that the additional clarifications, stylistic changes, and elimination of reference to CYCLE and RECYCLE proposed by the Exchange are consistent with the Act as they will enhance the readability and clarity of the fee schedule.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange reiterates that the Supplemental Peg Order will be treated similar to most other non-displayed liquidity on the Exchange (other than Mid-Point Peg orders). Also, because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the routing strategies adopted by the Exchange, the proposed fees are in line with the fees charged for executions through other routing strategies offered by the Exchange and approximate the cost to the Exchange of executing midpoint orders on away trading venues. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4) and (5).

of the Act[8] and paragraph (f) of Rule 19b–4 thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2014–053 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2014–053. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2014–053, and should be submitted on or before November 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26123 Filed 11–3–14; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73468; File No. SR–EDGX–2014–18]**

## Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing of Amendment Nos. 1 and 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 3, To Amend EDGX Rule 1.5 and Chapter XI Regarding Current System Functionality Including the Operation of Order Types and Order Instructions

October 29, 2014.

## I. Introduction

On July 16, 2014, EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') 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 amend Rule 1.5 and Chapter XI of its rule book relating to the operation of order types and order instructions on the Exchange, trading sessions and openings and re-openings. The proposed rule change was published for comment in the **Federal Register** on July 31, 2014.[3] On September 11, 2014, the Commission extended the time period for Commission action on the proposal to October 29, 2014.[4] The Commission received three comment letters from the same commenter on the proposed rule change,[5] as well as a letter from the Exchange regarding the first comment letter.[6] On October 14, 2014, the Exchange filed Amendment No. 1 to the proposed rule change.[7] On October 17, 2014, the Exchange filed Amendment No. 2 to the proposed rule change, which was later withdrawn.[8] On October 17, 2014, the Exchange filed Amendment No. 3 to the proposed rule change.[9] The Commission is publishing this Notice and Order to solicit comment on Amendment Nos. 1 and 3 and to approve the proposed rule change, as modified by Amendment Nos. 1 and 3, on an accelerated basis.

## II. Background

The proposed rule change, as described in more detail below and in the Notice, amends Rule 1.5 and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72676 (July 25, 2014), 79 FR 44520 (''Notice'').

[4] *See* Securities Exchange Act Release No. 73083 (September 11, 2014), 79 FR 55850 (September 17, 2014).

[5] *See* Letters from Suzanne H. Shatto to Secretary, Commission, dated August 19, 2014 (''Shatto Letter I''), September 18, 2014 (''Shatto Letter II'') and September 22, 2014 (''Shatto Letter III''). The Commission believes that the comments raise general market structure issues that are beyond the scope of the proposed rule change.

[6] *See* Letter from Eric Swanson, EVP and General Counsel, DirectEdge, to Secretary, Commission, dated September 12, 2014 (''Exchange Letter''). According to the Exchange, Shatto Letter I did not raise issues germane to the instant proposed rule change, and therefore the Exchange is not responding to the comments.

[7] In Amendment No. 1, the Exchange: (1) Removed the proposed rule text related to Single Re-Price and Short Sale Single Re-Price instructions to indicate that the Exchange will no longer offer such functionality; (2) added language to the Post Only instruction definition to provide that the highest possible rebate paid and the highest possible fee will be used to determine whether an order with a Post Only instruction will execute against orders on the EDGX Book; (3) added rationale to the statutory basis section for suspending the discretion of an order with a Hide Not Slide instruction to execute at the Locking Price when a contra-side order that equals the Locking Price is displayed by the System on the EDGX Book in order to avoid an apparent violation of that contra-side displayed order's priority; and (4) made a series of non-substantive, corrective changes to the Notice. Amendment No. 1 has been placed in the public comment file for SR–EDGX–2014–18 at *http://www.sec.gov/comments/sr-edgx-2014-18/edgx201418.shtml* (*see* letter from Christopher Solgan, Regulatory Counsel, DirectEdge, to Secretary, Commission, dated October 15, 2014) and also is available on the Exchange's Web site.

[8] Amendment No. 2, dated October 17, 2014, was withdrawn on October 17, 2014.

[9] In Amendment No. 3, the Exchange specified that upon return to the Exchange, an order with the Routed and Returned Re-Pricing instruction will execute against marketable contra-side liquidity displayed on the EDGX Book. If there is no marketable contra-side liquidity displayed on the EDGX book upon return but such Routed and Returned Order would be displayed at a price that would be a Locking or Crossing Quotation, then such order will be displayed at a price that is one Minimum Price Variation lower (higher) than the Locking Price for orders to buy (sell), will be ranked at the mid-point of the NBBO with discretion to execute at the Locking Price. A subsequently arriving contra-side order could suspend the Routed and Returned Order's discretion to execute at the Locking Price. Amendment No. 3 has been placed in the public comment file for SR–EDGX–2014–18 at *http://www.sec.gov/comments/sr-edgx-2014-18/edgx201418.shtml* (*see* letter from Christopher Solgan, Regulatory Counsel, DirectEdge, to Secretary, Commission, dated October 17, 2014) and also is available on the Exchange's Web site.

Chapter XI of the EDGX rule book, relating to: (1) The Exchange's trading sessions and hours of operation; (2) the process for initial opening and re-opening after a trading halt by adding proposed Exchange Rule 11.7, Opening Process; (3) order type, order type instructions and System [10] functionality; (4) the execution priority of orders; and (5) organizational and conforming amendments.[11] According to the Exchange, these changes are designed to update its rule book to reflect current system functionality and to propose four new System functionalities, as described in more detail below.[12]

## III. Discussion and Commission Findings

After careful review of the proposed rule change and the comments received, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, as described in more detail below, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 3, is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. This order approves the proposed rule change in its entirety, although only certain more significant aspects of the proposed rules are discussed below.

### *A. Exchange Trading Sessions and Hours of Operation*

Currently, Exchange Rule 11.1(a) provides that orders may be entered, executed or routed away during Regular Trading Hours, the Pre-Opening Session, and the Post-Closing Session, but does not define those terms. The Exchange proposes to add the term ''Session Indicator'' to codify the manner that a User [15] may elect the trading sessions for which its orders are eligible for execution. The Exchange also proposes to describe the terms Regular Trading Hours, Pre-Opening Session and Post Closing Session as Session Indicators, and specify the time frames that orders with such indicators would be eligible for execution. Similarly, the Exchange proposes to add and describe the terms ''Regular Session'' and ''All Sessions'' as Session Indicators to codify additional options that a User may elect to establish the trading sessions and time frames that an order may be eligible for execution.

Proposed Exchange Rule 11.1(a)(1), describing the term Session Indicator, specifies that all orders are eligible for execution during the Regular Session, and that orders not designated for a particular session or session would default to the Regular Session. The proposed rule also specifies that orders may be entered from 6:00 a.m. until 8:00 p.m. Eastern Time but are not eligible for execution until the start of the session selected by the User.

Proposed Exchange Rule 11.1(a)(1)(A) specifies that orders designated as Pre-Opening Session would be eligible for execution between 8:00 a.m. Eastern Time and 4:00 p.m. Eastern Time. Proposed Exchange Rule 11.1(a)(1)(B) specifies that orders designated as Regular Session would be eligible for execution between the completion of the Opening Process or a Contingent Open,[16] whichever occurs first, and 4:00 p.m. Eastern Time. Proposed Exchange Rule 11.1(a)(1)(C) specifies that orders designated as Post-Closing Session would be eligible for execution between the start of the Regular Session and 8:00 p.m. Eastern Time. Proposed Exchange Rule 11.1(a)(1)(D) specifies that orders designated as All Sessions would be eligible for execution between 8:00 a.m. Eastern Time and 8:00 p.m. Eastern Time.

The Commission believes that the proposed rules relating to the Exchange trading sessions and hours of trading are consistent with the Act. The proposed rule makes the operation of the Exchange more transparent which should benefit Members, Users, and the general investing public. The Commission also notes that the proposed rule is substantially similar to that of other exchanges.[17]

### *B. Process for Initial Opening and Re-Opening*

The Exchange's current rules make various references to, but do not describe, an Opening Process. Accordingly, the Exchange proposes Exchange Rule 11.7 to codify and describe its current Opening and Re-Opening processes, with two changes, which are described below.

Proposed Exchange Rule 11.7(a) describes the entry and cancellation of orders before the Opening Process. Specifically, prior to the Regular Session, Users may enter orders to participate in the Opening Process. All orders are eligible to participate during the Opening Process, except (1) orders with a Stop Price [18] or Stop Limit instruction,[19] (2) Limit Orders with a Post Only,[20] Fill-or-Kill (''FOK'') or Immediate or Cancel (''IOC'') instruction, (3) Intermarket Sweep Orders (''ISOs'') or (4) orders cancelled before the Opening Process. Orders ineligible to participate in the Opening Process, but designated for the Regular Session, would not be accepted by the System on the EDGX Book [21] until the completion of the Opening Process or the initiation of a Contingent Open as set forth by proposed Exchange Rule 11.7.

Proposed Exchange Rule 11.7(b) describes the execution of orders during the Opening Process. Specifically, during the Opening Process the

[10] Exchange Rule 1.5(cc) defines ''System'' as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.''

[11] The Exchange also proposes moving text from Footnote 4 of the Exchange's Fee Schedule into proposed Exchange Rule 11.21.

[12] *See also* Notice, *supra* note 3. The four new System functionalities are as follows: (1) Proposed Rule 11.7(c). Alternatively set the price of the Opening Process for securities listed on either the New York Stock Exchange, Inc. (''NYSE'') or NYSE MKT LLC (''NYSE MKT'') at the midpoint of the then prevailing National Best Bid and Offer (''NBBO'') when the first two-sided quotation published by the listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange; (2) Proposed Rule 11.7(e). Alternatively set the price of a re-opening at the midpoint of the then prevailing NBBO when the first two-sided quotation is published by the listing exchange following the resumption of trading after a halt, suspension, or pause if no first trade is reported within one second of publication of the first two-sided quotation by the listing exchange; (3) Proposed Rule 11.6(j)(1). Require that an order with a Market Peg instruction that is to be displayed by the System on the EDGX Book include an offset equal to or greater than one Minimum Price Variation; and (4) Proposed Rule 11.6(n)(4). Permit an order with a Post Only instruction to execute against an order resting on the EDGX Book where it is eligible to receive price improvement as described under the proposed rule.

[13] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(ee).

[16] *See* proposed Exchange Rule 11.7(d).

[17] *See* Nasdaq Rules 4751(h) and 4617; *see also* International Securities Exchange (''ISE'') Rule 2102, BATS Rules 1.5(c), (r), (w), 11.1 and 11.9(b).

[18] *See* proposed Exchange Rule 11.8(a)(1) discussed below in Section III.C.2.a.

[19] *See* proposed Exchange Rule 11.8(b)(1) discussed below in Section III.C.2.b.

[20] *See* proposed Exchange Rule 11.6(n)(4) discussed below in Section III.C.1.m.

[21] The term ''EDGX Book'' is defined as ''the System's electronic file of orders.'' *See* Exchange Rule 1.5(d).

Exchange would attempt to execute all eligible orders by matching buy and sell orders, in time sequence, at the midpoint of the NBBO, and would continue until either there were no orders to be matched or there was a remaining imbalance of orders. If the Opening Process resulted in no orders being matched, or a remaining imbalance of orders, the unexecuted orders would then be posted on the EDGX Book, canceled, executed, or routed to an away Trading Center pursuant to proposed Exchange Rule 11.11.

Proposed Exchange Rule 11.7(c) describes how the opening price is determined during the Opening Process. Specifically, for securities listed on either the NYSE or NYSE MKT, the Opening Process would set the opening price at the midpoint based on the: (1) First NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time; or (2) the prevailing NBBO when the first two-sided quotation published by the listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange.[22] For any other listing market, the Opening Process would be priced at the midpoint of the first NBBO disseminated after 9:30:00 a.m. Eastern Time.

Proposed Exchange Rule 11.7(d) describes the Contingent Open. A Contingent Open would result if the Opening Process did not yield an opening price by 9:45:00 a.m. Eastern Time. In such an instance, the order would either be posted to the EDGX Book, routed, canceled, or executed consistent with its order type instruction, except that a MidPoint Match (''MPM'') Order, would be ineligible for execution until an opening price had been determined pursuant to the Opening Process.

Proposed Exchange Rule 11.7(e) describes Re-Openings. A Re-Opening would occur after a trading halt, suspension or pause. The Re-Opening price would be the midpoint of the: (1) First NBBO subsequent to the first reported trade on the listing exchange following the resumption of trading after a halt, suspension, or pause; or (ii) then prevailing NBBO when the first two-sided quotation published by the listing exchange following the resumption of trading after a halt, suspension, or pause if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange.[23]

The Commission finds that the proposed rule to codify the Exchange Opening Process, Contingent Open and Re-Openings is consistent with the Act. The Commission believes that the proposed rule is reasonably designed to facilitate an orderly transition between the Pre-Opening Session and Regular Trading Hours, as well as the resumption of trading after a trading halt, suspension or pause. Finally, the Commission notes that the Exchange rule is based on ISE Rule 2106.[24]

*C. Order Types, Order Type Instructions and System Functionality Under Chapter XI*

1. Definitions—Proposed Exchange Rule 11.6

As discussed in more detail below, proposed Exchange Rule 11.6 would relocate and reclassify various terms currently defined in the Exchange rulebook, as well as add certain other defined terms. The Exchange proposes to classify certain existing order types as ''instructions'' to be attached to one or more standalone order types.[25]

The Commission notes that several proposed modifications to existing definitions are substantively similar to the current rule text, with added specificity, including: Attributable, Non-Attributable, Crossing Quotation, Locking Quotation, Minimum Price Variation,[26] Pegged, Permitted Price, Reserve Quantity, certain routing (Destination Specified and Destination-on-Open) and time-in-force (Immediate or Cancel and Fill-or-Kill) instructions.[27] Although the Exchange did not previously define Cancel Back or Displayed, the Commission notes that these terms are consistent with existing rule text.

Certain other proposed modifications to existing Exchange definitions are consistent with the rules of other exchanges, including: Discretionary Range,[28] Non-Displayed,[29] certain routing instructions (Book Only and Post Only),[30] and units of trading (Round Lot, Odd Lot and Mixed Lot).[31] Similarly, a number of proposed new definitions/terms are consistent with the rules of exchanges, including: Locking Price,[32] Minimum Execution Quantity,[33] pegging instructions (Market Peg and Primary Peg),[34] Replenishment Amount,[35] time-in-force instruction of Good-'til-Time.[36] Finally, several proposed new definitions/terms are consistent with the definitions contained in Commission rules Regulation SHO and Regulation NMS, including: Short Sale, Short Exempt and Trading Center. Accordingly, the Commission believes that the proposed rule changes related to these definitions/terms are consistent with the Act.

a. Attributable and Non-Attributable

The Exchange currently defines the terms ''Attributable Order'' and ''Non-Attributable Order'' in Exchange Rules 11.5(c)(18) and (19). The Exchange proposes to reclassify these terms as order type instructions and relocate them to proposed Exchange Rule 11.6(a). In addition, the Exchange proposes to amend the terms to provide that: (1) Unless the User elects

[22] Currently for NYSE and NYSE MKT listed securities, the Opening Process sets the opening price based on the midpoint of the first NBBO subsequent to the first-reported trade on the listing exchange after 9:30:00 a.m. Eastern Time.

[23] Currently, the Re-Opening price of a security is determined by the midpoint of the first NBBO subsequent to the first-reported trade on the listing exchange following the resumption of trading after a halt, suspension, or pause.

[24] Unlike ISE Rule 2106, proposed Exchange Rule 11.7 provides for late openings under certain conditions and permits the opening price for securities listed on either the NYSE or NYSE MKT to be priced at the midpoint of either the first NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time; or the prevailing NBBO when the first two-sided quotation published by the listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange. *See* Securities Exchange Act Release No. 54287 (August 8, 2006), 71 FR 46947 (August 15, 2006).

[25] Under the proposal, the only standalone order types would be Market Orders, Limit Orders, ISOs, MidPoint Match Orders, NBBO Offset Peg Orders, and Route Peg Orders. *See infra* Sections III.C.2.a–III.C.2.f, regarding proposed Exchange Rule 11.8, Order Types.

[26] *See* Notice, supra note 3, at 44524, note 29 regarding one non-substantive edit to remove the phrase indications of interest.

[27] The Exchange also proposes to delete two additional time-in-force instructions of Good-'til-Cancel and Good-'til-Day, that are not currently offered by the Exchange.

[28] *See* Nasdaq Rule 4751(f)(1), and NYSE Arca Rule 7.31(h)(2).

[29] *See* Nasdaq Rule 4751(e)(3), and BATS Rule 11.9(c)(11); *see also* EDGA Rule 11.5(c)(8).

[30] *See* BATS Rule 11.9(c)(4) (BATS Only Order), BATS–Y Rule 11.9(c)(4) (BATS Only Order), NSX Rule 11.11(c)(6) (NSX Only Order); BATS Rule 11.9(c)(6) (BATS Post Only Order) and BATS–Y Rule 11.9(c)(6); *see also* NYSE Rule 13 (Add Liquidity Only Modifier) and NYSE Arca Rule 7.31(nn) (Adding Liquidity Only Order).

[31] *See* Nasdaq Rule 4751(g) (definition of ''Order Size'').

[32] *See, e.g.,* BATS Rule 11.13(a)(1).

[33] *See, e.g.,* Nasdaq Rule 4751(f)(5), and NSX Rule 11.11(c)(2)(B).

[34] *See, e.g.,* NYSE Rule 13 (defining Pegging Interest), and Nasdaq Rule 4751(f)(4).

[35] *See, e.g.,* Nasdaq Rule 4751(f)(2) (Reserve Orders) and NYSE Rule 13 (Reserve Order Types).

[36] *See* Chicago Stock Exchange, Inc. (''CHX'') Rules Art. 1, Rule 2(d)(3) (Good 'Til Date), BATS Rule 11.9(b)(4) (Good 'til Day), BATS–Y Rule 11.9(b)(4) (Good 'til Day), and Nasdaq Rule 4751(h)(4) (System Hours Expire Time).

otherwise, all orders will be automatically defaulted by the System to Non-Attributable; and (2) a User may elect an order to be Attributable on an order-by-order basis or instruct the Exchange to default all its orders as Attributable on a port-by-port basis, except if a User instructs the Exchange to default all its orders as Attributable on a particular port, such User would not be able to designate any order from that port as Non-Attributable. The Exchange also proposes to provide that a User's MPID will be visible via the Exchange's Book Feed if an Attributable instruction is attached to an order and not visible if an order Non-Attributable is attached to an order.

b. Cancel Back

The Exchange proposes to add the defined term ''Cancel Back'' to codify the existing function where a User may opt to have the System cancel the order at the time of receipt, in lieu of a re-pricing instruction [37] to comply with Regulation NMS, Regulation SHO, or the National Market System Plan to address extraordinary market volatility (the ''LULD Plan'').[38]

c. Discretionary Range

The Exchange currently defines a ''Discretionary Order'' in Exchange Rule 11.5(c)(13). The Exchange proposes to reclassify this function as an order type instruction and relocate the term ''Discretionary Range'' to proposed Exchange Rule 11.6(d). In addition, the Exchange proposes to modify the definition of Discretionary Range to specify which order types[39] may include a Discretionary Range instruction, and how the Discretionary Range operates. Specifically, the term Discretionary Range would be defined as an instruction that may accompany an order to buy (sell) a stated amount of a security at a specified, displayed price with discretion to execute up (down) to a specified, non-displayed price.[40] The proposal also codifies that the Discretionary Range of an order to buy (sell) cannot be more than $0.99 higher (lower) than the order's displayed price, and that a resting order with a Discretionary Range instruction would execute at its least aggressive price when matched for execution against an incoming order with a Discretionary Range instruction, as permitted by the terms of both the incoming and resting order.

d. Display Options

The Exchange proposes to include definitions of ''Displayed'' and ''Non-Displayed'' in proposed Exchange Rule 11.6(e). Currently the term Displayed is not defined within the Exchange rules. The Exchange would codify that Displayed is the default instruction for all display-eligible orders on the EDGX Book.

Currently, the term Non-Displayed Order is defined in Exchange Rule 11.5(c)(8). The Exchange proposes to reclassify this term as an order type instruction, and relocate the amended term to proposed Exchange Rule 11.6(e). In order to reflect its current operation, the Exchange proposes to delete the current rule language stating that the System will not accept Non-Displayed Orders that are priced better than the midpoint of the NBBO, and codify that the Exchange currently accepts orders with a Non-Displayed instruction that are priced better than the midpoint of the NBBO. The proposed rule change also codifies that an order with a Non-Displayed instruction may include a Cancel Back instruction under proposed Exchange Rule 11.6(b), or a re-pricing instruction pursuant to proposed Exchange Rule 11.6(l)(3) described below.[41] The proposed definition of Non-Displayed also differs from the current definition in that it deletes rule text regarding the priority and ranking of Non-Displayed Orders because proposed Exchange Rule 11.9 sets forth the priority and ranking of all orders.

e. Locking Price

Under current Exchange Rule 11.5(c)(4), a re-pricing instruction to comply with Regulation NMS may be triggered if an incoming order, if displayed at its limit price, would be a Locking Quotation.[42] In order to specify the price that triggers a Regulation NMS re-pricing instruction the Exchange proposes to define the term, ''Locking Price,'' as the ''price of an order to buy (sell) that, if, upon entry into the System, or upon return to the System after being routed away, and displayed by the System on the EDGX Book, it would be a Locking Quotation.'' [43]

f. Locking Quotation and Crossing Quotations

Currently, Exchange Rule 11.16 defines the terms ''Locking Quotation'' [44] and ''Crossing Quotation.'' [45] The Exchange proposes to relocate the amended terms, respectively, to proposed Exchange Rule 11.6(c) and (g). The amended definitions specify that the display of either a Locking or Crossing Quotation would violate Rule 610(d) of Regulation NMS and that Regulation NMS re-pricing instructions are applicable outside of Regular Trading Hours.

g. Minimum Execution Quantity

The Exchange proposes to define the term ''Minimum Execution Quantity'' as an order type instruction.[46] Although it is currently available, the Minimum Execution Quantity function is not currently defined by Exchange rules. The Minimum Execution Quantity would be an order type instruction, combined with a Non-Displayed instruction, which would only execute the order to the extent that a minimum quantity could be satisfied by an execution against a single order or multiple aggregated orders simultaneously. An order with a Minimum Execution Quantity instruction could partially execute if the execution size equaled or exceeded the quantity provided in the instruction. The Exchange also proposes that any shares remaining after a partial execution would continue to be executed at a size equal to or exceeding the quantity provided with the instruction, unless the User elects otherwise. The Minimum Execution

[37] The re-pricing instructions are defined in proposed Exchange Rule 11.6(l) discussed *infra* Section III.C.1.k.

[38] *See* Appendix A to Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[39] Under proposed Exchange Rule 11.8(b)(8), Limit Orders can include a Discretionary Range instruction.

[40] The Exchange proposes to modify the existing rule text to make state that an order with a Discretionary Range maintains the ability to execute at its displayed price with discretion to execute at prices to and including a specified, non-displayed price, and not exclusively at those prices. The Discretionary Range may include prices to and more aggressive than the midpoint of the NBBO.

[41] *See infra* Section III.C.1.k.iii entitled, ''Re-Pricing of Orders with a Non-Displayed Instruction.''

[42] The term Locking Quotation is proposed to be defined in Exchange Rule 11.6(g), and is further discussed below.

[43] The term, ''Locking Price'' is similarly defined in the rules of other exchanges. *See, e.g.,* BATS Rule 11.13(a)(1), which defines ''locking price'' as ''. . . prices equal to displayed orders on the other side of the market.''

[44] Locking Quotation is defined as ''[t]he display of a bid for an NMS stock during regular trading hours at a price that equals the price of an offer for such NMS stock previously disseminated pursuant to an effective national market system plan, or the display of an offer for an NMS stock during regular trading hours at a price that equals the price of a bid for such NMS stock previously disseminated pursuant to an effective national market system plan.''

[45] A Crossing Quotation is defined as ''[t]he display of a bid (offer) for an NMS stock during Regular Trading Hours at a price that is higher (lower) than the price of an offer (bid) for such NMS stock previously disseminated pursuant to an effective national market system plan.''

[46] The minimum execution quantity instruction is available on other exchanges. *See, e.g.,* Nasdaq Rule 4751(f)(5), and National Stock Exchange, Inc. (''NSX'') Rule 11.11(c)(2)(B).

Quantity instruction would not be applicable if after a partial execution the remaining shares were less than the quantity provided in the instruction.

h. Minimum Price Variation

Exchange Rule 11.7, Price Variation, currently defines the term ''Price Variation.'' [47] The Exchange proposes to relocate the term ''Minimum Price Variation'' to proposed Exchange Rule 11.6(i) and amend the term to remove the obsolete term, ''indications of interest.'' [48]

i. Pegged

Currently the term ''Pegged Order'' is defined under Exchange Rule 11.5(c)(6). The Exchange proposes to reclassify the term as an instruction and relocate the term to proposed Exchange Rule 11.6(j). The amended definition of a Pegged instruction would continue to indicate that: (1) A User may specify that the order's price will peg to a price a certain amount away from the NBB or NBO (offset); (2) if an order with a Pegged instruction displayed on the Exchange would lock the market, the price of the order will be automatically adjusted by the System to one Minimum Price Variation below the current NBO (for bids) or to one Minimum Price Variation above the current NBB (for offers); (3) a new time stamp is created for the order each time it is automatically adjusted; and (4) orders with a Pegged instruction are not eligible for routing pursuant to proposed Exchange Rule 11.11.

The Exchange also proposes to codify that orders with Pegged instructions would not be used to calculate the NBBO, and buy/sell orders with a Pegged instruction would be cancelled when the NBB/NBO is unavailable. In addition, the Exchange would codify the terms ''Primary Peg'' and ''Market Peg.'' [49] Proposed Exchange Rule 11.6(j) would specify that a Pegged instruction may be a Market Peg, which would track NBB, for a sell order, or the NBO, for a buy order; or a Primary Peg, which would track the NBB, for a buy order, or the NBO, for a sell order. The Exchange would also sets forth that a buy (sell) order with a Market Peg instruction and a Displayed instruction must have an offset that is equal to or greater than one Minimum Price Variation below (above) the NBO (NBB) that the order is pegged to.[50] The amended term would also specify that if a User does not select an offset, the System would automatically include an offset that is equal to one Minimum Price Variation below (above) the NBO (NBB) that the order is pegged to. For an order with a Non-Displayed instruction, a User could, but would not be required to, select an offset for an order to buy (sell) that is equal to or greater than one Minimum Price Variation below (above) the NBO (NBB) to which the order is pegged.

Proposed Exchange Rule 11.6(j) also sets forth that a buy (sell) order with a Primary Peg instruction could, but would not be required to, select an offset equal to or greater than one Minimum Price Variation [51] above or below the NBB or NBO that the order is pegged to. As proposed, an order with a Primary Peg instruction would be eligible to join the Exchange's BBO if the EDGX Book was locked or crossed by another market, but if an order with a Primary Peg instruction would create a Locking Quotation or Crossing Quotation, the price of the order would be automatically adjusted by the System to one Minimum Price Variation below/above the current NBO/NBB. The Exchange also codifies that, under proposed Exchange Rule 11.6(l)(3), discussed below, an order with a Pegged and Non-Displayed instruction that is priced more aggressively than the midpoint of the NBBO, would be ranked at the midpoint with discretion to execute to the price established by the offset, or the NBB (NBO) where the offset for an order to sell (buy) is equal to or more aggressive than the NBB (NBO).[52]

j. Permitted Price

The Exchange currently defines the term ''Permitted Price'' in Exchange Rule 11.5(c)(4)(B).[53] The Exchange proposes to relocate the term, without amendment, to proposed Exchange Rule 11.6(k)

k. Re-Pricing Instructions

The terms ''displayed price sliding'' [54] and ''short sale price sliding process'' [55] are currently defined in Exchange Rule 11.5(c)(4)(A) and (B), respectively. However, the Exchange currently offers multiple re-pricing instructions designed to permit Users to comply, separately and respectively, with Rule 610(d) of Regulation NMS or Rule 201 of Regulation SHO. The Exchange proposes to replace the definitions for displayed price sliding process and the short sale price sliding process with proposed Exchange Rule 11.6(l), which would codify three re-pricing options for Regulation NMS (Price Adjust, Hide Not Slide, and Routed and Returned Re-Pricing) and the two re-pricing options for Regulation SHO (Short Sale Price Adjust and Short Sale Price Sliding), all of which are currently available on the

[47] The Exchange's existing definition of Price Variation in Exchange Rule 11.7 sets forth that bids, offers, or orders in securities traded on the Exchange shall not be made in an increment smaller than: (1) $0.01 if those bids, offers, or orders are priced equal to or greater than $1.00 per share; or (2) $0.0001 if those bids, offers, or orders are priced less than $1.00 per share; or (3) any other increment established by the Commission for any security which has been granted an exemption from the minimum price increment requirements of Rule 612(a) or 612(b) of Regulation NMS. *See* current Exchange Rule 11.7

[48] *See* Securities Exchange Act Release No. 64095 (March 18, 2011), 76 FR 16446 (March 23, 2011) (SR–EDGX–2011–06).

[49] The Primary Peg and Market Peg order instructions are available on other exchanges. *See, e.g.,* NYSE Rule 13 (defining Pegging Interest), and Nasdaq Rule 4751(f)(4).

[50] Previously, the System permitted a displayable Market Peg instruction to include a zero-offset.

[51] As discussed *supra* in Section III.C.1.h, the term Minimum Price Variation is defined in proposed Exchange Rule 11.6(i).

[52] The Exchange provides examples of the operation of Limit Orders with a Pegged Instruction. *See* Notice, *supra* note 3, at 44525.

[53] The current definition provides that a short sale order, subject to the Exchange's short sale price sliding process, will ''be re-priced to display at one Minimum Price Variation above the current NBB.''

[54] The ''displayed price sliding process'' is currently described under Exchange Rule 11.5(c)(4)(A) as follows: ''An EDGX Only Order that, at the time of entry, would cross a Protected Quotation will be re-priced to the locking price and ranked at such price in the EDGX Book. An EDGX Only Order that, if at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation will be displayed by the System at one minimum price variation (''MPV'') below the current NBO (for bids) or to one MPV above the current NBB (for offers) (collectively, the ''displayed price sliding process''). In the event the NBBO changes such that the EDGX Only Order at the original locking price would not lock or cross a Protected Quotation, the order will receive a new timestamp, and will be displayed at the original locking price.''

[55] The ''short sale price sliding process'' is currently described under Exchange Rule 11.5(c)(4)(B)–(C) as follows: ''An EDGX Only Order that, at the time of entry, could not be executed or displayed pursuant to Rule 201 of Regulation SHO will be re-priced by the System to prevent execution or display at or below the current NBB (such entire process called the ''short sale price sliding process''). Any EDGX Only order subject to such re-pricing by the System will be re-priced to display at one MPV above the current NBB (''Permitted Price''). Following the initial adjustment provided for in this paragraph (B), the EDGX Only Order will, to reflect declines in the NBB, continue to be re-priced at the lowest Permitted Price down to the order's original limit price, or if a market order, until the order is filled. The order will receive a new timestamp each time it is re-priced. Alternatively, following the initial adjustment provided for in paragraph (B), the EDGX Only Order may, in accordance with the User's instructions, provided that in all cases the display or execution of such lower prices does not violate Rule 201 of Regulation SHO: (i) Be re-priced one additional time to a price that is above the current NBB but equal to the NBB at the time the EDGX Only Order was received and receive a new timestamp; or (ii) not be adjusted further. In the event the NBB changes such that the price of a Non-Displayed Order subject to short sale price sliding would lock or cross the NBB, the Non-Displayed Order will receive a new timestamp, and will be re-priced by the System to a Permitted Price. EDGX Only Orders marked ''short exempt'' shall not be subject to the short sale price sliding process.''

System.[56] The Exchange also proposes to codify the re-pricing instruction for orders with a Non-Displayed instruction, which also is currently available on the System but not reflected in the current rules.

i. Re-Pricing Instructions To Comply With Rule 610(d) of Regulation NMS

Proposed Exchange Rule 11.6(l)(1)(A) would codify the Price Adjust instruction. Specifically, under the proposed rule, a User may select, or be defaulted by the System,[57] to the Price Adjust instruction where an incoming order that would be a Locking Quotation or Crossing Quotation would be displayed and ranked [58] at a price that is one Minimum Price Variation lower (higher) than the Locking Price.[59] Subsequently, the order would be displayed and ranked by the System on the EDGX Book at the Locking Price if the NBBO changed such that the order, if displayed at the Locking Price, would not be a Locking Quotation or Crossing Quotation, including where an ISO with a time-in-force (''TIF'') instruction of Day is entered into the System and displayed on the EDGX Book on the same side of the market as the order at a price that is equal to or more aggressive than the Locking Price.[60] The order would not be subject to further re-ranking and would be displayed by the System on the EDGX Book at the Locking Price until executed or cancelled by the User. The order would receive a new time stamp at the time an order is re-ranked.[61] Pursuant to proposed Exchange Rule 11.9, all orders that are re-ranked and re-displayed pursuant to the Price Adjust instruction would retain their comparative priority based on the time of initial receipt by the System.[62]

Proposed Exchange Rule 11.6(l)(1)(B) would codify the Hide Not Slide instruction. Specifically, under the proposed rule, if a User selects the Hide Not Slide instruction, an incoming order that would be a Locking Quotation or Crossing Quotation would be displayed at a price that is one Minimum Price Variation lower (higher) than the Locking Price and ranked at the midpoint of the NBBO with discretion to execute at the Locking Price; provided, however, that if at the time of entry a contra-side order equal to the Locking Price is displayed by the System, the order would be ranked at the midpoint of the NBBO with its discretion to execute to the Locking Price suspended. Discretion to execute to the Locking Price would remain suspended until the contra-side displayed order equal to the Locking Price is cleared. Where the NBBO changes such that the order, if displayed at the Locking Price would not be a Locking Quotation, the System would rank and display the order at the Locking Price. Thereafter, the order would not be subject to further re-ranking and would be displayed by the System at the Locking Price until it is executed or cancelled by the User. The order would receive a new time stamp when it is ranked at the Locking Price. Pursuant to proposed Exchange Rule 11.9, all orders that are re-ranked and re-displayed by the System pursuant to the Hide Not Slide instruction would retain its comparative priority based upon the time of initial receipt by the System.[63]

Proposed Exchange Rule 11.6(l)(1)(B)(i) would codify the Routed and Returned Re-Pricing instruction. Specifically, under the proposed rule, if a Limit Order was routed away but not fully executed, the returning remainder of the order, if it would be a Locking Quotation or Crossing Quotation of a quotation displayed by another Trading Center upon re-entry to the System, would default to a Routed and Returned Re-Pricing instruction, unless the User selected either the Cancel Back, Price Adjust or Hide Not Slide instruction.[64] The Routed and Returned Re-Pricing instruction would cause the returning order, that would otherwise be a Locking Quotation or Crossing Quotation based on an away market, to re-price one Minimum Price Variation away from the Locking Price, be ranked at the midpoint of the NBBO, with discretion to execute at the Locking Price. If a contra-side order with a Post Only instruction that equals the Locking Price is subsequently entered and displayed by the System, the order subject to the Routed and Returned Re-Pricing instruction would be ranked at the midpoint of the NBBO with its discretion to execute at the Locking Price suspended until there is no contra-side order displayed by the System equals the Locking Price.[65] Thereafter, in response to changes in the NBBO, an order subject to the Routed and Returned Re-Pricing instruction would be adjusted and displayed by the System at one Minimum Price Variation below (above) the NBO (NBB) and ranked at the updated midpoint of the NBBO with discretion to execute at the Locking Price until the price of such order reached its limit price; at which point the order would be displayed at the limit price by the System without further adjustment. Upon return to the EDGX Book after being routed away, the order will execute against any marketable contra-side liquidity on the EDGX Book and any remainder will be subject to the Routed and Returned Re-Pricing instruction.[66] The order would receive a new time stamp upon returning to the EDGX Book and upon each subsequently re-ranking. Pursuant to proposed Exchange Rule 11.9, all orders that are re-ranked and re-displayed pursuant to the Routed and Returned Re-Pricing instruction would retain their comparative time priority at a price level based upon the time of initial re-entry to the System.[67]

The Commission finds that the proposed rules related to Regulation NMS re-pricing are consistent with

[56] Other exchanges utilize re-pricing processes. *See e.g.,* CHX Art. I, Rule 2(b)(1)(C), BATS Rules 11.9(c)(4), (6) and 11.9(g)(2), BATS–Y Exchange, Inc. (''BATS–Y'') Rules 11.9(c)(4), (6) and 11.9(g)(2), and Nasdaq's ''Re-pricing of Orders during Short Sale Period'' described in Nasdaq Rule 4763(e). In Amendment No. 1, the Exchange removed the proposed Single Re-Price and Short Sale Single Re-Price pricing instructions. *See supra* note 7.

[57] Pursuant to proposed Exchange Rule 11.8, an order that would be a Locking Quotation or Crossing Quotation at the time of entry, will be automatically defaulted by the System to the Price Adjust instruction, unless the User affirmatively elects: (1) The Cancel Back instruction; or (2) the Hide Not Slide instruction.

[58] For purposes of the description of the re-pricing instructions under proposed Rule 11.6(l), the terms ''ranked'' and ''priced'' are synonymous and used interchangeably.

[59] Other exchanges offer similar functionality. *See* Nasdaq Rule 4751(f)(7) (Price to Comply Order), BATS Rule 11.9(g)(2) (Price Adjust), BATS Rule 11.9(g)(1) (Display-Price Sliding), BATS–Y 11.9(g)(1) (Display-Price Sliding), and CHX Rule Art. I, Rule 2(b)(1)(C)(i) (NMS Price Sliding).

[60] *See* Division of Trading and Markets: Response to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS, Question 5.02, *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm* (last visited October 28, 2014).

[61] *See* proposed Exchange Rule 11.9 in Section III.C., *infra,* for discussion on priority.

[62] The Exchange provides examples of the operation of a Price Adjust Instruction. *See* Notice, *supra* note 3, at 44526.

[63] Orders that are re-ranked and re-displayed pursuant to the Hide Not Slide instruction maintain the same priority as orders that are re-ranked and re-displayed pursuant to the Routed and Returned Re-Pricing instruction at the same price. *See* proposed Exchange Rules 11.9(a)(2)(B)(i) and (C)(ii). The Exchange provides examples of the operation of a Hide Not Slide Instruction. *See* Notice, *supra* note 3, at 44526–27. *See also* Amendment No. 1, *supra* note 7, for corrections to Example Nos. 1 and 4.

[64] *See* Amendment No. 3, *supra* note 9.

[65] *Id.*

[66] *Id.*

[67] Orders that are re-ranked and re-displayed pursuant to the Routed and Returned Re-Pricing instruction maintain the same priority as orders that are re-ranked and re-displayed pursuant to the Hide Not Slide instruction at the same price. *See* proposed Exchange Rules 11.9(a)(2)(B)(i) and (C)(ii). The Exchange provides an example of the operation of a Routed and Returned Re-Pricing Instruction. *See* Notice, *supra* note 3, at 44527. *See also* Amendment No. 3, *supra* note 9.

Section 6(b)(5) of the Act,[68] and the rules and regulation thereunder, including Rule 610 of Regulation NMS.'' [69] The operation of Price Adjust, Hide Not Slide and Routed and Returned Re-Pricing are consistent with Rule 610(d) of Regulation NMS as they should prevent members from displaying orders that lock or cross any protected quotation in an NMS stock.[70] In addition, the Commission notes that other exchanges offer price-sliding functionality to comply with Regulation NMS.[71]

ii. Re-Pricing Instructions To Comply With Rule 201 of Regulation SHO

Proposed Exchange Rule 11.6(l)(2) sets forth the following re-pricing instructions for an order with a Short Sale instruction to comply with Rule 201 of Regulation SHO: (1) Short Sale Price Adjust and (2) Short Sale Price Sliding. Under the proposal, a Limit Order to sell with a Short Sale instruction that cannot display or execute at its limit price at the time of entry because of a short sale price restriction pursuant to Rule 201 of Regulation SHO (''Short Sale Circuit Breaker''),[72] would automatically default to the Short Sale Price Adjust instruction, unless the User affirmatively elects: (1) The Cancel Back instruction; or (2) the Short Sale Price Sliding instruction. Like current Exchange Rule 11.5(c)(4)(E), orders to sell with both a Short Sale and a Short Exempt instruction would not be eligible for any of the Regulation SHO re-pricing instructions and instead would execute, display and/or route without regard to whether the order is at a Permitted Price or if a Short Sale Circuit Breaker in effect. In addition, when a Short Sale Circuit Breaker is in effect and the incoming order has a Short Sale instruction, Regulation SHO re-pricing instructions would supersede Regulation NMS re-pricing instructions.

Proposed Exchange Rule 11.6(l)(2)(A) would codify the Short Sale Price Adjust instruction. If selected by a User and a Short Sale Circuit Breaker was in effect, the sell order with a Short Sale instruction would be ranked and displayed at the Permitted Price.[73] Following the initial ranking, the order, to the extent the NBB declines, would continue to be re-ranked and displayed at the Permitted Price down to the order's limit price. The order would receive a new time stamp each time it is re-ranked. All orders with Short Sale Price Adjust instructions that are re-ranked and re-displayed by the System would retain their comparative time priority based on their initial receipt by the System.[74]

Proposed Exchange Rule 11.6(l)(2)(B) would codify the Short Sale Price Sliding instruction. If selected by a User and a Short Sale Circuit Breaker was in effect, the sell order with a Short Sale instruction would be displayed at the Permitted Price and ranked at the midpoint of the NBBO. Following the initial ranking, the order would, to the extent the NBB declined, be re-ranked and re-displayed with a new time stamp one additional time at a price equal to the NBB at the time of the order's original entry.[75]

The Commission finds that the proposed rules related to Regulation SHO re-pricing are consistent with Section 6(b)(5) of the Act,[76] as well as Rule 201 of Regulation SHO.[77] Rule 201 of Regulation SHO requires trading centers to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order at a price at or below the current NBB when a Short Sale Circuit Breaker is in effect, subject to certain exceptions.[78] Pursuant to the Exchange's rules relating to Short Sale Price Adjust and Short Sale Price Sliding, sell orders with a Short Sale instruction that cannot be executed or displayed in compliance with Rule 201 of Regulation SHO would be displayed at the Permitted Price (*i.e.,* above the current NBB). In addition, the Commission notes that Short Sale Price Adjust [79] and Short Sale Price Sliding [80] operate in a manner that is substantially similar to other exchanges.

The Commission notes that Short Sale Price Sliding permits sell orders with a Short Sale instruction to be ranked at the midpoint of the NBBO and displayed at the Permitted Price. The Commission finds that Regulation SHO re-pricing to permit an order with a Short Sale instruction to be executed at the midpoint of the NBBO, and displayed above the NBB, is consistent with Rule 201 of Regulation SHO.[81]

iii. Re-Pricing of Orders With a Non-Displayed Instruction

Proposed Exchange Rule 11.6(l)(3) would codify the re-pricing of orders with a Non-Displayed instruction to specify that an order with a Non-Displayed instruction that is priced better than the midpoint of the NBBO, would be ranked at the midpoint of the NBBO with discretion to execute to its limit price.[82] In response to changes in the NBBO, an order with a Non-Displayed instruction would be automatically re-ranked, with a new time stamp, until the midpoint of the NBBO reached the order's limit price. A User may elect the Cancel Back instruction for a buy (sell) order with a Non-Displayed instruction where the limit price is greater (less) than the NBO (NBB). Pursuant to proposed Exchange Rule 11.9, all orders with a Non-Displayed instruction that are re-ranked at the midpoint of the NBBO would retain their comparative time priority based upon their initial ranking at the midpoint of the NBBO.[83]

[68] 15 U.S.C. 78f(b)(5).

[69] 17 CFR 242.610.

[70] Rule 610(d) of Regulation NMS requires exchanges to establish, maintain, and enforce rules that require members reasonably to avoid ''[d]isplaying quotations that lock or cross any protected quotation in an NMS stock.'' *See* 17 CFR 242.610(d).

[71] *See* Nasdaq Rule 4751(f)(7) (Price to Comply Order), BATS Rule 11.9(g)(2) (Price Adjust), BATS Rule 11.9(g)(1) (Display-Price Sliding), BATS–Y 11.9(g)(1) (Display-Price Sliding), CHX Rule Art. I, Rule 2(b)(1)(C)(i) (NMS Price Sliding).

[72] 17 CFR 242.200(g); 17 CFR 242.201. On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the form of Rule 201, pursuant to which, among other things, short sale orders in covered securities generally cannot be executed or displayed by a trading center at a price that is at or below the current NBB when a Short Sale Circuit Breaker is in effect for the covered security. *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a ''short exempt'' marking requirement. *See also* Securities Exchange Act Release No. 63247 (November 4, 2010), 75 FR 68702 (November 9, 2010) (extending the compliance date for Rules 201 and 200(g) to February 28, 2011). *See also* Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, *www.sec.gov/divisions/marketreg/rule201faq.htm.*

[73] Other exchanges offer similar functionality. *See* Nasdaq Rule 4763(e) (Re-Pricing of Orders During Short Sale Period), BATS Rule 11.9(g)(2) (Short Sale Price Sliding), BATS–Y 11.9(g)(2) (Short Sale Price Sliding), and CHX Rule Art. I, Rule 2(b)(1)(C)(ii) (Short Sale Price Sliding).

[74] The Exchange provides an example of the operation of a Short Sale Price Adjust instruction. *See* Notice, *supra* note 3, at 44528.

[75] The Exchange provides an example of the operation of a Short Sale Price Sliding instruction. *See* Notice, *supra* note 3, at 44528–29.

[76] 15 U.S.C. 78f(b)(5).

[77] 17 CFR 242.201.

[78] 17 CFR 242.201.

[79] *See* BATS Rule 11.9(g)(2), BATS–Y Rule 11.9(g)(2) and Nasdaq Rule 4763(e).

[80] *See* BATS Rule 11.9(g)(2) and BATS–Y Rule 11.9(g)(2)

[81] 17 CFR 242.201.

[82] The Exchange explains that because MidPoint Match Orders, described below, are pegged to the midpoint of the NBBO, the re-pricing and midpoint ranking of orders with a Non-Displayed instruction enables the EDGX Book to avoid internally crossed markets. *See* Notice, *supra* note 3, at 44529.

[83] The Exchange provides examples of the operation of the re-pricing of Orders with a Non-Displayed Instruction. *See* Notice, *supra* note 3, at 44529.

l. Reserve Quantity and Replenishment Amounts

Exchange Rule 11.5(c)(1) currently defines a ''Reserve Order'' as ''[a] limit order with a portion of the quantity displayed ('display quantity') and with a reserve portion of the quantity ('reserve quantity') that is not displayed.'' The Exchange proposes to reclassify this function as an order type instruction and relocate the term ''Reserve Quantity'' to proposed Exchange Rule 11.6(m). The term Reserve Quantity would be defined to mean the portion of an order with a Non-Displayed instruction in which a portion of that order is also displayed on the EDGX Book. The Exchange also would specify that both the portion of the order with a Displayed instruction and the Reserve Quantity of the order are available for execution against incoming orders. The Exchange also specifies that where the displayed quantity of an order is reduced to less than a Round Lot, the System, in accordance with the replenishment instruction selected by the User, would replenish the displayed quantity from the Reserve Quantity by at least a single Round Lot. A new time stamp would be created for the displayed portion of the order each time it is replenished from the Reserve Quantity, and the Reserve Quantity would retains its original time stamp of its original entry.[84] In addition, the Exchange states that where the combined amount of the displayed quantity and Reserve Quantity of an order is less than one Round Lot, the order would be treated as an order with a Displayed instruction for purposes of execution priority under proposed Exchange Rule 11.9.

Proposed Exchange Rule 11.6(m) also codifies the two replenishment instructions[85] currently offered by the Exchange: (1) Fixed Replenishment; and (2) Random Replenishment. The Fixed Replenishment instruction sets forth that the displayed quantity of an order would be replenished by a fixed quantity designated by the User. The Fixed Replenishment quantity for the order would equal the initial displayed quantity designated by the User. The displayed replenishment quantity selected by the System could not be less than a single Round Lot or greater than the remaining Reserve Quantity. Under proposed Exchange Rule 11.8(b)(5), the System would automatically default the order to the Fixed Replenishment instruction with a replenishment value equal to the displayed quantity of the order.

Under the Random Replenishment instruction, the displayed quantity, both initial and replenished, would be randomly determined by the System within a replenishment range and replenishment value established by the User. The System would randomly select random display in Round Lots based on: (1) The quantity around which the replenishment range is established minus the replenishment value; and (2) the quantity around which the replenishment range is established plus the replenishment value. The displayed replenishment quantity could not: (1) Exceed the remaining Reserve Quantity of the order; (2) be less than a single Round Lot; or (3) greater than the remaining Reserve Quantity.[86]

m. Routing/Posting Instructions

In proposed Exchange Rule 11.6(n), the Exchange proposes to define the following routing and posting instructions that a User may select, depending on the order type: (1) Aggressive or Super Aggressive; (2) Book Only; (3) Post Only; (4) Destination Specified; and (5) Destination-on-Open.

The Exchange proposes to codify the terms Aggressive and Super Aggressive. Aggressive is an order instruction that directs the System to route such order if an away Trading Center crosses the limit price of the order resting on the EDGX Book. Super Aggressive is an order instruction that directs the System to route such order if an away Trading Center locks or crosses the limit price of the order resting on the EDGX Book.

Current Exchange Rule 11.5(c)(4) defines the term EDGX Only Order.[87] The Exchange proposes to reclassify this function as an order type instruction and relocate the amended definition and term ''Book Only'' to proposed Exchange Rule 11.6(n)(3). The proposed definition of Book Only would specify that it is: ''[a]n order instruction stating that an order will be matched against an order on the EDGX Book or posted to the EDGX Book, but will not route to an away Trading Center.''[88] References to the Exchange's ''display price sliding process and short sale price sliding process'' would be removed from the amended Book Only definition because, as noted above, proposed Exchange Rule 11.6(l) is proposed to now describe re-pricing instructions for Regulation NMS and Regulation SHO compliance.

Current Exchange Rule 11.5(c)(5) defines the term ''Post Only Order.''[89] The Exchange proposes to reclassify this function as an order type instruction and relocate the amended definition and term ''Post Only'' to proposed Exchange Rule 11.6(n)(4). Currently, the Post Only definition specifies that order would not remove liquidity from the EDGX Book unless ''the User enters an instruction to the contrary.'' The Exchange proposes amend the definition to specify that an order with a Post Only instruction may remove contra-side liquidity from the EDGX Book when combined with a Hide Not Slide or a Price Adjust instruction if the order is for a security priced below $1.00 or the value of such execution, including any fees charged or rebates provided, equals or exceeds the value of such execution if the order instead posted and provided liquidity.[90] In addition, the Exchange proposes to remove references to Exchange's ''display price sliding process and short sale price sliding process'' from the amended Post Only definition because, as noted above, proposed Exchange Rule 11.6(l) is proposed to describe re-pricing instructions for Regulation NMS and Regulation SHO compliance.

Exchange Rule 11.5(c)(9) currently defines the term ''Destination Specific

[84] Other exchanges maintain similar time stamp functionality when replenishing a displayed amount of an order from the order's undisplayed quantity. *See* Nasdaq Rule 4751(f)(2) (Reserve Orders), and NYSE Rule 13 (Reserve Order Types, Minimum Display Reserve Order).

[85] Other exchanges offer similar functionality for refreshing the displayed portion of an order from a Reserve Quantity. *See, e.g.,* Nasdaq Rule 4751(f)(2) (Reserve Orders) and NYSE Rule 13 (Reserve Order Types).

[86] The Exchange provides examples of the operation of orders with replenishment amounts. *See* Notice, *supra* note 3, at 44530.

[87] Currently, the term EDGX Only Order is defined as ''[a]n order that is to be ranked and executed on the Exchange pursuant to Rule 11.8 and Rule 11.9(a)(4) or cancelled, without routing away to another trading center. The System will default to the displayed price sliding process and short sale price sliding process for an EDGX Only Order unless the User has entered instructions not to use any of the processes.''

[88] The proposed definition of Book Only is similar to that of other exchanges. *See* BATS Rule 11.9(c)(4) (BATS Only Order), BATS–Y Rule 11.9(c)(4) (BATS Only Order), NSX Rule 11.11(c)(6) (NSX Only Order).

[89] Currently, the term Post Only Order is defined as ''[a]n order that is to be ranked and executed on the Exchange pursuant to Rule 11.8 and Rule 11.9(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the EDGX Book absent an order instruction to the contrary. A EDGX Post Only Order will be subject to the displayed price sliding process and short sale price sliding process unless a User has entered instructions not to use the either or both processes. . . .''

[90] *See also* Amendment No. 1, supra note 7. The Exchange further states that to determine at the time of a potential execution whether the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, the Exchange will use the highest possible rebate paid and highest possible fee charged for such executions on the Exchange. *Id.*

Order.'' [91] The Exchange proposes to reclassify this function as an order type instruction and relocate the amended definition and term ''Destination Specified'' to proposed Exchange Rule 11.6(n)(4). The amended definition would provide that an order with a Destination Specified instruction may be processed as described in proposed Exchange Rule 11.10(a)(4), returned to the User, or posted to the EDGX Book, unless the User instructs that the order reside on the book of the relevant away Trading Center.

Exchange Rule 11.5(c)(10) currently defines the term ''Destination-on-Open Order.'' The Exchange proposes to reclassify this function as an order type instruction and relocate the amended definition and term ''Destination-on-Open'' to proposed Exchange Rule 11.6(n)(6). The amended definition would state that a Destination-on-Open instruction may be appended to a Market or a Limit Order and that an unfilled portion of an order with a Destination-on-Open instruction may be cancelled or re-routed.

n. Short Sale and Short Exempt

Currently, certain current Exchange rules refer to the terms ''short sale order'' and ''short exempt,'' [92] but neither term is specifically defined. Proposed Exchange Rules 11.6(o) and 11.6(p) would respectively provide definition for the terms ''Short Sale'' and ''Short Exempt.'' The proposed definitions for Short Sale instruction and Short Exempt instruction would be consistent with Rules 200(a) and 201 of Regulation SHO.[93]

o. Time-In-Force

Current Exchange Rule 11.5(b)(1)–(3) defines the terms ''IOC Order,'' ''Day Order'' and ''Fill-or-Kill Order.'' [94] The Exchange proposes to reclassify these terms as time-in-force order type instructions and relocate the definitions, IOC, Day, FOK and Good-'til Time (''GTT''), to proposed Exchange Rule 11.6(n)(4). The proposed rule specifies that an order with a TIF instruction of Day entered into the System before the start of the specified trading session would be placed by the System in a pending state and activated for potential execution upon the start of that trading session.

The Exchange proposes to include a new TIF instruction, GTT, which could be appended to an order in any trading session with instructions to cancel at a specified time of day. The proposed rule also sets forth that an order with a GTT instruction would not be eligible for execution over multiples days [95] and that any unexecuted portion of such order with a GTT would be cancelled at: (1) The expiration of the User's specified time; (2) at the end of the User's specified trading session(s); or (3) the end of the trading day, as instructed by the User. As proposed, order with a GTT instruction would not be eligible for execution over multiple trading days.

p. Trading Center

The Exchange proposes to add the term ''Trading Center'' to proposed Exchange Rule 11.6(r) to be defined as ''[o]ther securities exchanges, facilities of securities exchanges, automated trading systems, electronic communications networks or other brokers or dealers.'' [96] The term would be consistent with the Trading Center definition of in Rule 600(a)(78) of Regulation NMS.[97]

q. Units of Trading

Current Exchange Rule 11.6 provides that ''[o]ne hundred (100) shares shall constitute a 'round lot,' any amount less than 100 shares shall constitute an 'odd lot,' and any amount greater than 100 shares that is not a multiple of a round lot shall constitute a 'mixed lot.'" The Exchange proposes to relocate the definition of ''Units of Trading'' to proposed Exchange Rule 11.6(s). The relocated and amended definition would provide that a Round Lot is 100 shares, unless an alternative number of shares is established as a Round Lot by the listing exchange for the security. Similarly, in proposed Exchange Rule 11.9(a)(6)), the Exchange proposes a conforming change to replace the term ''99 shares or fewer'' with ''less than a Round Lot.'' Proposed Exchange Rule 11.6(s) would also state that Round Lots are eligible to be Protected Quotations.

Current Exchange Rule 11.5(c)(2) defines the term an ''Odd Lot Order'' as ''[a]n order to buy or sell an odd lot.'' The Exchange proposes to revise and relocate the term to proposed Exchange Rule 11.6(s)(2). The definition would be amended to indicate that an Odd Lot is ''[a]ny amount less than a Round Lot,'' and that orders of Odd Lot size are only eligible to be Protected Quotations if aggregated to form a Round Lot.

Current Exchange Rule 11.5(c)(3) defines the term a ''Mixed Lot Order.'' The Exchange proposes to revise and relocate the term to proposed Exchange Rule 11.6(s)(3). The definition would be amended to indicate that ''[a]ny amount greater than a Round Lot that is not an integer multiple of a Round Lot,'' and that the Odd Lot portions of an order of Mixed Lot size are only eligible to be Protected Quotations if aggregated to form a Round Lot.[98]

2. Order Types—Proposed Exchange Rule 11.8

The Exchange has determined that the majority of the existing individual order types should be reclassified as order type instructions to be attached to specific, standalone order types.[99] Accordingly, the Exchange proposes to delete and replace current Exchange Rule 11.5 with proposed Exchange Rule 11.8, Order Types,[100] which would outline the characteristics of the six order types that would be accepted by the System: (1) Market Orders, (2) Limit Orders, (3) ISOs, (4) MidPoint Match Orders, (5) NBBO Offset Peg Orders, and (6) Route Peg Orders.

The Commission finds that the proposed rules relating to the definitions and descriptions of order types are consistent with the Act. The Commission notes that the definitions and operations of Market Order, Limit Order, ISO, and MPM Order are substantively similar to the current rule text, with added specificity related to the operation of the standalone order type and the order type instructions that may be attached thereto. The NBBO Offset Peg Order and Route Peg Order are currently offered by the Exchange, and the related rule text has been relocated and reformatted to conform to

[91] Currently, the term ''Destination Specified Order'' is defined as ''[a] market or limit order that instructs the System to route the order to a specified away trading center or centers, after exposing the order to the EDGX Book. Destination Specific Orders that are not executed in full after routing away are processed by the Exchange as described below in Rule 11.9(a)(4), save where the User has provided instructions that the order reside on the book of the relevant away trading center.''

[92] *See* Exchange Rules 11.9(a)(1) and 11.15.

[93] *See* 17 CFR 242.200 *et seq.*

[94] Current Exchange Rule 11.5(b) includes two (2) additional TIF instructions of Good-'til-Cancel and Good-'til-Day, which the Exchange proposes to delete from its rules because they are not currently offered by the Exchange.

[95] Other exchanges offer TIF instructions similar to GTT. *See* CHX Rules Art. 1, Rule 2(d)(3) (Good 'Til Date), BATS Rule 11.9(b)(4) (Good 'til Day), BATS–Y Rule 11.9(b)(4) (Good 'til Day), and Nasdaq Rule 4751(h)(4) (System Hours Expire Time).

[96] The term Trading Center is defined in Exchange Rule 2.11(a) and appears within Chapter XI.

[97] Under Exchange Act Rule 600(a)(78), ''Trading Center'' is defined as ''a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.'' *See* 242 CFR 600(a)(78).

[98] The proposed definitions are similar to Nasdaq Rule 4751(g) (definition of ''Order Size'').

[99] *See* Notice, *supra* note 3, at 44532.

[100] *Id.*

the reorganization of the Exchange rule book without substantive amendment. Accordingly, the Commission believes that these proposed rule changes are consistent with the Act.

a. Market Order

Current Exchange Rule 11.5(a)(2) defines the term ''Market Order.'' The Exchange proposed to relocate the term to proposed Exchange Rule 11.8(a), and revise it to include additional language describing the operation of the order type and the order type instructions that may be attached thereto.

Specifically, proposed Exchange Rule 11.8(a) would define a Market Order as ''[a]n order to buy or sell a stated amount of a security that is to be executed at the NBBO or better when the order reaches the Exchange.'' The proposed rule also specifies that Market Orders are eligible to execute during the Regular Session; ineligible to execute during the Pre-Opening or the Post-Closing Trading Sessions; may be an Odd Lot, Round Lot, or Mixed Lot; and may include a Stop Price instruction. Proposed Exchange Rule 11.8(a)(2) would specify that a Market Order would default to a TIF instruction of Day, unless otherwise instructed by the User; and that in addition to Day, a User could append a Market Order with an IOC or FOK instruction. The proposed rule also sets forth that a Market Order with a FOK instruction would cancel if not executed in full portion immediately after entry [101] and that a Market Order with an IOC instruction would cancel any unexecuted portion of the order after checking the System for available shares, and, if applicable, upon return to the System after being routed to an away Trading Center. The proposed rule also specifies that a Market Order that does not include a Book Only, IOC or FOK instruction and cannot be executed in accordance with proposed Exchange Rule 11.10(a)(4) would be eligible for routing pursuant to proposed Exchange Rule 11.11.[102]

Under the proposed rules, a Market Order would post to the book in certain instances. Under proposed Exchange Rule 11.10(a)(3)(A), where the NBO/NBB is greater/lesser than the Upper/Lower Price Band, an incoming non-routable buy/sell Market Order would post to the EDGX Book at a price equal to the Upper (Lower) Price Band, unless appended with a TIF instruction of IOC or FOK or a Cancel Back instruction.[103] Under Proposed Exchange Rule 11.8(a)(4), a Market Order appended with both a Day and a Short Sale instruction that could not execute because of a Short Sale Restriction, would display pursuant to the Short Sale Price Sliding instruction.[104]

Under the proposed rules, there are also certain instances when a Market Order would cancel instead of execute. The proposed rule specifies that if a Market Order with a Book Only instruction is re-priced when the NBO/NBB is greater/less than the Upper/Lower Price Band, the order would be cancelled pursuant to proposed Exchange Rule 11.10(a)(4). The Exchange also specifies that, except for a Market Order that include a Destination-on-Open instruction, any portion of a Market Order that would execute at a price more than the greater of $0.50 or five percent worse than the consolidated last sale as published by the responsible single plan processor at the time the order is entered into the System, would be cancelled.

b. Limit Order

Current Exchange Rule 11.5(a)(1) defines a Limit Order as, ''[a]n order to buy or sell a stated amount of a security at a specified price or better'' and a ''marketable'' Limit Order as a ''limit order to buy (sell) at or above (below) the lowest (highest) Protected Offer (Bid) for the security.'' The term would be relocated to proposed Exchange Rule 11.8(b), and be amended to include additional language describing the operation of the order type and the order type instructions that may be attached thereto. The proposed rule specifies that a Limit Order is eligible for execution during the Pre-Opening Session, Regular Session, and the Post-Closing Session, and could be an Odd Lot, Round Lot or Mixed Lot. A Limit Order could also be appended with the applicable combination of the following order type instructions: [105] IOC, FOK, Day, GTT, Displayed, Non-Displayed, Attributable, Non-Attributable, Post Only, Book Only, Discretionary Range, Reserve Quantity, Pegged, Minimum Execution Quantity, Stop Limit, Destination Specified, Destination-on-Open instruction, Aggressive or Super Aggressive.

Proposed Exchange Rule 11.8(b)(7) specifies that a marketable Limit Order would be eligible to be routed pursuant to proposed Exchange Rule 11.11, unless it was appended with a Post Only, Book Only or Pegged instruction.[106]

c. Intermarket Sweep Order

Current Exchange Rule 11.5(d)(1), specifies that the System accepts incoming ISOs (as such term is defined in Regulation NMS) and that to be eligible for treatment as an ISO, the order must be: (1) A Limit Order; (2) marked ISO; and (3) the User entering the order must simultaneously route one or more additional Limit Orders marked ISO, if necessary, to away markets to execute against the full displayed size of any Protected Quotation for the security with a price that is superior to the limit price of the ISO entered in the System. Such orders, if they meet the requirements of the foregoing sentence, may be executed at one or multiple price levels in the System without regard to Protected Quotations at away Trading Centers consistent with Regulation NMS (*i.e.,* may trade through such quotations). The term would be relocated to proposed Exchange Rule 11.8(c), and amended to include additional language describing the operation of the order type and the order type instructions that may be attached thereto. Proposed Exchange Rule 11.8(c) would continue to instruct Members that the Exchange relies on, and it is the Member's responsibility, to properly mark ISOs, to satisfy the compliance requirements of Regulation NMS.[107] The proposed Rule also specifies that a User entering an ISO with a Day instruction is representing that it has simultaneously routed one or more additional ISOs, if necessary, to away Trading Centers to execute against the full displayed size of any Protected Quotation for the security with a price that is superior or equal to the limit price of the ISO entered in the System.[108]

[101] *See* Amendment No. 1, *supra* note 7.

[102] The Exchange provides examples of the operation of Market Orders. *See* Notice, *supra* note 3, at 44533–34.

[103] Current Exchange Rule 11.9(a)(3)(A) states, ''[w]here a non-routable buy (sell) Market Order is entered into the System and the NBB (NBO) is greater (less) than to the Upper (Lower) Price Band, such order will be posted to the EDGX Book or executed, unless (1) the order is an IOC Order, in which case it will be cancelled if not executed, or (2) the User has entered instructions to cancel the order.'' *See also* Securities Exchange Act Release No. 69003 (February 27, 2013), 78 FR 14380 (March 5, 2013) (SR–EDGX–2013–08).

[104] *See* proposed Exchange Rule 11.6(l)(2), *supra* Section III.C.1.k.ii.

[105] *See* discussion of Order Type Instructions, *supra* Section III.C.1.

[106] In the Notice, the Exchange provides order handling examples of Limit Orders with various order type instructions under various book conditions. *See* Notice, *supra* note 3, at 44535–36. *See also* Amendment No. 1, *supra* note 7, for a discussion regarding (1) the Exchange joining the NBO, (2) Displayed limit orders with Post Only or Book Only instructions, and (3) order handling examples that previously included the Single Re-Price instruction. *See also* Amendment No. 3, *supra* note 9, concerning orders with Routed and Returned Re-Pricing instructions.

[107] *See* Notice, *supra* note 3, at 44537.

[108] The ISO exception under Exchange Rule 11.10(f) requires that ISOs be routed to execute

Continued

Proposed Exchange Rule 11.8(c)(4) would also specify that incoming ISOs may be submitted during the Pre-Opening Session, Regular Session, and Post-Closing Session. Proposed Exchange Rule 11.8(c)(1)–(4) would also state that an incoming ISO will have a default TIF instruction of Day, unless the User selects a TIF instruction of GTT or IOC. Incoming ISOs cannot include a TIF instruction of FOK. The proposed Rule also sets forth that an incoming ISO with a Post Only and TIF instruction of GTT or Day, but without a Price Adjust or Hide Not Slide instruction, would be rejected if, marketable against a resting order with a Displayed instruction. Any unfilled portion of an ISO with a TIF instruction of GTT or Day would be posted at the ISO's limit price on the EDGX Book.

Proposed Exchange Rule 11.8(c) would specify that an ISO with a Post Only instruction and TIF instruction of GTT or Day may also be appended with Regulation NMS or Regulation SHO re-pricing instructions.

Proposed Exchange Rule 11.8(c)(7) would permit a User to attach an instruction to an outbound ISO in order to permit that ISO to be immediately routed to an away Trading Center.[109] However, pursuant to proposed Exchange Rule 11.11, inbound ISOs would not be eligible for routing under any circumstances.

d. MidPoint Match Order

Exchange Rule 11.5(c)(7) currently defines an MPM Order as ''[a]n order with an instruction to execute it at the midpoint of the NBBO.'' The term would be relocated to proposed Exchange Rule 11.8(d), and amended to include additional language describing the operation of the order type and the order type instructions that may be attached thereto. The MPM Order definition would be amended to specify that it could be a Market Order or a Limit Order, as well as to indicate that the limit price of an MPM order would represent the highest/lowest price at which order may buy/sell.[110] The proposed rule would also set forth that notwithstanding the co-designation as a Market or Limit Order, the operation of the MPM Order would be governed by proposed Exchange Rule 11.8(d).

Proposed Exchange Rule 11.8(d)(1) specifies that an MPM Order could be appended with a TIF instruction of Day, FOK, IOC, or GTT. Proposed Exchange Rule 11.8(d)(2) specifies that an MPM Order could include a Minimum Execution Quantity instruction. Proposed Exchange Rule 11.8(d)(3) specifies that MPM Orders would default to a Non-Displayed instruction and are not eligible to include a Displayed instruction. Proposed Exchange Rule 11.8(d)(5) specifies that, pursuant to proposed Exchange Rule 11.11, MPM Orders are ineligible for routing.

Pursuant to the proposed rule, MPM Orders may only be executed during the Regular Session, and any unexecuted portion of a resting MPM Order with a Day or GTT instruction would receive a new time stamp each time it is re-priced in response to changes to the midpoint of the NBBO. However, an incoming or resting MPM Order would be ineligible for execution if there was a Locking Quotation or Crossing Quotation. The ability of the resting or incoming MPM Order to execute would resume, and the order would receive a new time stamp, when the locked/crossed condition was resolved and a new midpoint relative to the NBBO was established, the MPM Order would receive a new time stamp. Similarly, MPM Orders would be ineligible to execute if the midpoint of the NBBO was below the Lower Price Band or above the Upper Price Band. Pursuant to proposed Exchange Rule 11.9, all MPM Orders would retain their comparative priority based upon order's initial receipt and ranking at the midpoint of the NBBO.

The proposed rule would also specify that MPM Orders are eligible to participate in the Opening Process; but ineligible to participate in the Pre-Opening Session, Post-Closing Session, or the Contingent Open pursuant to proposed Exchange Rule 11.7(d). Pursuant to proposed Exchange Rule 11.7(d), if there is a Contingent Open an MPM Order would remain ineligible to trade during the Regular Session until a price for an Open Transaction has been determined pursuant to proposed Exchange Rule 11.7(c).

e. NBBO Offset Peg Order

Exchange Rule 11.5(c)(15) currently defines the NBBO Offset Peg Order. The term would be relocated to proposed Exchange Rule 11.8(e) and reformatted, without substantive amendment. The NBBO Offset Peg Order would continue to be defined as a Limit Order that, upon entry, is automatically priced by the System at the Designated Percentage[111] away from the current NBB/NBO for a buy/sell order, or if there is no NBB/NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor. The proposed rule would specify that notwithstanding its co-designation as a Limit Order, the operation of an NBBO Offset Peg Order would be governed by proposed Exchange Rule 11.8(e).

The proposed rule also sets forth that the price of an NBBO Offset Peg Order bid or offer would automatically adjust to the Designated Percentage away from the current NBB/NBO; or if there is no current NBB/NBO, to the Designated Percentage away from the last reported sale from the responsible single plan processor, upon reaching the Defined Limit.[112] The proposed rule also sets forth that if an NBBO Offset Peg Order moves a specified number of percentage points away from the Designated Percentage toward the current NBB/NBO, the price of such bid/offer would automatically adjust the Designated Percentage away from the current NBB/NBO; or if there is no current NBB/NBO, the order would automatically adjust to the Designated Percentage away from the last reported sale from the responsible single plan processor. Pursuant to the proposed rule, cancellation or rejection would result if the order exceeded its limit price due to an NBBO Offset Peg Order being priced at the Designated Percentage away from the current NBB/NBO; or, if there is no current NBB/NBO, to the Designated Percentage away from the last reported sale from the responsible single plan processor. As proposed, the absence of a current NBB/NBO and last sale reported by the responsible single plan processor would also cause the order to be cancelled or rejected.

Under the proposed rule, if a resident NBBO Offset Peg Order was priced based on the last sale reported by the responsible single plan processor and such NBBO Offset Peg Order is established as the NBB/NBO, the NBBO Offset Peg Order would not adjust until either new last sale reported by the

against all protected quotations with a price that is better than or equal the display price, rather than solely to protected quotations for a security with a price that is superior to the ISO's limit price. *See* Question 5.02 in the Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

[109] This Directed Intermarket Sweep Order functionality is currently provided pursuant to Exchange Rule 11.5(d)(2). *See* Notice, *supra* note 3, at 44537.

[110] For example, if an MPM Order to buy is entered with a limit price that was less than the prevailing midpoint of the NBBO it would not be eligible to execute at the mid-point of the NBBO. An MPM Order to buy with a limit price that is greater than the prevailing NBBO would be able to execute at the mid-point of the NBBO and not at its limit price.

[111] *See* proposed Exchange Rule 11.20(d)(2)(D).

[112] *See* proposed Exchange Rule 11.20(d)(2)(F).

responsible single plan processor, or a new NBB/NBO was established by a national securities exchange. However, if a Crossing Quotation existed, the NBBO Peg Offset Order would automatically price at the Designated Percentage [113] (away from the current NBO/NBB for a buy/sell order).

The proposed rule sets forth that NBBO Offset Peg Orders may only include a TIF instruction of Day; may only be Round Lots or Mixed Lots; are defaulted by the System to a Displayed instruction and are not eligible to include a Non-Displayed instruction; and may be submitted at the beginning of the Pre-Opening Session, but are not executable or automatically priced until after the first regular way last sale on the relevant listing exchange for the security, as reported by the responsible single plan processor. In addition the rule sets forth that NBBO Offset Peg Orders would receive a new time stamp each time it re-prices in response to changes in the NBB, NBO, or last reported sale; would be ineligible for routing pursuant to proposed Exchange Rule 11.11; and would expire at the end of the Regular Session. Finally, pursuant to Exchange Rule 11.20(d), irrespective of the NBBO Offset Peg Order, and consistent with its obligations, Market Makers would continue to be responsible for entering, monitoring, and re-submitting, as applicable, quotations.

f. Route Peg Order

Exchange Rule 11.5(c)(17) currently defines the term Route Peg Order. The term would be relocated to proposed Exchange Rule 11.8(f) and reformatted to conform to other rule changes, without substantive amendment. The Route Peg Order is a passive, resting order that does not remove liquidity or execute at a price inferior to a Protected Quotation. The Route Peg Order would be defined as a non-displayed Limit Order that is eligible for execution at the NBB for a buy order and NBO for a sell order against an order that is in the process of being routed to away Trading Centers with an order size equal to or less than the aggregate size of the Route Peg Order interest available at that price. The proposed rule would specify that notwithstanding its co-designation as a Limit Order, the operation of a Route Offset Peg Order would be governed by proposed Exchange Rule 11.8(f).

The proposed rule would also set forth that Route Peg Orders may only have a TIF instruction of GTT or Day and would be ineligible to include a TIF instruction of IOC or FOK; may only be Round Lots or Mixed Lots; would default to, and could be appended with a Non-Displayed instruction; but not with the Displayed instruction. In addition, the proposed rule sets forth that the Route Peg Order could include a Minimum Execution Quantity but is ineligible for routing pursuant to proposed Exchange Rule 11.11.

The proposed rule also set forth that Route Peg Orders may be entered, cancelled, and cancelled/replaced prior to and during the Regular Session and all unexecuted portions thereof are cancelled at the end of the Regular Session. Route Peg Orders would only be eligible for execution in a given security during the Regular Session, except during the Opening Session and until orders in a given security can be posted on the EDGX Book during the Regular Session. Route Peg Orders would also be ineligible for execution if a Locking Quotation or Crossing Quotation existed; however the ability of the Route Peg Order to execute would resume once the locked/crossed condition was cleared.

*D. Execution Priority of Orders*

1. Priority—Proposed Exchange Rule 11.9

Current Exchange Rule 11.8 sets forth the priority of order executions. The Exchange proposes to relocate the provision to proposed Exchange Rule 11.9 and to amend it to codify and state the following: (1) The priority of orders at certain price points; (2) the priority of Limit Orders with a Reserve Quantity; and (3) certain other conforming and clarifying changes. The Exchange states that its proposed amendments outline current System functionality in the Exchange's Rules.

Under Exchange Rule 11.9(a), orders of Users are first ranked and maintained by the System on the EDGX Book according to their price. Orders at the same price and of the same type are then ranked by the System depending on the time they were entered into the System. The Exchange proposes to amend Exchange Rule 11.9 to specify how orders with certain order type instructions are ranked by the System: [114] (1) At a price other than the midpoint of the NBBO; (2) at the midpoint of the NBBO; and (3) where buy (sell) orders utilize instructions that cause them to be ranked by the System upon clearance of a Locking Quotation.[115] The Exchange also proposes to provide that, for purposes of priority under Exchange Rule 11.9(a)(2)(A) and (B): (1) An ISO [116] and NBBO Offset Peg Order [117] are to be treated as Limit Orders; [118] and (2) orders subject to a re-pricing instruction to comply with Rule 201 of Regulation SHO under proposed Exchange Rule 11.6(l)(2), including Market Orders that are displayed on the EDGX Book pursuant to proposed Exchange Rule 11.8(a)(4) and proposed Exchange Rule 11.10(a)(3)(A), maintain the same priority as Limit Orders at that price.

2. Prices Other Than the Midpoint of the NBBO

Current Exchange Rule 11.8(a)(2) states, in sum, that the System shall execute equally priced trading interest in time priority in the following order: (1) Displayed size of limit orders; (2) MidPoint Match Orders; (3) Non-displayed limit orders and reserve orders; (4) Discretionary range of Discretionary Orders as set forth in current Exchange Rule 11.5(c)(13); and (5) Route Peg Orders as set forth in current Exchange Rule 11.5(c)(17). The Exchange proposes to amend the above priority to state that it applies to equally priced trading interest at prices other than at the midpoint of the NBBO or where orders are re-ranked at the Locking Price after a Locking Quotation clears.[119] As amended, proposed Exchange Rule 11.9(a)(2)(A) would state that the System will execute equally priced trading interest within the System at prices, other than at the midpoint of the NBBO or where orders are re-ranked at the Locking Price after a Locking Quotation clears, in time priority in the following order: (1) The portion of a Limit Order with a Displayed instruction; (2) Limit Orders with a Non-Displayed instruction and the Reserve Quantity of Limit Orders; (3) Limit Orders executed within their Discretionary Range; and (4) Route Peg Orders.[120]

[113] *See* proposed Exchange Rule 11.20(d)(2)(D).

[114] In Amendment No. 3, the Exchange states that it is currently conducting a review of its System functionality and will file, as appropriate, any proposed rule changes necessary to clarify the operation of its order types not covered by this filing by November 1, 2014.

[115] For purposes of priority under proposed Exchange Rule 11.9(a)(2)(A), (B) and (C), the Exchange notes that orders of Odd Lot, Round Lot, or Mixed Lot size are treated equally.

[116] *See* proposed Exchange Rule 11.8(c), discussed above in Section III.C.2.c.

[117] *See* proposed Exchange Rule 11.8(e), discussed above in Section III.C.2.e.

[118] *See* proposed Exchange Rule 11.8(b), discussed above in Section III.C.2.b.

[119] The Exchange also proposes to amend the description of order types under proposed Exchange Rules 11.9(a)(2)(A)(i)–(iv) to be consistent with proposed Exchange Rule 11.8, Order Types.

[120] *See* proposed Exchange Rule 11.9(a)(2)(A). *See also* Notice, *supra* note 3, at 44539 for an example

Continued

3. At the Midpoint of the NBBO

The Exchange also proposes to outline a separate priority for orders ranked at the midpoint of the NBBO under proposed Exchange Rule 11.9(a)(2)(B). Where orders are priced at the midpoint of the NBBO, the first order priced at the midpoint of the NBBO within each of the categories set forth in paragraphs (i) through (iv) of proposed Exchange Rule 11.9(a)(2)(B) shall have precedence at the midpoint of the NBBO, up to the number of shares of stock specified in the order. The System shall execute trading interest priced at the midpoint of the NBBO within the System in time priority in the following order: (1) Limit Orders to which the Hide Not Slide or Routed and Returned Re-Pricing instruction has been applied; (2) MidPoint Match Orders; (3) Limit Orders with a Non-Displayed instruction; and (4) Limit Orders executed within their Discretionary Range.[121]

4. Orders Re-Ranked Upon Clearance of a Locking Quotation

The Exchange also proposes to outline a priority of orders for orders that utilize instructions that result in their being re-ranked upon clearance of a Locking Quotation. In such case, the System re-ranks and displays such orders at the Locking Price. The Exchange proposes to include proposed Exchange Rule 11.9(a)(2)(C), which would state that, where an order is re-ranked to the Locking Price after a Locking Quotation clears, the System will re-rank and display such orders at the Locking Price in time priority in the following order: (1) ISO with a TIF instruction of Day that establishes a new NBBO at the Locked Price; (2) Limit Orders to which the Hide Not Slide or Routed and Returned Re-Pricing instruction has been applied; (3) Limit Orders to which the Price Adjust instruction has been applied; and (4) orders with a Pegged instruction.[122] Orders not executed and remaining on the EDGX Book after being re-ranked upon clearance of the Locking Quotation will be executed in time priority under proposed Exchange Rule 11.9(a)(2)(A) described above.

5. Reserve Quantity Priority

The Exchange proposes to amend Exchange Rule 11.9(a)(6) to modify the description of the priority of an order with a Reserve Quantity and to amend certain terms to be consistent with the order type rules under proposed Exchange Rules 11.6 and 11.8.

For both the Fixed Replenishment and Random Replenishment instruction, the displayed quantity receives a new time stamp each time it is replenished from the Reserve Quantity. The Reserve Quantity retains the time stamp of its original entry. Current Exchange Rule 11.8(a)(6) discusses the priority of the Reserve Quantity of an order and states that ''[a] new time stamp is created both for the refreshed and reserved portion of the order each time it is refreshed from reserve.'' The Exchange proposes to amend this description to state that a new time stamp is created only for the displayed quantity of the order each time it is replenished from Reserve Quantity. In addition, as discussed above in Section III.C.1.l, proposed Exchange Rule 11.8(m)(1) states that a new time stamp is created for the portion of the order with a Displayed instruction each time it is replenished from the Reserve Quantity, while the Reserve Quantity retains the time-stamp of its original entry.[123]

The Commission finds that proposed Exchange Rule 11.9 relating to priority is consistent with Section 6(b)(5) of the Act,[124] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed rule change codifies the order handling and execution priority of orders on the EDGX Book which in turn provides greater transparency for, and thereby benefit, Members, Users, and the general investing public.

## IV. Accelerated Approval

The Commission finds goods cause, pursuant to Section 19(b)(2) of the Exchange Act,[125] for approving the proposed rule change, as modified by Amendment Nos. 1 and 3 thereto, prior to the 30th day after publication of notice of the filing of Amendment Nos. 1 and 3 in the **Federal Register**. Amendment No. 1 removes proposed rule text relating to the Single Re-Price and Short Sale Single Re-Price pricing instructions to indicate that the Exchange will no longer offer such functionality, adds language to the Post Only instruction definition to provide that the highest possible rebate paid and the highest possible fee will be used to determine whether the order with a Post Only instruction will execute against orders on the EDGX Book upon arrival, adds rationale to the statutory basis section for suspending the discretion of an order with a Hide Not Slide instruction to execute at the Locking Price when a contra-side order that equals the Locking Price is displayed by the System on the EDGX Book in order to avoid an apparent violation of that contra-side displayed order's priority, and makes a series of non-substantive, corrective changes to the Notice. According to the Exchange, Amendment No. 1 reflects the Exchange's efforts to simplify its proposal and streamline System functionality, thereby benefiting Members, Users and the investing public by making the rules and functionality easier to understand. According to the Exchange, Amendment No. 3 clarifies the operation of the Routed and Returned Re-Pricing instruction, thereby making the rules and functionality easier to understand. Accordingly, the Commission does not believe that Amendments No. 1 and 3 raise any novel regulatory issues and therefore finds that good cause exists to approve the proposal, as modified by Amendment Nos. 1 and 3, on an accelerated basis.

## V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment Nos. 1 and 3 to the proposed rule change, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2014–18 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2014–18. This file number should be included on the subject line if email is used.

illustrating the operation of priority at prices other than the Midpoint of the NBBO.

[121] *See* proposed Exchange Rule 11.9(a)(2)(B). *See also* Notice, *supra* note 3, at 44540 for an example illustrating the operation of priority at prices at the midpoint of the NBBO.

[122] *See* proposed Exchange Rule 11.9(a)(2)(C). *See also* Notice, *supra* note 3, at 44540 for an example with two scenarios illustrating the operation of priority for orders re-ranked upon clearance of a locking quotation. *See* also Amendment No. 1, *supra* note 7, which replaces the order with a Single Re-Price instruction with an order with a Price Adjust instruction.

[123] *See* proposed Exchange Rule 11.9(a)(6). *See also* Notice, *supra* note 3, at 44540 for an example illustrating the operation of priority for an order with a Reserve Quantity.

[124] 15 U.S.C. 78f(b)(5).

[125] 15 U.S.C. 78s(b)(2).

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2014–18 and should be submitted on or before November 25, 2014.

## VI. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[126] that the proposed rule change (SR–EDGX–2014–18), as modified by Amendment Nos. 1 and 3, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[127]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26127 Filed 11–3–14; 8:45 am]

**BILLING CODE 8011–01–P**

[126] 15 U.S.C. 78s(b)(2).

[127] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73465; File No. SR–CME–2014–44]**

## Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Modifications to Its OTC IRS Fee Schedule

October 29, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been primarily prepared by CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(2)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing proposed rule changes that are limited to its business as a derivatives clearing organization. More specifically, the proposed rule changes would modify the fee schedule applicable to its over-the-counter (''OTC'') interest rate swap (''IRS'') clearing offering.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (''CFTC'') and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to modify the fee schedule (the ''Fee Schedule'') that applies to OTC IRS cleared at CME.

The propose fee changes relate to back-loaded trades submitted by IRS Clearing Members. The proposed changes are limited to the current CME OTC Interest Rate Swaps IRS Clearing Member Fee Schedule and would not impact the corresponding OTC IRS Customer Fee Schedule. The proposed modifications would simply make amendments to certain exceptions that apply to the basic transaction fee charged to IRS Clearing Members for OTC IRS. Currently, transaction fees are eligible for waiver on all back-loaded trades, which are defined as trades ''where the Trade Date is prior to the Cleared Date''—the amendments would change this definition so that backloaded trades for these purposes would instead be defined as trades where the Trade Date is at least five days prior to the Cleared Date. In addition, the amendments would make clear that transaction fees will be waived on all trades executed to facilitate client terminations, defined as where the Effective Date is no more than the Standard Day Offset for that currency denomination after the Trade Date, rather than Cleared Date.

The changes that are described in this filing impact fees that are limited to CME's business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the CFTC and do not materially impact CME's security-based swap clearing business in any way. The fee changes would become effective immediately but would be operationalized on November 1, 2014. CME notes that it has already submitted the proposed rule changes that are the subject of this filing to its primary regulator, the CFTC, in CME Submission 14–442.

CME believes the proposed rule changes are consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] More specifically, the proposed rule changes establish or change a member due, fee or other charge

[5] 15 U.S.C. 78q–1.

imposed by CME under Section 19(b)(3)(A)(ii) [6] of the Securities Exchange Act of 1934 and Rule 19b–4(f)(2) [7] thereunder. CME believes that the proposed fee change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder and, in particular, to 17A(b)(3)(D),[8] because the proposed fee changes apply equally to all OTC IRS Clearing Members at CME and therefore the proposed changes provide for the equitable allocation of reasonable dues, fees and other charges among participants. CME also notes that it operates in a highly competitive market in which market participants can readily direct business to competing venues. For these reasons, the proposed changes are appropriately filed pursuant to Section 19(b)(3)(A) [9] of the Act and paragraph (f)(2) of Rule 19b–4 thereunder.[10]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The proposed change to the definition of a back-loaded trade for purposes of establishing a fee waiver that applies equally to all IRS Clearing Members at CME. Back-loaded transactions will now be defined as where the trade date for the transaction is at least five days prior to the cleared date and, thus, by definition, are transactions which have already occurred well before clearing. Back-loaded transactions promote the general goal of increasing central clearing of OTC derivatives products. Further, OTC IRS are swaps under the exclusive jurisdiction of the CFTC, and, as such, these proposed fee changes do not affect the security-based swap clearing activities of CME in any way and therefore do not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).
[7] 17 CFR 240.19b–4(f)(2).
[8] 15 U.S.C. 78q–1(b)(3)(D).
[9] 15 U.S.C. 78s(b)(3)(A).
[10] 17 CFR 240.19b–4(f)(2).

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [11] of the Act and paragraph (f)(2) of Rule 19b–4 [12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2014–44 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CME–2014–44. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CME–2014–44 and should be submitted on or before November 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Kevin M. O'Neill,**

*Deputy Secretary.*

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[11] 15 U.S.C. 78s(b)(3)(A).
[12] 17 CFR 240.19b–4(f)(2).
[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73460; File No. SR–CBOE–2014–080]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related To Extending the FLEX Exercise Settlement Values Pilot

October 29, 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 October 16, 2014, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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 extend the operation of its Flexible Exchange

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] 15 U.S.C. 78s(b)(3)(A).
[4] 17 CFR 240.19b–4(f)(6).

Options (''FLEX Options'') pilot program regarding permissible exercise settlement values for FLEX Index Options.[5] 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.

## 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

On January 28, 2010, the Exchange received approval of a rule change that, among other things, established a pilot program regarding permissible exercise settlement values for FLEX Index Options. In October 2013, the Exchange filed a proposed rule change that extended the pilot period from the earlier of November 2, 2013 or the date on which the pilot program is approved on a permanent basis [sic] to the earlier of November 3, 2014 or the date on which the pilot program is approved on a permanent basis.[6] The pilot program is currently set to expire on the earlier of November 3, 2014 or the date on which the pilot program is approved on a permanent basis.[7] The purpose of this rule change filing is to extend the pilot program through the earlier of May 3, 2016 or the date on which the pilot program is approved on a permanent basis. This filing simply seeks to extend the operation of the pilot program and does not propose any substantive changes to the pilot program.

Under Rules 24A.4, *Terms of FLEX Options,* and 24B.4, *Terms of FLEX Options,* a FLEX Option may expire on any business day specified as to day, month and year, not to exceed a maximum term of fifteen years. In addition, the exercise settlement value for a FLEX Index Option can be specified as the index value determined by reference to the reported level of the index as derived from the opening or closing prices of the component securities (''a.m. settlement'' or ''p.m. settlement,'' respectively) or as a specified average, provided that the average index value must conform to the averaging parameters established by the Exchange.[8] However, prior to the initiation of the exercise settlement values pilot, only a.m. settlements were permitted if a FLEX Index Option expires on, or within two business days of, a third Friday-of-the-month expiration (''Expiration Friday'').[9]

Under the exercise settlement values pilot, this restriction on p.m. and specified average price settlements in FLEX Index Options was eliminated.[10] The exercise settlement values pilot is currently set to expire on the earlier of November 3, 2014 or the date on which the pilot program is approved on a permanent basis.

CBOE is proposing to extend the pilot program through the earlier of May 3, 2016 or the date on which the pilot program is approved on a permanent basis. CBOE believes the pilot program has been successful and well received by its membership and the investing public for the period that it has been in operation as a pilot. In support of the proposed extension of the pilot program, and as required by the pilot program's Approval Order, the Exchange has submitted to the Commission pilot program reports regarding the pilot, which detail the Exchange's experience with the program. Specifically, the Exchange provided the Commission an annual report analyzing volume and open interest for each broad-based FLEX Index Options class overlying an Expiration Friday, p.m.-settled FLEX Index Options series.[11] The annual report also contained information and analysis of FLEX Index Options trading patterns. The Exchange also provided the Commission, on a periodic basis, interim reports of volume and open interest. In providing the pilot reports to the Commission, the Exchange has requested confidential treatment of the pilot reports under the Freedom of Information Act (''FOIA'').[12] The confidentiality of the pilot reports is subject to the provisions of FOIA.

The Exchange believes there is sufficient investor interest and demand in the pilot program to warrant its extension. The Exchange believes that, for the period that the pilot has been in operation, the program has provided

[5] FLEX Options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. FLEX Options can be FLEX Index Options or FLEX Equity Options. In addition, other products are permitted to be traded pursuant to the FLEX trading procedures. For example, credit options are eligible for trading as FLEX Options pursuant to the FLEX rules in Chapters XXIVA and XXIVB. *See* CBOE Rules 24A.1(e) and (f), 24A.4(b)(1) and (c)(1), 24B.1(f) and (g), 24B.4(b)(1) and (c)(1), and 28.17. The rules governing the trading of FLEX Options on the FLEX Request for Quote (''RFQ'') System platform are contained in Chapter XXIVA. The rules governing the trading of FLEX Options on the FLEX Hybrid Trading System platform are contained in Chapter XXIVB.

[6] *See* Securities Exchange Act Release No. 70752 (October 24, 2013), 78 FR 65023 (October 30, 2013) (SR–CBOE–2013–99).

[7] At the same time the permissible exercise settlement values pilot was established for FLEX Index Options, the Exchange also established a pilot program eliminating the minimum value size requirements for all FLEX Options. *See* Securities Exchange Act Release Nos. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087) (Approval Order); 61676 (March 9, 2010), 75 FR 13191 (March 18, 2010) (SR–CBOE–2010–026) (technical rule change to include original pilots' conclusion date of March 28, 2011 in the rule text); 64110 (March 24, 2011), 76 FR17463 (March 29, 2011) (SR–CBOE–2011–024) (extending the pilots through March 30, 2012), 77 FR 20673 (April 5, 2012) (SR–CBOE–2012–027) (extending the pilots through the earlier of November 2, 2012 or the date on which the respective pilot program is approved on a permanent basis). The pilot program eliminating the minimum value size requirements was approved on a permanent basis in a separate rule change filing. *See* Securities Exchange Act Release No. 67624 (August 8, 2012), 77 FR 48580 (August 14, 2012) (SR–CBOE–2012–040). The permissible exercise settlement values pilot, however, has been extended. *See* Securities Exchange Act Release No. 68145 (November 2, 2012), 77 FR 67044 (November 8, 2012) (SR–CBOE–2012–102) (extending the pilot through the earlier of November 2, 2013 or the date on which the pilot program is approved on a permanent basis).

[8] *See* Rules 24A.4(b)(3) and 24B.4(b)(3); *see also* Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (SR–CBOE–92–17). The Exchange has determined to limit the averaging parameters to three alternatives: The average of the opening and closing index values on the expiration date; the average of intra-day high and low index values on the expiration date; and the average of the opening, closing, and intra-day high and low index values on the expiration date. Any changes to the averaging parameters established by the Exchange would be announced to Trading Permit Holders via circular.

[9] For example, prior to the pilot, the exercise settlement value of a FLEX Index Option that expires on the Tuesday before Expiration Friday could have an a.m., p.m. or specified average settlement. However, the exercise settlement value of a FLEX Index Option that expires on the Wednesday before Expiration Friday could only have an a.m. settlement.

[10] No change was necessary or requested with respect to FLEX Equity Options. Regardless of the expiration date, FLEX Equity Options are settled by physical delivery of the underlying.

[11] The annual report also contained certain pilot period and pre-pilot period analyses of volume and open interest for Expiration Friday, a.m.-settled FLEX Index series and Expiration Friday Non-FLEX Index series overlying the same index as an Expiration Friday, p.m.-settled FLEX Index option.

[12] 5 U.S.C. 552.

investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange believes that it has not experienced any adverse market effects with respect to the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement (as discussed below).

In that regard, based on the Exchange's experience in trading FLEX Options to date and over the pilot period, CBOE continues to believe that the restrictions on exercise settlement values are no longer necessary to insulate Non-FLEX expirations from the potential adverse market impacts of FLEX expirations.[13] To the contrary, CBOE believes that the restriction actually places the Exchange at a competitive disadvantage to its OTC counterparts in the market for customized options, and unnecessarily limits market participants' ability to trade in an exchange environment that offers the added benefits of transparency, price discovery, liquidity, and financial stability.

The Exchange also notes that certain position limit, aggregation and exercise limit requirements continue to apply to FLEX Index Options in accordance with Rules 24A.7, *Position Limits and Reporting Requirements,* 24A.8, *Exercise Limits,* 24B.7, *Position Limits and Reporting Requirements,* and 24B.8, *Exercise Limits.* Additionally, all FLEX Options remain subject to the position reporting requirements in paragraph (a) of CBOE Rule 4.13, *Reports Related to Position Limits.*[14] Moreover, the Exchange and its Trading Permit Holder organizations each have the authority, pursuant to CBOE Rule 12.10, *Margin Required is Minimum,* to impose additional margin as deemed advisable. CBOE continues to believe these existing safeguards serve sufficiently to help monitor open interest in FLEX Option series and significantly reduce any risk of adverse market effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement.

CBOE is also cognizant of the OTC market, in which similar restrictions on exercise settlement values do not apply. CBOE continues to believe that the pilot program is appropriate and reasonable and provides market participants with additional flexibility in determining whether to execute their customized options in an exchange environment or in the OTC market. CBOE continues to believe that market participants benefit from being able to trade these customized options in an exchange environment in several ways, including, but not limited to, enhanced efficiency in initiating and closing out positions, increased market transparency, and heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of FLEX Options.

If, in the future, the Exchange proposes an additional extension of the pilot program, or should the Exchange propose to make the pilot program permanent, the Exchange will submit, along with any filing proposing such amendments to the pilot program, an annual report (addressing the same areas referenced above and consistent with the order approving the establishment of the Program) to the Commission at least two months prior to the expiration date of the Program. The annual report will be provided to the Commission on a confidential basis. The Exchange will also continue, on a periodic basis, to submit interim reports of volume and open interest consistent with the terms of the exercise settlement values pilot program as described in the pilot program's Approval Order. All such pilot reports would continue to be provided by the Exchange along with a request for confidential treatment under FOIA.[15] As noted in the pilot program's Approval Order, any positions established under the pilot program would not be impacted by the expiration of the pilot program.[16]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to,

[13] In further support, the Exchange also notes that the p.m. and specified average price settlements are already permitted for FLEX Index Options on any other business day except on, or within two business days of, Expiration Friday. The Exchange is not aware of any market disruptions or problems caused by the use of these settlement methodologies on these expiration dates (or on the expiration dates addressed under the pilot program). The Exchange is also not aware of any market disruptions or problems caused by the use of customized options in the OTC markets that expire on or near Expiration Friday and have a p.m. or specified average exercise settlement value. In addition, the Exchange believes the reasons for limiting expirations to a.m. settlement, which is something the SEC has imposed since the early 1990s for Non-FLEX Options, revolved around a concern about expiration pressure on the New York Stock Exchange (''NYSE'') at the close that are no longer relevant in today's market. Today, however, the Exchange believes stock exchanges are much better able to handle volume. There are multiple primary listing and unlisted trading privilege (''UTP'') markets, and trading is dispersed among several exchanges and alternative trading systems. In addition, the Exchange believes that surveillance techniques are much more robust and automated. In the early 1990s, it was also thought by some that opening procedures allow more time to attract contra-side interest to reduce imbalances. The Exchange believes, however, that today order flow is predominantly electronic and the ability to smooth out openings and closes is greatly reduced (*e.g.,* market-on-close procedures work just as well as openings). Also other markets, such as the NASDAQ Stock Exchange, do not have the same type of pre-opening imbalance disseminations as the NYSE, so many stocks are not subject to the same procedures on Expiration Friday. In addition, the Exchange believes that the NYSE has reduced the required time a specialist has to wait after disseminating a pre-opening indication. So, in this respect, the Exchange believes there is less time to react in the opening than in the close. Moreover, to the extent there may be a risk of adverse market effects attributable to p.m. settled options (or certain average price settled options related to the closing price) that would otherwise be traded in a non-transparent fashion in the OTC market, the Exchange continues to believe that such risk would be lessened by making these customized options eligible for trading in an exchange environment because of the added transparency, price discovery, liquidity, and financial stability available.

[14] CBOE Rule 4.13(a) provides that ''[i]n a manner and form prescribed by the Exchange, each Trading Permit Holder shall report to the Exchange, the name, address, and social security or tax identification number of any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts of any single class of option contracts dealt in on the Exchange. The report shall indicate for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered.'' For purposes of this Rule, the term ''customer'' in respect of any Trading Permit Holder includes ''the Trading Permit Holder, any general or special partner of the Trading Permit Holder, any officer or director of the Trading Permit Holder, or any participant, as such, in any joint, group or syndicate account with the Trading Permit Holder or with any partner, officer or director thereof.'' Rule 4.13(d).

[15] *See,* note 12, *supra,* and surrounding discussion. If the Exchange seeks permanent approval of the pilot program, the Exchange recognizes that certain information in the pilot reports may need to be made available on a public basis.

[16] For example, a position in a pm-settled FLEX Index Option series that expires on Expiration Friday in January 2015 could be established during the exercise settlement values pilot. If the pilot program were not extended (or made permanent), then the position could continue to exist. However, the Exchange notes that any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction. *See* Approval Order, *supra* note 7, footnotes 9 and 10.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

and 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed extension of the pilot program, which permits additional exercise settlement values, would provide greater opportunities for investors to manage risk through the use of FLEX Options. Further, the Exchange believes that it has not experienced any adverse effects from the operation of the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement. The Exchange also believes that the extension of the exercise settlement values pilot does not raise any unique regulatory concerns. In particular, although p.m. settlements may raise questions with the Commission, the Exchange believes that, based on the Exchange's experience in trading FLEX Options to date and over the pilot period, market impact and investor protection concerns will not be raised by this rule change. The Exchange also believes that the proposed rule change would continue to provide Trading Permit Holders and investors with additional opportunities to trade customized options in an exchange environment (which offers the added benefits of transparency, price discovery, liquidity, and financial stability as compared to the over-the-counter market) and subject to exchange-based rules, and investors would benefit as a result.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes there is sufficient investor interest and demand in the pilot program to warrant its extension. The Exchange believes that, for the period that the pilot has been in operation, the program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange believes that it has not experienced any adverse market effects with respect to the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-Flex expirations and use a p.m. settlement. CBOE believes that the restriction actually places the Exchange at a competitive disadvantage to its OTC counterparts in the market for customized options, and unnecessarily limits market participants' ability to trade in an exchange environment that offers the added benefits of transparency, price discovery, liquidity, and financial stability. Therefore, the Exchange does not believe that the proposed rule change will impose any burden on competition.

*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 proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [22] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [23] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing, noting that waiver of the operative delay would allow the pilot program to continue uninterrupted. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that waiving the 30-day operative delay would prevent the expiration of the pilot program on November 3, 2014, prior to the extension of the pilot program becoming operative. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[24]

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–2014–080 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–080. 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

[19] *Id.*

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–080 and should be submitted on or before November 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26121 Filed 11–3–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73461; File No. SR–BYX–2014–029]**

## Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

October 29, 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 October 24, 2014, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[3] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to modify its fee schedule effective immediately in order to adopt pricing charged by the Exchange for Supplemental Peg Orders, as defined in Rule 11.9(c)(19), and several new routing strategies, as described below.

Supplemental Peg Orders

The Exchange recently adopted a new order type, the Supplemental Peg Order, which is a non-displayed limit order described in Rule 11.9(c)(19). The Exchange proposes to modify its fee schedule to make clear that standard pricing for all other types of Non-Displayed Liquidity, as defined in the fee schedule, applies to Supplemental Peg Orders. Thus, the Exchange proposes to charge $0.0024 per share for all Supplemental Peg Orders executed on the Exchange that add liquidity in securities priced $1.00 and above. As with all orders adding liquidity to the Exchange, Supplemental Peg Orders in securities priced below $1.00 would not receive a liquidity rebate.

Routing Strategies

The Exchange recently filed a proposed rule change to adopt several new routing options in connection with the Exchange's technology integration with EDGA Exchange, Inc. (''EDGA'') and EDGX Exchange, Inc. (''EDGX'').[4] The Exchange proposes to adopt pricing for the new routing options, as set forth below, and also proposes various structural changes to the fee schedule.

First, the Exchange adopted two new routing strategies that are similar to the Exchange's existing standard best execution routing strategies. Specifically, the Exchange adopted ROUT and ROUX, which are similar to Parallel D and Parallel 2D. Accordingly, the Exchange proposes to charge the same fee for ROUT and ROUX routed executions as it does for Parallel D and Parallel 2D routing strategies. Specifically, the Exchange proposes to charge $0.0029 per share for orders in securities priced $1.00 and above executed through ROUT and ROUX at a venue other than a dark liquidity venue (i.e., through DRT routing). As it does currently, any execution through DRT routing at a dark liquidity venue will continue to be charged $0.0020 per share. Because DRT routing can be combined with various other new routing strategies set forth below, the Exchange also proposes to modify the description in the ''Other Non-Standard Routing Options'' section of the fee schedule to explicitly state that any liquidity removed through DRT at a venue other than through the SLIM routing strategy is $0.0020 per share (SLIM currently charges $0.0027 for executions at dark liquidity venues). This reflects an expansion of the current provision that applies a rate of $0.0020 per share for BYX + DRT Destination Specific Orders to apply that same rate to all executions that remove liquidity at a dark liquidity venue. In addition, to conform to the fee charged for Parallel D and Parallel 2D routed executions in securities priced below $1.00, the Exchange proposes to charge a fee that is 0.29% of the total dollar value for any execution of a ROUT or ROUX routed order in securities priced below $1.00.

Second, the Exchange adopted various new strategies that are similar (but not identical) to existing Destination Specific routing offered by the Exchange. The Exchange proposes to conform such new strategies with

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 73411 (October 23, 2014) (SR–BYX–2014–028), *available at http://www.sec.gov/rules/sro/byx.shtml.*

pricing for the similar existing strategies as set forth below. For instance, the Exchange adopted two new routing strategies that can remove liquidity specifically targeted at NYSE, RDOT and RDOX. The Exchange proposes to charge the same fee of $0.0026 per share for RDOT and RDOX routed executions at NYSE as it does for Destination Specific executions at NYSE. The Exchange also adopted the INET routing strategy, which is specifically targeted at NASDAQ. The Exchange proposes to charge the same fee of $0.0029 per share for INET routed executions at NASDAQ as it does for Destination Specific executions at NASDAQ. Finally, the Exchange adopted the ROLF routing strategy, which is specifically targeted at the LavaFlow ECN. The Exchange proposes to charge the same fee for ROLF as it does for all Destination Specific routing at venues not included in the Exchange's One Under/Better Program (where the Exchange seeks to improve by $0.0001 per share the fee charged or rebate provided by each venue in the program). Thus, the Exchange proposes to charge $0.0030 per share for any ROLF routed execution at LavaFlow ECN.

Third, the Exchange adopted the new Post to Away routing strategy, which, for the first time on the Exchange, can result in the Exchange routing an order to an away venue to be posted to such venue. In addition to the Post to Away routing strategy, the RDOT, RDOX and INET routing strategies can also post at away venues. The Exchange proposes to adopt the following pricing for executions in securities priced $1.00 and above through these routing strategies: (1) Add liquidity at BZX through Post to Away routing: $0.0020 rebate per share; (2) add liquidity at EDGX through Post to Away routing: $0.0020 rebate per share; (3) add liquidity at EDGA through Post to Away routing: $0.0005 charge per share; (4) add liquidity at NYSE through Post to Away, RDOT or RDOX routing: $0.0015 rebate per share; (5) add liquidity at NYSE ARCA through Post to Away routing for Tape B: $0.0022 rebate per share; (6) add liquidity at NYSE ARCA through Post to Away routing for Tapes A and C: $0.0021 rebate per share; (7) add liquidity at NYSE MKT through Post to Away routing: $0.0015 rebate per share; (8) add liquidity at NASDAQ through Post to Away or INET routing: $0.0015 rebate per share; (9) add liquidity at NASDAQ BX through Post to Away routing: $0.0020 charge per share. Each of the proposed fees and rebates set forth above is equal to or roughly equivalent to the standard fee or rebate (i.e., without taking any potential tiered pricing into account) that will be charged or provided pursuant to the applicable exchange's fee schedule. More importantly, the Exchange notes that these are the same fees and rebates charged and provided by the Exchange's affiliates, EDGA and EDGX, for identical routing strategies that post to away market venues. Accordingly, the Exchange is seeking to conform to such pricing schedules. In addition to standard pricing set forth above, the Exchange proposes to provide executions through the RDOT, RDOX, INET, and Post to Away routing strategies that post to away markets in securities priced below $1.00 without any fee or rebate, as this is the pricing structure in place at many of the away venues where orders can be routed and provides for a simplistic pricing model.

Fourth, the Exchange notes that although orders sent through each of the routing strategies described in the preceding paragraph can provide liquidity on away market venues, such strategies can also result in orders removing liquidity. Accordingly, the Exchange proposes to adopt fees for orders that remove liquidity through such routing strategies. For orders that remove liquidity through Post to Away routing, the Exchange proposes to charge the same fees that have been proposed for ROUT and ROUX routed executions. Specifically, the Exchange proposes to charge $0.0029 per share for orders in securities priced $1.00 and above that are routed by the Exchange through the Post to Away routing strategy and remove liquidity. The Exchange also proposes a fee that is 0.29% of the total dollar value for any execution of a Post to Away routed order in securities priced below $1.00 that removes liquidity. The Exchange also has adopted new routing strategies that can send orders to the NYSE that can, in turn, be re-routed by the NYSE. For each of these routing strategies, RDOT, RDOX and Post to Away, the Exchange proposes to adopt a fee of $0.0030 per share for any execution of an order that has been re-routed by NYSE.

Fifth, the Exchange adopted the ICMT and IOCM routing strategies, each of which may route an order to EDGX as a MidPoint Match order. The Exchange proposes to adopt pricing identical to the Exchange's existing RMPT routing strategy for both ICMT and IOCM. As is true for RMPT, the proposed fees for ICMT and IOCM are intended to approximate the cost for executions of midpoint orders on away trading venues. For orders routed pursuant to the ICMT or IOCM routing strategy and executed on an away trading venue, the Exchange proposes to charge $0.0012 per share in securities priced at or above $1.00 and 0.29% of the total dollar value of the execution for securities priced below $1.00.

Finally, the Exchange notes that it has proposed stylistic and corrective changes throughout the fee schedule. For instance, because the Exchange is adopting routing strategies that will now add liquidity to away market venues, the Exchange has proposed to include language throughout its routing fees stating whether an order adds or removes liquidity through such strategy. Similarly, in certain places where routing strategies referred to specific orders or order types rather than routing strategies, the Exchange has modified the description, which is consistent with its recent routing filing.[5] The Exchange has also proposed to eliminate references to the CYCLE and RECYCLE routing strategies. The Exchange no longer offers the CYCLE routing strategy and has eliminated such routing strategy from its rules. Similarly, the Exchange recently updated its rules to rename the RECYCLE strategy as Re-Route. However, the Exchange proposes to omit reference to Re-Route from its fee schedule (other than orders ''re-routed'' by NYSE, as described above) rather than to replace RECYCLE with Re-Route. Orders that have been routed to away market centers through a routing strategy offered by the Exchange that are posted to the Exchange's order book and subject to the Re-Route option may be routed away from the Exchange again pursuant to Rule 11.13(a)(4). The Exchange maintains the routing strategy instruction on an order when re-routing pursuant to the Re-Route option, and thus, charges the fee related to such routing strategy rather than to apply a specific ''Re-Route'' fee. In addition to these changes, the Exchange has proposed various additional stylistic changes, such as eliminating quotation marks and other minor word changes.

The Exchange proposes to implement the amendments to its fee schedule effective immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[6] Specifically, the Exchange believes that the proposed rule change is consistent

[5] *See id.*

[6] 15 U.S.C. 78f.

with Sections 6(b)(4) of the Act and 6(b)(5) of the Act,[7] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes that the proposed fee to add liquidity through use of Supplemental Peg Orders is reasonable and equitable because it is the same fee charged for most other types of non-displayed liquidity (with the exception of Mid-Point Peg orders). The Exchange does not currently believe that there is any reason to differentiate Supplemental Peg Orders from other types of non-displayed liquidity. The Exchange also believes that its proposed fee for Supplemental Peg Orders is non-discriminatory because it applies uniformly to all Members, and again, is based on existing pricing for similar orders.

The Exchange believes that the proposed changes to the Exchange's fee schedule to add fees for the ROUT and ROUX routing strategies represent a reasonable and equitable allocation of fees because they are identical to the fees charged for executions through similar routing strategies offered by the Exchange, namely Parallel D and Parallel 2D. The Exchange further believes that the proposed fees for ROUT and ROUX are non-discriminatory because they apply uniformly to all Members, and again, are based on existing pricing for similar orders. Similarly, the Exchange believes that expansion of standard DRT pricing of $0.0020 per share for all executions at a dark liquidity venue other than through SLIM routing is reasonable and equitable because it is consistent with existing pricing for executions at dark liquidity venues. In addition, the Exchange believes that this pricing is non-discriminatory because it applies uniformly to all Members and is based on existing DRT routing pricing.

The Exchange believes that the proposed changes to the Exchange's fee schedule to add fees for RDOT, RDOX, INET and ROLF routing strategies when removing liquidity represent a reasonable and equitable allocation of fees because they are identical to the fees charged for executions through similar routing strategies offered by the Exchange, namely Destination Specific orders to each applicable venue (i.e., NYSE for RDOT and RDOX, NASDAQ for INET and LavaFlow ECN through ROLF). The Exchange further believes that the proposed fees for RDOT, RDOX, INET and ROLF are non-discriminatory because they apply uniformly to all Members, and again, are based on existing pricing for similar orders.

The Exchange also believes that its proposed pricing for Post to Away routing strategies that add liquidity in securities priced $1.00 and above are reasonable and equitable because they are equal to or roughly equivalent to the standard fee or rebate that will be charged or provided pursuant to the applicable exchange's fee schedule and are identical to the same fees and rebates charged and provided by the Exchange's affiliates, EDGA and EDGX, for identical routing strategies that post to away market venues. The Exchange also believes that its proposed pricing for Post to Away routing strategies that add liquidity in securities priced below $1.00 (i.e., no fee or rebate) is reasonable and equitable because most away venues charge no fee and provide no rebate for such orders. The Exchange further believes that the proposed fees and rebates for Post to Away are non-discriminatory because they apply uniformly to all Members and, again, because they approximate the fee or rebate at the away venue.

The Exchange also believes that its proposed fees for orders that remove liquidity when sent through the Post to Away routing is reasonable and equitable because it is identical to that proposed for ROUT and ROUX, and is thus, equivalent to the Exchange's standard routing fees. The Exchange further believes that a slightly higher fee for orders re-routed by NYSE through the RDOT, RDOX and Post to Away routing strategies are is [sic] reasonable as it is the same fee charged by NYSE for routing. The Exchange again believes that its proposed fees are non-discriminatory in that they apply uniformly to all Members and are intended to generally approximate routing costs and/or to align with existing routing pricing.

The Exchange believes that the proposed changes to the Exchange's fee schedule to add fees for the IOCM and ICMT routing strategies represent an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because they are in line with the fees charged for executions through other low-price routing strategies and approximate the cost to the Exchange of executing midpoint orders on away trading venues. Lastly, the Exchange believes that the proposed pricing for the IOCM and ICMT routing strategies is non-discriminatory because it applies uniformly to all Members.

Finally, the Exchange believes that the additional clarifications, stylistic changes, and elimination of reference to CYCLE and RECYCLE proposed by the Exchange are consistent with the Act as they will enhance the readability and clarity of the fee schedule.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange reiterates that the Supplemental Peg Order will be treated similar to most other non-displayed liquidity on the Exchange (other than Mid-Point Peg orders). Also, because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the routing strategies adopted by the Exchange, the proposed fees are in line with the fees charged for executions through other routing strategies offered by the Exchange and approximate the cost to the Exchange of executing midpoint orders on away trading venues. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deem fee structures to be unreasonable or excessive.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4 thereunder.[9] 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

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2014–029 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2014–029. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2014–029, and should be submitted on or before November 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–26122 Filed 11–3–14; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### In the Matter of Hall Tees, Inc., Phoenix Medical Software, Inc., Surface Coatings, Inc., Flint Int'l Services, Inc., Order of Suspension of Trading

October 31, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of the issuers listed below.

1. Hall Tees, Inc. is a Nevada corporation located in Rowlett, Texas. Questions have arisen concerning the accuracy of information contained in its current Commission filings, including information concerning the individuals who control the company and their future intentions with respect to the company. The company is quoted on the OTC Link operated by OTC Markets Group, Inc. (''OTC Link''), under the stock symbol HTEE.

2. Phoenix Medical Software, Inc. is a Cayman Islands company located in Ovilla, Texas. Questions have arisen concerning the accuracy of information contained in its current Commission filings, including information concerning the individuals who control the company and their future intentions with respect to the company. The company is quoted on the OTC Link, under the stock symbol PHXMF.

3. Surface Coatings, Inc. is a Texas corporation located in Rockwall, Texas. Questions have arisen concerning the accuracy of information contained in its current Commission filings, including information concerning the individuals who control the company and their future intentions with respect to the company. The company is quoted on the OTC Link, under the stock symbol SCTZ.

4. Flint Int'l Services, Inc. is a British Virgin Islands company located in Vaughn, Ontario, Canada. Questions have arisen concerning the accuracy of information contained in its current Commission filings, including information concerning the individuals who control the company and their future intentions with respect to the company. The company is quoted on the OTC Link, under the stock symbol FNTSF.

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. EDT on October 31, 2014, through 11:59 p.m. EST on November 13, 2014.

By the Commission.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2014–26245 Filed 10–31–14; 4:15 pm]

BILLING CODE 8011–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14173 and #14174]**

### California Disaster #CA–00222

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of California (FEMA–4193–DR), dated 10/27/2014.

*Incident:* Earthquake.

*Incident Period:* 08/24/2014 through 09/07/2014.

*Effective Date:* 10/27/2014.

*Physical Loan Application Deadline Date:* 12/29/2014.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/27/2015.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 10/27/2014, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):* Napa, Solano.

*Contiguous Counties (Economic Injury Loans Only):*

California: Contra Costa, Lake, Sacramento, Sonoma, Yolo.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Homeowners With Credit Available Elsewhere | 4.125 |
| Homeowners Without Credit Available Elsewhere | 2.063 |
| Businesses With Credit Available Elsewhere | 6.000 |
| Businesses Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 2.625 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |
| *For Economic Injury:* | |
| Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |

The number assigned to this disaster for physical damage is 141732 and for economic injury is 141740.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Jerome Edwards,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2014–26137 Filed 11–3–14; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14154 and #14155]**

### New Mexico Disaster Number NM–00046

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Mexico (FEMA–4197–DR), dated 10/06/2014.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 07/27/2014 through 08/05/2014.

*Effective Date:* 10/24/2014.

*Physical Loan Application Deadline Date:* 12/05/2014.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/06/2015.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of New Mexico, dated 10/06/2014, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:*

Lincoln, Otero, Sandoval, and the Santa Clara Pueblo.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2014–26136 Filed 11–3–14; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14169 and #14170]**

### Nevada Disaster #NV–00031

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Nevada dated 10/28/2014.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 09/08/2014.

*Effective Date:* 10/28/2014.

*Physical Loan Application Deadline Date:* 12/29/2014.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/28/2015.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Clark.

*Contiguous Counties:*

Nevada: Lincoln, Nye.

Arizona: Mohave.

California: Inyo, San Bernardino.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Homeowners With Credit Available Elsewhere | 4.125 |
| Homeowners Without Credit Available Elsewhere | 2.063 |
| Businesses With Credit Available Elsewhere | 6.000 |
| Businesses Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 2.625 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |
| *For Economic Injury:* | |
| Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |

The number assigned to this disaster for physical damage is 14169 B and for economic injury is 14170 0.

The States which received an EIDL Declaration # are Nevada, Arizona, California.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 28, 2014.

**Maria Contreras-Sweet,**

*Administrator.*

[FR Doc. 2014–26135 Filed 11–3–14; 8:45 am]

**BILLING CODE 8025–01–P**

## SOCIAL SECURITY ADMINISTRATION

**[Docket No. SSA–2014–0064]**

### Cost-of-Living Increases and Other Determinations for 2015; Correction

**AGENCY:** Social Security Administration.

**ACTION:** Notice; correction.

**SUMMARY:** The Social Security Administration published a document in the **Federal Register** of October 29, 2014, concerning the cost-of-living increase in Social Security benefits effective December 31, 2014. The new document specifies the effective date of the 1.7 percent cost-of-living increase in Social Security benefits.

**FOR FURTHER INFORMATION CONTACT:** Susan C. Kunkel, 410–965–3000.

**Correction**

In the **Federal Register** of October 29, 2014, in FR Doc. 2014–25802, on page 66455, in the third column, make the following correction, in the Summary

section. Change the effective date of the 1.7 percent cost-of-living increased from ''December 2014'' to ''December 31, 2014''.

**Paul Kryglik,**

*Director, Office of Regulations and Reports Clearance.*

[FR Doc. 2014–26139 Filed 11–3–14; 8:45 am]

BILLING CODE 4191–02–P

## SOCIAL SECURITY ADMINISTRATION

**[Docket No. SSA 2014–0043]**

## Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Railroad Retirement Board (RRB))—Match Number 1308

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a renewal of an existing computer matching program that will expire on March 31, 2015.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with RRB.

**DATES:** We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

**SUPPLEMENTARY INFORMATION:**

### A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

### B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

**Kirsten J. Moncada,**

*Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.*

### Notice of Computer Matching Program, SSA With the Railroad Retirement Board (RRB)

### A. Participating Agencies

SSA and RRB.

### B. Purpose of the Matching Program

This computer matching agreement sets forth the terms, conditions, and safeguards under which RRB will disclose to us information necessary to verify an individual's self-certification of eligibility for Extra Help with Medicare Prescription Drug Plan Costs program (Extra Help). It will also enable us to identify individuals who may qualify for Extra Help as part of our Medicare outreach efforts.

### C. Authority for Conducting the Matching Program

The legal authority for us to conduct this matching activity is contained in section 1860D–14 (42 U.S.C. 1395w–114) and section 1144 (42 U.S.C. 1320b–14) of the Act.

### D. Categories of Records and Persons Covered by the Matching Program

*1. Systems of Records*

RRB will provide us with data from its RRB–22 and RRB–20 systems of records.

We will match RRB's data with our Medicare Database (MDB) File, system of records No. 60–0321.

*2. Number of Records and Frequency of Matching*

RRB will transmit its annuity payment data monthly. The file will consist of approximately 600,000 electronic records.

RRB will transmit its Post Entitlement System file daily. The number of records will differ each day, but consist of approximately 3,000 to 4,000 records each month.

RRB will transmit files on all Medicare eligible Qualified Railroad Retirement Beneficiaries from its RRB–20 and RRB–22 systems of records to report address changes and subsidy changing event information monthly. The file will consist of approximately 520,000 electronic records. The number of people who apply for Extra Help determines in part the number of records matched.

Our comparison file will consist of approximately 90 million records obtained from MDB.

*3. Specified Data Elements*

We will conduct the computer match using each individual's Social Security Number, name, date of birth, RRB claim number, and RRB annuity payment amount in both RRB and MDB files.

### E. Inclusive Dates of the Matching Program

The effective date of this matching program is April 1, 2015, provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2014–26130 Filed 11–3–14; 8:45 am]

BILLING CODE 4191–02–P

## DEPARTMENT OF STATE

**[Public Notice: 8935]**

### In the Matter of the Review of the Designation of Basque Fatherland and Liberty Also Known as Eta Also Known as Askatasuna Also Known as Batasuna Also Known as Ekin Also Known As Euskal Herritarrok Also Known Euzkadi Ta Akatasuna Also Known as Herri Batasuna Also Known as Jarrai-Haika-Segi Also Known as K.A.S. Also Known as Xaki as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in these matter pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the 2008 decision to maintain the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. § 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–26200 Filed 11–3–14; 8:45 am]

**BILLING CODE 4710–10–P**

## DEPARTMENT OF STATE

**[Public Notice: 8936]**

### In the Matter of the Review of the Designation of National Liberation Army Also Known as ELN Also Known as Ejercito de Liberacion Nacional as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in these matter pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the 2008 decision to maintain the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–26199 Filed 11–3–14; 8:45 am]

**BILLING CODE 4710–10–P**

## TENNESSEE VALLEY AUTHORITY

**[Meeting No. 14–04]**

### Sunshine Act Meeting

November 6, 2014.

The TVA Board of Directors will hold a public meeting on November 6, 2014, at The Music City Center (Room 202AB&C), 201 Fifth Avenue South, Nashville, Tennessee. The public may comment on any agenda item or subject at a *public listening session* which begins at 9 a.m. (CT). Following the end of the public listening session, the meeting will be called to order to consider the agenda items listed below. On-site registration will be available until 15 minutes before the public listening session begins at 9 a.m. (CT). Preregistered speakers will address the Board first. TVA management will answer questions from the news media following the Board meeting.

*Status:* Open.

**Agenda**

Chair's Welcome

**Old Business**

Approval of minutes of August 21, 2014, Board Meeting

**New Business**

1. Report from President and CEO
2. Report of the Finance, Rates, and Portfolio Committee
   A. Financial Performance Update
   B. Section 13 Tax Equivalent Payments
   C. Generation Fleet Planning—Shawnee Fossil Plant Units 1 and 4
3. Report of the People and Performance Committee
   A. Fiscal Year 2014 Performance and Compensation
   B. CEO Compensation for Fiscal Year 2015
   C. Bylaws Revision—Gender Inclusion
4. Report of the Audit, Risk, and Regulation Committee
   A. Service Practice Standards
   B. Conflict of Interest Policy
5. Report of the Nuclear Oversight Committee
6. Report of the External Relations Committee
7. Recognition of Departing Directors

*For more information:* Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: October 30, 2014.

**Clifford L. Beach,**

*Associate General Counsel and Assistant Secretary.*

[FR Doc. 2014–26319 Filed 10–31–14; 4:15 pm]

**BILLING CODE 8120–08–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Application Of Gem Air, LLC for Commuter Air Carrier Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 2014–10–25); Docket DOT–OST–2014–0020.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Gem Air, LLC fit, willing, and able, and awarding it commuter air carrier authority to conduct scheduled commuter service.

**DATES:** Persons wishing to file objections should do so no later than November 13, 2014.

**ADDRESSES:** Objections and answers to objections should be filed in Docket DOT–OST–2014–0020 and addressed to Docket Operations, (M–30, Room W12–140), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Barbara Snoden, Air Carrier Fitness

Division (X–56, Room W86–9721), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–4834.

**Susan L. Kurland,**

*Assistant Secretary, for Aviation and International Affairs.*

[FR Doc. 2014–26186 Filed 11–3–14; 8:45 am]

BILLING CODE P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Twelfth Meeting: RTCA Special Committee 227, Standards of Navigation Performance

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

**ACTION:** Meeting Notice of RTCA Special Committee 227, Standards of Navigation Performance.

**SUMMARY:** The FAA is issuing this notice to advise the public of the twelfth meeting of the RTCA Special Committee 227, Standards of Navigation Performance.

**DATES:** The meeting will be held November 17–21 from 9:00 a.m.–4:30 p.m.

**ADDRESSES:** RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC, 20036.

**FOR FURTHER INFORMATION CONTACT:** The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 330–0662 or (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.* In addition, Sophie Bousquet may be contacted directly at email: *sbousquet@rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 227. The agenda will include the following:

**November 17–21, 2014**

- Welcome/Introductions/ Administrative Remarks
- Agenda Overview
- Overview of Planned Work Program for the Week
  - Working Group 2 MOPS Change Proposals
  - SC–186 and potential MASPS Requirement Changes
  - MOPS Draft Review
- Plenary Review/Discussion
  - Status of TORs and MASPS Change 1
  - Status of SC–214/SC–227 Tiger Team
  - Status of SC–186/SC–227 Coordination, and SC–227 Schedule
  - Planned Work Schedule (Note, Schedule Subject to Change)
  - MOPS Change Proposal Review
  - MOPS Human Factors Guidance/ Requirements
- Technical Requirements Breakout Sessions (as Needed)
- Other Business

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 29, 2014.

**Mohannad Dawoud,**

*Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.*

[FR Doc. 2014–26269 Filed 11–3–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Federal Agency Action on Proposed Highway in Georgia the Interstate 75 (I–75) Express, Clayton and Henry Counties, Georgia (Atlanta Metropolitan Area)

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by Army Corps of Engineers (USACE).

**SUMMARY:** This notice announces actions taken by USACE and other Federal agencies that are final within the meaning of 23 U.S.C. 139(*l*)(1). The I–75 Express Lanes Project will design a managed lane system along I–75 from the SR 155 (Zack Hinton Parkway, South) interchange in Henry County north to the SR 138 (Stockbridge Highway) interchange in Clayton County located in Georgia. The project spans a distance of approximately 17.94 miles. Those actions grant licenses, permits and approvals for the project.

**DATES:** By this notice, the FHWA is advising the public of the final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency action on the highway project will be barred unless the claim is filed on or before April 3, 2015. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rodney Barry, Division Administrator, Georgia Division, Federal Highway Administration, 61 Forsyth Street, Suite 17T100, Atlanta, Georgia 30303; 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday, 404–562–3630; email: *Rodney.Barry@dot.gov*; for USACE: Edward Johnson, Chief, Regulatory Branch, U.S. Army Corps of Engineers, Savanah District-Piedmont Branch, 1590 Adamson Parkway, Suite 200, Morrow, Georgia, 30260–1777; telephone (678) 422–2235, Email: *Edward.B.Johnson@usace.army.mil;* and for Georgia Department of Transportation (GDOT): Mr. Keith Golden, Commissioner, Georgia Department of Transportation, 600 West Peachtree Street, 22th Floor, Atlanta, Georgia 30308, 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday, Telephone: (404) 631–1005, Email: *KGolden@dot.ga.gov.* USACE's normal business hours are 8:00 a.m. to 5:00 p.m. (Eastern Time).

**SUPPLEMENTARY INFORMATION:** On July 5, 2013, the FHWA published a ''*Notice of Final Federal Agency Actions on Proposed Highway in Georgia''* the Interstate 75 (I–75) Express located in Clayton and Henry Counties (Atlanta Metropolitan Area) in the **Federal Register** at [FR Doc. 2013–16112] for the following project: The I–75 Express lanes project consists of constructing managed lanes from the SR 155 (Zack Hinton Parkway, South) interchange in Henry County north to the SR 138 (Stockbridge Highway) interchange located in metropolitan Atlanta, Georgia. The Selected Alternative will construct managed lanes in Henry County at the I–75 Bridge over SR 155 and terminate in Clayton County approximately 600 feet south of the I–75 southbound on-ramp from SR 139 and at SR 139 on I–675. From SR 155 to approximately one mile south of Mt. Carmel Road, a single reversible lane will be constructed. The single lane will then transition to two reversible lanes, which will continue to the northern terminus of the facility. Intelligent Transportation System infrastructure will be constructed to support the usage of the managed lanes. The facility will include improvements of approximately 17.94 miles on I–75. Congestion on this facility will be managed by electronic toll lane (ETL). The purpose of the project is listed below:

- Consistency with regional transportation planning initiatives

- Provide reliable trip times and mobility
- Improve travel choices
- Expedite project delivery through the use of tolling for financing (construction financing implications)
- Reduce congestion
- Accommodate regional growth and accessibility.

The actions by the Federal agencies and the laws under which such actions were taken are described in the Draft Environmental Assessment (DEA), Final Environmental Assessment (EA) and in the FHWA Finding of No Significant Impact (FONSI) approved on March 12, 2013 and June 28, 2013 respectively, and in other documents in the FHWA project records. Notice is hereby given that, subsequent to the earlier FHWA notice, the USACE has taken final agency actions within the meaning of 23 U.S.C. 139(1)(1) by issuing a permit and approval for the highway project. The actions of the USACE, related final actions by other Federal agencies, and the laws under which such actions were taken are described in the USACE decisions and its project records, referenced as [SAS–2012–00385]. This information by contacting the USACE at the address provided above.

Information about the project and project records are available from FHWA and the Georgia Department of Transportation (GDOT) at the addresses provided above. The FHWA National Environmental Policy Act (NEPA) documents such as DEA, FEA/FONSI, the reevaluated FEA/FONSI and other project records are available by contacting FHWA or GDOT at the addresses listed above. The FHWA EA/FONSI, can be reviewed and downloaded from the project Web site at *http://www.I75Express.com* or at the following offices: GDOT District 3 Area Office, 115 Transportation Boulevard, Thomaston, Georgia 30286; GDOT District 7 Office, 5025 New Peachtree Road, Chamblee, Georgia 30341; McDonough Public Library, 1001 Florence McGarity Boulevard, McDonough, Georgia 30252; Cochran Public Library, 174 Birch Street, Stockbridge, Georgia 30281 and Clayton County Library System, Morrow Branch, 6225 Maddox Road, Morrow, Georgia 30260. The USACE decision can be viewed and downloaded from the project Web site at [*http://www.I75Express.com*] or viewed at public libraries in the project area listed above. Paper copies are available on request by contacting Loren Bartlett, Georgia Department of Transportation, 600 West Peachtree Street, 22th Floor, Atlanta, Georgia 30308, Telephone: (404) 631–1642, Email: *lbartlett@dot.ga.gov.* This notice applies to all USACE and other Federal agency final actions taken after the issuance date of the FHWA **Federal Register** notice described above. The laws under which actions were taken include, but are not limited to:

1. *Wetlands and Water Resources:* Clean Water Act (Section 404).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

**Authority:** 23 U.S.C. 139(*l*)(1), as amended by Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, § 1308, 126 Stat. 405 (2012).

Issued On: October 28, 2014.

**Rodney Barry,**

*Division Administrator, Atlanta, Georgia.*

[FR Doc. 2014–26134 Filed 11–3–14; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. 2014–0023]**

### Notice of Request for the Extension of a Currently Approved Information Collection

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to renew the following information collection:

**49 U.S.C. 5308 Clean Fuels Grant Program**

The Clean Fuels Grant Program was developed to assist non-attainment and maintenance areas in achieving or maintaining the National Ambient Air Quality Standards for ozone and carbon monoxide (CO). The program also supported emerging clean fuel and advanced propulsion technologies for transit buses and markets for those technologies. The Clean Fuels Grant Program was repealed under the Moving Ahead for Progress in the 21st Century Act (MAP–21). However, funds previously authorized for programs repealed by MAP–21 remain available for their originally authorized purposes until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated.

**DATES:** Comments must be submitted before January 5, 2015.

**ADDRESSES:** To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov*. Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–493–2251.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

*Instructions:* You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** 49 U.S.C. 5308 Clean Fuels Grant Program—Vanessa Williams, Office of

Program Management (202) 366–4818 or email: *vanessa.williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

**Title: U.S.C. Clean Fuels Grant Program (OMB Number: 2132–0573)**

The Section 5308 Clean Fuels Grant Program was originally initiated as a formula program under the Transportation Equity Act for the 21st Century (TEA–21) in June 1998. The program was reauthorized in August 2005 under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) as a discretionary grant program. However, the Clean Fuels Grant Program was repealed under MAP–21, and funds were no longer appropriated for the program. The program supported the development and deployment of clean fuel and advanced propulsion technologies for transit buses by providing funds for clean fuel vehicles and facilities. To meet program oversight responsibilities, FTA must continue to collect information until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated.

*Respondents:* State and local government and public transportation authorities located in areas designated as non-attainment or maintenance for ozone or carbon monoxide.

*Estimated Total Annual Burden on Respondents:* 4 hours for each respondent.

*Estimated Total Burden:* 153 hours.

*Frequency:* Semi-Annual.

**Susan Camarena,**

*Acting Deputy Associate Administrator for Administration.*

[FR Doc. 2014–26155 Filed 11–3–14; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

### Pipeline Safety: Renewal Requests for Special Permit

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

**ACTION:** This Notice pertains to the renewal of special permits with the following docket numbers:

PHMSA–2007–29078 Kern River Gas Transmission Company
PHMSA–2009–0319 Kern River Gas Transmission Company
PHMSA–2008–0066 Columbia Gulf Transmission LLC
PHMSA–2008–0330 Columbia Gulf Transmission LLC
PHMSA–2008–0331 Columbia Gas Transmission LLC
PHMSA–2008–0345 Columbia Gas Transmission LLC

**SUMMARY:** Pursuant to the Federal pipeline safety laws, PHMSA is publishing this notice of special permit renewal requests that we have received from two natural gas transmission pipeline operators, seeking relief from compliance with certain requirements in the Federal pipeline safety regulations. This notice seeks public comments on these requests, including comments on any safety or environmental impacts the renewal of these permits would have. For each listed Special Permit renewal request, an Environmental Assessment is also available for review and comment. At the conclusion of the 30-day comment period, PHMSA will evaluate the comments and the technical analysis of the renewal requests, to determine whether to grant or deny the renewals.

**DATES:** Submit any comments regarding these special permit requests by December 4, 2014.

**ADDRESSES:** Comments should reference the specific docket number for which the comment applies. Comments may be submitted in the following ways:

- At the E-Gov Web site: *http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- By Mail: Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- By Hand Delivery: DOT Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

*Instructions:* At the beginning of your comments, please identify the docket number for the special permit renewal request you are commenting on. If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

**Note:** Please read the privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

### Contacts for General or Technical Information

General: Kay McIver by telephone at (202) 366–0113; or, email at *kay.mciver@dot.gov.*

Technical: Steve Nanney by telephone at (713) 272–2855; or, email at *steve.nanney@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

PHMSA has received the following special permit renewal requests from two pipeline operators who seek relief from compliance with certain federal pipeline safety regulations. Each request includes a technical analysis provided by the respective operator, and filed under the original issued special permit number in the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.* PHMSA invites interested persons to participate by reviewing these special permit renewal requests by submitting written comments, data or other views in the FDMS. Please include comments on any potential environmental impacts that may result if these special permit renewals are granted.

Details of Special Permit renewals received:

| Docket No. | Requesters | Regulations affected | Nature of special permit |
|---|---|---|---|
| PHMSA–2007–29078. | Kern River Gas Transmission Company. | 49 49 CFR 192.111, 192.201, 192.505, and 192.619. | To reauthorize Kern River Gas Transmission Company to continue its operation as defined in the original Special Permit issued on March 29, 2010, to operate up to a MAOP based upon 80 percent of specified minimum yield strength (SMYS) in Class 1 locations, 67 percent SMYS in Class 2 locations, and 56 percent of SMYS Class 3 locations of the pipeline system. The Special Permit renewal request seeks to waive compliance from certain Federal regulations found in 49 CFR 192.111, 192.201, 192.505 and 192.619. For the purposes of this Special Permit, the Kern River pipeline system means pipeline facilities beginning at the discharges of the Muddy Creek and Painter compressor stations, and at the Anschutz meter in Lincoln County, Wyoming, routed through Utah and Nevada, to the outlet side of the Daggett meter station located in San Bernardino County, California where it interconnects with the Mojave Pipeline. The Kern River pipeline system consists of 682 miles of a 36-inch diameter mainline, 635 miles of 36-inch diameter loop lines, 10 compressor stations, 48 meter stations, six (6) receipt laterals, and seven (7) delivery laterals. |
| PHMSA–2009–0319. | Kern River Gas Transmission Company. | 49 CFR 192.625(b). | To reauthorize Kern River Gas Transmission Company to continue its operation as defined in the original Special Permit issued on March 19, 2010, for non-odorization of a pipeline lateral. The Special Permit renewal request seeks to waive compliance from certain Federal regulations found in 49 CFR 192.625(b) for the continued non-odorized operation of a 1,083 foot section of Kern River's Centennial Lateral, a 12-inch natural gas pipeline which operates at a MAOP of 1,333 psig. The Centennial Lateral main line tap valve is located on a corner lot near the intersection of Centennial Parkway and North 5th Street in Clark County, Nevada. |
| PHMSA–2008–0066. | Columbia Gulf Transmission LLC, Owned and operated by NiSource Gas Transmission and Storage (NGT&S). | 49 CFR 192.611(a). | To reauthorize Columbia Gulf to continue its operation as defined in the original Special Permit issued on March 2, 2010, for a Class 1 to Class 3 location change, where the population density has increased along the pipeline route. The Special Permit renewal request seeks to waive compliance from certain Federal regulations found in 49 CFR 192.611(a) for three sections and nine total segments of the 30-inch Mainline 100, the 30-inch Mainline 200, and the 36-inch Mainline 300 pipelines located in Williamson and Davidson Counties in the State of Tennessee. The segments would continue to operate at their existing Maximum Allowable Operating Pressure (MAOP) of 935 psig for the 30-inch Mainline 100 and a MAOP of 1008 psig and design factor of 0.72 in a Class 3 location for both of the 30-inch Mainline 200 and the 36-inch Mainline 300 pipelines. |
| PHMSA–2008–0330. | Columbia Gulf Transmission LLC, Owned and operated by NiSource Gas Transmission and Storage (NGT&S). | 49 CFR 192.611(a). | To reauthorize Columbia Gulf to continue its operation as defined in the original Special Permit issued on April 13, 2010, for a Class 1 to Class 3 location change where the population density has increased along the pipeline route. The Special Permit renewal request seeks to waive compliance from certain Federal regulations found in 49 CFR 192.611(a) for two natural gas transmission pipeline segments on the 30-inch Mainline 200 and the 36-inch Mainline 300 pipelines located in the Mt. Juliet area, in Wilson County, Tennessee. The Special Permit allows Columbia Gulf to continue to operate each special permit segment at its current MAOP of 1,008 psig and design factor of 0.72 in a Class 3 location for the 30-inch Mainline 200 and the 36-inch Mainline 300 pipelines. |
| PHMSA–2008–0331. | Columbia Gas Transmission LLC, Owned and operated by NiSource Gas Transmission and Storage (NGT&S).. | 49 CFR 192.611(a). | To reauthorize Columbia Gas to continue its operation as defined in the original Special Permit issued on April 13, 2010, for a Class 1 to Class 3 location change where the population density has increased along the pipeline route. The Special Permit renewal request seeks to waive compliance from certain Federal regulations found in 49 CFR 192.611(a) for six natural gas pipeline segments on the 30-inch SM–80 and SM–80 Loop pipelines located in Putnam and Cabell Counties of West Virginia. Granting a renewal of the Special Permit would allow Columbia Gas to continue to operate the Special Permit segments at the current MAOP of 935 psig and design factor of 0.72 in a Class 3 location for both of the pipelines. |
| PHMSA–2008–0345. | Columbia Gas Transmission LLC, Owned and operated by NiSource Gas Transmission and Storage (NGT&S).. | 49 CFR 192.611(a). | To reauthorize Columbia Gas to continue its operation as defined in the original Special Permit issued on April 13, 2010, for a Class 1 to Class 3 location change where the population density has increased along the pipeline route. The Special Permit renewal request seeks to waive compliance from certain Federal regulations found in 49 CFR 192.611(a) for three natural gas transmission pipeline segments on the 24-inch R–701 pipeline located in Lawrence County, Ohio. Renewal of the class change Special Permit would allow Columbia Gas to continue to operate the Special Permit segments at the current MAOP of 900 psig and design factor of 0.72 in a Class 3 location. |

Before acting on the special permit renewal requests, PHMSA will evaluate all comments received on or before the comments closing date. PHMSA will consider each relevant comment received in its decision to grant or deny the renewal requests. Comments will be evaluated after this date only if it is possible to do so without incurring additional expense or delay.

**Authority:** 49 U.S.C. 60118 (c)(1) and 49 CFR 1.53.

Issued in Washington, DC, on October 29, 2014.

**Jeffrey D. Wiese,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 2014–26086 Filed 11–3–14; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Rate for Federal Debt Collection, Discount and Rate Evaluation

**AGENCY:** Bureau of the Fiscal Service, Treasury.

**ACTION:** Notice of rate to be used for Federal debt collection, and discount and rate evaluation.

**SUMMARY:** The Secretary of the Treasury is responsible for computing and publishing the percentage rate that is to be used in assessing interest charges for outstanding debts owed to the Government (The Debt Collection Act of 1982, as amended (codified at 31 U.S.C. Section 3717)). This rate is also to be used by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. In addition, this rate is to be used in determining when agencies should pay purchase card invoices when the card issuer offers a rebate (5 CFR 1315.8). Notice is hereby given that the applicable rate for calendar year 2015 is 1.00 percent.

**DATES:** January 1, 2015 through December 31, 2015.

**FOR FURTHER INFORMATION CONTACT:** E-Commerce Division, Bureau of the Fiscal Service, Department of the Treasury, 401 14th Street SW., Washington, DC 20227 (Telephone: 202–874–9428).

**SUPPLEMENTARY INFORMATION:** The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Public Law 95–147, 91 Stat. 1227. Computed each year by averaging Treasury Tax and Loan (TT&L) investment rates for the 12-month period ending every September 30, rounded to the nearest whole percentage, for applicability effective each January 1. Quarterly revisions will be made if the annual average, on a moving basis, changes by 2 percentage points. The rate for calendar year 2015 reflects the average investment rates for the 12-month period that ended September 30, 2014.

Dated: October 29, 2014.

**John B. Hill,**

*Assistant Commissioner Payment Management and Chief Disbursing Officer.*

[FR Doc. 2014–26171 Filed 11–3–14; 8:45 am]

BILLING CODE 4810–35–P

## DEPARTMENT OF VETERANS AFFAIRS

### Cost-Based and Inter-Agency Billing Rates for Medical Care or Services Provided by the Department of Veterans Affairs

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** This document updates the Cost-Based and Inter-Agency billing rates for medical care or services provided by the U.S. Department of Veterans Affairs (VA).

**DATES:** *Effective Date:* The rates set forth in this notice are effective November 4, 2014 and until further notice.

**FOR FURTHER INFORMATION CONTACT:** Romona Greene, Chief Business Office (10NB), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 382–2521. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** VA's methodology for computing Cost-Based and Inter-Agency billing rates for medical care or services provided by VA is set forth in 38 CFR 17.102(h). Two sets of rates are obtained by applying this methodology, Cost-Based rates and Inter-Agency rates. Cost-Based rates apply to medical care and services that are provided by VA:

(a) In error or based on tentative eligibility;

(b) In a medical emergency;

(c) To pensioners of allied nations; or

(d) For research purposes in circumstances under which VA medical care appropriation is to be reimbursed by VA research appropriation.

Inter-Agency rates apply to medical care and services that are provided by VA to beneficiaries of the Department of Defense (DoD) or other Federal agencies, when the care or services provided is not covered by an applicable sharing agreement. The Inter-Agency rates contained in this notice do not apply to sharing agreements between VA and DoD unless otherwise stated.

The calculations for the Cost-Based and Inter-Agency rates are the same with two exceptions. Inter-Agency rates are all inclusive and are not broken down into three components (Physician; Ancillary; and Nursing, Room and Board), and Inter-Agency rates do not include standard fringe benefit costs that cover government employee retirement, disability costs, and return on fixed assets. When VA pays for medical care or services from a non-VA source under circumstances in which the Cost-Based or Inter-Agency Rates would apply if the care or services had been provided by VA, the charge for such care or services will be the actual amount paid by VA for the care or services. Inpatient charges will be at the per diem rates shown for the type of bed section or discrete treatment unit providing the care.

The following table depicts the Cost Based and Inter-Agency Rates which are effective upon publication of this notice. These rates supersede those established by the **Federal Register** notice published on July 11, 2011 at 76 FR 40749.

| | Cost-based rates | Inter-agency rates |
|---|---|---|
| A. Hospital Care per inpatient day | | |
| General Medicine: | | |
| All Inclusive Rate | $3,313 | $3,142 |
| Physician | 397 | |
| Ancillary | 863 | |
| Nursing Room and Board | 2,053 | |
| Neurology: | | |
| All Inclusive Rate | 3,152 | 2,993 |
| Physician | 461 | |
| Ancillary | 832 | |
| Nursing Room and Board | 1,859 | |
| Rehabilitation Medicine: | | |
| All Inclusive Rate | 2,480 | 2,353 |
| Physician | 282 | |
| Ancillary | 758 | |
| Nursing Room and Board | 1,440 | |
| Blind Rehabilitation: | | |

| | Cost-based rates | Inter-agency rates |
|---|---|---|
| All Inclusive Rate | 1,641 | 1,557 |
| Physician | 132 | |
| Ancillary | 815 | |
| Nursing Room and Board | 694 | |
| Spinal Cord Injury: | | |
| All Inclusive Rate | 2,201 | 2,089 |
| Physician | 273 | |
| Ancillary | 554 | |
| Nursing Room and Board | 1,374 | |
| Surgery: | | |
| All Inclusive Rate | 5,165 | 4,899 |
| Physician | 569 | |
| Ancillary | 1,567 | |
| Nursing Room and Board | 3,029 | |
| General Psychiatry: | | |
| All Inclusive Rate | 1,611 | 1,527 |
| Physician | 152 | |
| Ancillary | 254 | |
| Nursing Room and Board | 1,205 | |
| Substance Abuse (Alcohol and Drug Treatment): | | |
| All Inclusive Rate | 1,363 | 1,294 |
| Physician | 130 | |
| Ancillary | 315 | |
| Nursing Room and Board | 918 | |
| Psychosocial Residential Rehabilitation Program: | | |
| All Inclusive Rate | 650 | 616 |
| Physician | 41 | |
| Ancillary | 68 | |
| Nursing Room and Board | 541 | |
| Intermediate Medicine: | | |
| All Inclusive Rate | 2,249 | 2,135 |
| Physician | 111 | |
| Ancillary | 330 | |
| Nursing Room and Board | 1,808 | |
| Polytrauma Inpatient: | | |
| All Inclusive Rate | 3,217 | 3,058 |
| Physician | 365 | |
| Ancillary | 983 | |
| Nursing Room and Board | 1,869 | |
| B. Nursing Home Care, Per Day | | |
| All Inclusive Rate | 1,082 | 1,025 |
| Physician | 34 | |
| Ancillary | 146 | |
| Nursing Room and Board | 902 | |
| C. Outpatient Medical Treatments | | |
| Outpatient Visit (to include Ineligible Dental Care) | 236 | 222 |
| Physical Medicine & Rehabilitation Service Outpatient Visit | 443 | 419 |
| Outpatient Polytrauma/Traumatic Brain Injury | 586 | 561 |

Dated: October 30, 2014.

By Direction of the Secretary.

**William F. Russo,**

*Acting Director, Office of Regulation Policy and Management, Office of the General Counsel, U.S. Department of Veterans Affairs.*

[FR Doc. 2014–26148 Filed 11–3–14; 8:45 am]

**BILLING CODE 8320–01–P**

# FEDERAL REGISTER

Vol. 79 Tuesday,

No. 213 November 4, 2014


Part II

## Environmental Protection Agency

48 CFR Part 60

Carbon Pollution Emission Guidelines for Existing Stationary Sources: EGUs in Indian Country and U.S. Territories; Multi-Jurisdictional Partnerships; Proposed Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

**[EPA–HQ–OAR–2013–0602, FRL–9918–54–OAR]**

**RIN 2060–AR33**

## Carbon Pollution Emission Guidelines for Existing Stationary Sources: EGUs in Indian Country and U.S. Territories; Multi-Jurisdictional Partnerships

**AGENCY:** Environmental Protection Agency.

**ACTION:** Supplemental proposed rulemaking.

**SUMMARY:** On June 18, 2014, the Environmental Protection Agency (EPA) proposed emission guidelines for states to follow in developing plans to address greenhouse gas (GHG) emissions from existing fossil fuel-fired electric generating units (EGUs). In this supplemental action, the EPA is proposing emission guidelines for U.S. territories and areas of Indian country with existing fossil fuel-fired EGUs. Specifically, the EPA is proposing rate-based goals for carbon dioxide ($CO_2$) emissions for U.S. territories and areas of Indian country with existing fossil fuel-fired EGUs, as well as guidelines for plans to achieve those goals. The EPA is also soliciting comment on authorizing jurisdictions (including any states, territories and areas of Indian country) without existing fossil fuel-fired EGUs subject to the proposed emission guidelines to partner with jurisdictions (including any states) that do have existing fossil-fuel fired EGUs subject to the proposed emission guidelines in developing multi-jurisdictional plans. The EPA is also soliciting comment on the treatment of renewable energy, demand-side energy efficiency and other new low- or non-emitting electricity generation across international boundaries in a state plan. This supplemental proposed rule would continue progress already underway to reduce $CO_2$ emissions from existing fossil fuel-fired power plants in the United States.

**DATES:**

*Comments on the supplemental proposed rule.* Comments must be received on or before December 19, 2014.

*Comments on the information collection request.* Under the Paperwork Reduction Act (PRA), since the Office of Management and Budget (OMB) is required to make a decision concerning the information collection request between 30 and 60 days after November 4, 2014, a comment to the OMB is best assured of having its full effect if the OMB receives it by December 4, 2014.

*Public Hearing.* A public hearing will be held to accept oral comment on the supplemental proposed rule on November 19, 2014, at the Phoenix Convention Center and Venues, 100 N. 3rd St., Phoenix, Arizona. The hearing will begin at 9:00 a.m. (Mountain Standard Time) and will conclude at 8:00 p.m. (Mountain Standard Time). There will be a lunch break from 12:00 p.m. to 1:00 p.m. and a dinner break from 5:00 p.m. to 6:00 p.m.

**ADDRESSES:** *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0602, by one of the following methods:

- *Federal eRulemaking portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: A-and-R-Docket@epa.gov.* Include docket ID No. EPA–HQ–OAR–2013–0602 in the subject line of the message.
- *Facsimile:* (202) 566–9744. Include docket ID No. EPA–HQ–OAR–2013–0602 on the cover page.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail code 28221T, Attn: Docket ID No. EPA–HQ–OAR–2013–0602, 1200 Pennsylvania Ave. NW., Washington, DC 20460. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, OMB, Attn: Desk Officer for the EPA, 725 17th St. NW., Washington, DC 20503.
- *Hand/Courier Delivery:* EPA Docket Center (EPA/DC), Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC 20004, Attn: Docket ID No. EPA–HQ–OAR–2013–0602. Such deliveries are accepted only during the Docket Center's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays), and special arrangements should be made for deliveries of boxed information.

*Instructions:* All submissions must include the agency name and Docket ID No. (EPA–HQ–OAR–2013–0602). The EPA's policy is to include all comments received without change, including any personal information provided, in the public docket, available online at *http://www.regulations.gov,* 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. Send or deliver information identified as CBI only to the following address: Mr. Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2013–0602. 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 you claim as CBI. In addition to one complete version of the comment that includes information claimed as CBI, you must submit a copy of the comment that does not contain the information claimed as CBI for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

The EPA requests that you also submit a separate copy of your comments to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**). If the comment includes information you consider to be CBI or otherwise protected, you should send a copy of the comment that does not contain the information claimed as CBI or otherwise protected.

The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *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, any form of encryption and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., CBI or other information whose disclosure is restricted by statute). Certain other

material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. Visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm* for additional information about the EPA's public docket.

In addition to being available in the docket, an electronic copy of this proposed rule will be available on the World Wide Web (WWW). Following signature, a copy of this proposed rule will be posted at the following address: *http://www2.epa.gov/cleanpowerplan/.*

*Public Hearing:* To register for the hearing please use the online registration form available at: *http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule.* For questions regarding registration, please contact Ms. Pamela Garrett at (919) 541–7966. The last day to pre-register to speak at the hearing will be November 14, 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, we ask that you pre-register for the hearing by November 14, 2014, as we may not be able to arrange such accommodations without advance notice. Please note that any updates made to any aspect of the hearing will be posted online at: *http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule.* While the EPA expects the hearing to go forward as set forth above, we ask that you monitor our Web site or contact Pamela Garrett at (919) 541–7966 to determine if there are any updates to the information on the hearing. The EPA does not intend to publish a notice in the **Federal Register** announcing any such updates. The hearing 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. 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. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA plans for the hearing to run on schedule; however, due to onsite schedule fluctuations, actual speaking times may shift slightly.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melanie King, Energy Strategies Group, Sector Policies and Programs Division (D243–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2469; facsimile number: (919) 541–5450; email address: *king.melanie@epa.gov.*

**SUPPLEMENTARY INFORMATION:** *Acronyms.* A number of acronyms and chemical symbols are used in this preamble. While this may not be an exhaustive list, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined as follows:

BART Best Available Retrofit Technology
BSER Best System of Emission Reduction
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
$CO_2$ Carbon Dioxide
EGU Electric Generating Unit
EIA Energy Information Administration
EPA Environmental Protection Agency
FR Federal Register
GHG Greenhouse Gas
HAP Hazardous Air Pollutant
HCl Hydrochloric Acid
Hg Mercury
ICR Information Collection Request
LNG Liquefied Natural Gas
MHA Mandan, Hidatsa and Arikara
MW Megawatt
MWh Megawatt-hour
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NGCC Natural Gas Combined Cycle
$NO_X$ Nitrogen Oxides
OMB Office of Management and Budget
PM Particulate Matter
$PM_{2.5}$ Fine Particulate Matter
PRA Paperwork Reduction Act
PREPA Puerto Rico Electric Power Authority
RE Renewable Energy
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
SCC Social Cost of Carbon
$SO_2$ Sulfur Dioxide
TAR Tribal Authority Rule
TAS Treatment in the same manner as a State
TSD Technical Support Document
UMRA Unfunded Mandates Reform Act of 1995

*Organization of This Document.* The information presented in this preamble is organized as follows:

I. General Information
A. Executive Summary
B. Organization and Approach for This Supplemental Proposal
II. Background
A. Carbon Pollution Emission Guidelines Proposal
B. Implications for U.S. Territories
C. Implications for Areas of Indian Country
D. Additional Outreach and Consultation
III. Goals for U.S. Territories and Areas of Indian Country
A. Overview
B. Proposed Goals and Computation Procedure
C. Alternate Goals Offered for Comment and Other Approaches Considered
D. Additional Considerations for U.S. Territories and Indian Country
IV. CAA Section 111(d) Plans
A. U.S. Territories
B. Areas of Indian Country With Affected EGUs
C. Applicability of the Proposed Emission Guidelines to U.S. Territories and Eligible Indian Tribes
D. Areas Without Affected EGUs
V. Impacts of the Proposed Action
A. What are the air impacts?
B. What are the energy impacts?
C. What are the compliance costs?
D. What are the economic and employment impacts?
E. What are the benefits of the proposed action?
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review
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
VII. Statutory Authority

## I. General Information

### *A. Executive Summary*

#### 1. Purpose of the Regulatory Action

Under the authority of Clean Air Act (CAA) section 111(d), the EPA is proposing emission guidelines to

address GHG emissions from existing fossil fuel-fired EGUs located in U.S. territories and areas of Indian country. The EPA is proposing rate-based goals for $CO_2$ [1] emissions in U.S. territories and areas of Indian country with existing fossil fuel-fired EGUs that meet applicability requirements (''affected EGUs''),[2] as well as guidelines for plans to achieve those goals. This rule, as proposed, would continue progress already underway to reduce $CO_2$ emissions from existing fossil fuel-fired power plants in the United States. This action is a supplemental proposal to the June 18, 2014, proposed carbon pollution emission guidelines for states to follow in developing plans to address GHG emissions from existing fossil fuel-fired EGUs.[3] This action is based on the same analytic framework as the June 18, 2014, proposal for existing sources, with minor adjustments to address data limitations and other circumstances unique to Indian country and/or territories.[4] This preamble presumes familiarity with that June 18, 2014, proposal.[5]

2. Summary of the Major Provisions of the Regulatory Action

The proposal has two main elements: (1) Emission rate-based $CO_2$ goals specific to each U.S. territory and area of Indian country that has affected EGUs; and (2) guidelines for the development, submission and implementation of plans to achieve the goals. The EPA is aware of three areas of Indian country with affected EGUs: Lands of the Navajo Nation, lands of the Ute Tribe of the Uintah and Ouray Reservation and lands of the Fort Mojave Tribe. The EPA's information is that there are two U.S. territories that have affected EGUs: Puerto Rico and Guam.

To set the proposed area-specific $CO_2$ goals, the EPA generally applied the same approach to determining the ''Best System of Emission Reduction'' as called for in CAA section 111(d) used in the June 18, 2014, proposal for establishing $CO_2$ goals for states. This approach, which relies on four groups of emission reduction measures that the EPA refers to as ''building blocks,'' includes improvements in efficiency at carbon-intensive power plants; programs that enhance the dispatch priority of, and spur private investments in, low emitting and renewable power sources; and programs that help homes and businesses use electricity more efficiently. As explained in the June 18, 2014, proposal for existing sources, these building blocks are based on practical and affordable strategies that are already being used to lower carbon pollution from the power sector. In addition, in calculating each $CO_2$ goal, the EPA took into consideration each area's fuel mix, its electricity market and other factors that are relevant to application of the four building blocks. Thus, each goal reflects the unique conditions for each U.S. territory or area of Indian country.

For U.S. territories that contain affected EGUs, while this proposal lays out jurisdiction-specific $CO_2$ goals, it does not prescribe how the territory should meet its goal. CAA section 111(d) creates a partnership between the EPA and the U.S. territories (as well as states) under which the EPA sets these goals and the territories take the lead on meeting them by creating plans that are consistent with the EPA guidelines. Each territory will have the flexibility to design a program to meet its goal in a manner that reflects its particular circumstances and energy and environmental policy objectives. Each territory can do so alone or can collaborate with other jurisdictions, including states, on multi-jurisdictional [6] plans that may provide additional opportunities for cost savings and flexibility. To facilitate the planning process, this proposal lays out guidelines for the development and implementation of plans.

For areas of Indian country that contain affected EGUs, this proposal also lays out specific $CO_2$ goals, without prescribing how each area should meet its goal. A tribe with jurisdiction over the affected EGUs in its area has the opportunity, but not the obligation, to establish a plan for its area of Indian country. Each tribe can do so alone or can collaborate with other jurisdictions, including states and territories, on multi-jurisdictional plans that may provide additional opportunities for cost savings and flexibility. If a tribe does not seek and obtain the authority to establish a plan, the EPA is responsible for establishing a plan if it determines that a plan is necessary or appropriate. At this time, the EPA is not including a proposal for whether it is necessary or appropriate to establish a plan for any area of Indian country, and is not proposing a federal plan for any area of Indian country.

3. Costs and Benefits

Actions taken to comply with the proposed guidelines set out in this supplemental proposal will reduce emissions of $CO_2$ and other air pollutants, including sulfur dioxide ($SO_2$) and nitrogen oxides ($NO_X$), from the electric power industry, specifically from affected EGUs in Guam and Puerto Rico. The costs and benefits of these compliance actions are discussed below. As discussed in more detail in section V of this supplemental proposal, the EPA does not expect any additional costs or benefits associated with compliance for areas of Indian country with affected EGUs; one area is expected to meet its proposed goal through compliance with other regulations, and the costs and benefits for the other areas were already accounted for in the June 18, 2014, proposal. The U.S. territories of Guam and Puerto Rico will make the ultimate determination as to how their proposed emission guidelines are implemented in their jurisdictions. Thus, all costs and benefits reported for this action are illustrative estimates. The illustrative costs and benefits are based upon compliance approaches that reflect a range of measures consisting of improved operations at EGUs, increased dispatching of lower-emitting EGUs and zero-emitting energy sources and increasing levels of end-use energy efficiency.

For Guam and Puerto Rico, the EPA estimates that in 2020, the illustrative compliance approach for Option 1—Approach A [7] will yield monetized climate benefits of approximately $73 million (3 percent model average, 2011$), as shown in Table 1. The illustrative annual compliance costs and monitoring and reporting costs are a

[1] In the June 18, 2014, proposal, the EPA noted that the primary GHG emitted by fossil fuel-fired EGUs is $CO_2$. Therefore, both that proposal and this supplemental proposal focus on reductions of $CO_2$ emissions and impose control requirements on only $CO_2$ emissions.

[2] In this preamble, the terms ''existing fossil fuel-fired EGUs,'' ''existing sources,'' ''existing fossil fuel-fired power plants,'' ''affected fossil fuel-fired EGUs'' and the like generally refer to affected EGUs.

[3] 79 FR 34830.

[4] As noted below, the EPA issued a second proposal on June 18, 2014, under CAA section 111, which proposed standards of performance for $CO_2$ emissions from modified or reconstructed fossil fuel-fired EGUs. 79 FR 34960. Unless otherwise indicated, all references in this preamble to the June 18, 2014, proposal refer to the proposal for existing sources.

[5] The EPA has received numerous comments on the June 18, 2014, proposal. This supplemental proposal is consistent with the analytic framework used in the June 18, 2014, proposal and does not reflect any type of response to the comments that the EPA has received to date on that proposal.

[6] The discussion of CAA section 111(d) plans in the June 18, 2014, proposal referred to ''multi-state'' plans. In this supplemental proposal, the EPA uses the terminology ''multi-jurisdictional'' plans to account for situations where plans may include tribes in addition to states.

[7] Option 1 represents compliance with the goals calculated using the procedure outlined in section III.B of this supplemental proposal. As explained in more detail in section III.B, Approach A mirrors the proposed methodology from the June 18, 2014, proposal for building block 3.

savings of approximately $140 million (2011$) in 2020. The quantified 2020 net benefits (the difference between monetized benefits and costs) are $210 million (2011$) using a 3 percent discount rate. In 2030, as shown in Table 1, the illustrative compliance approach for Option 1—Approach A in Guam and Puerto Rico will yield monetized climate benefits of approximately $170 million (3 percent model average, 2011$). The illustrative annual compliance costs and monitoring and reporting costs in 2030 are a savings of $350 million, including reduced fuel expenditures from energy efficiency programs and re-dispatch. The quantified 2030 net benefits are $520 million (2011$, 3 percent discount rate).

For Option 2—Approach A,[8] the EPA estimates that in 2020, the illustrative compliance approach for EGUs in Guam and Puerto Rico will yield monetized climate benefits of approximately $68 million (3 percent model average, 2011$), as shown in Table 2. The illustrative annual compliance costs and monitoring and reporting costs are a savings of approximately $130 million (2011$) in 2020. The quantified 2020 net benefits (the difference between monetized benefits and costs) are $200 million (2011$) using a 3 percent discount rate. In 2025, as shown in Table 2, the illustrative compliance approach for Option 2—Approach A in Guam and Puerto Rico will yield monetized climate benefits of approximately $99 million (3 percent model average, 2011$). The illustrative annual compliance costs and monitoring and reporting costs in 2025 are a savings of $190 million, including reduced fuel expenditures from energy efficiency programs and re-dispatch. The quantified 2025 net benefits are $290 million (2011$, 3 percent discount rate).

For Guam and Puerto Rico, the EPA estimates that in 2020, the illustrative compliance approach for Option 1—Approach B[9] will yield monetized climate benefits of approximately $77 million (3 percent model average, 2011$), as shown in Table 3. The illustrative annual compliance costs and monitoring and reporting costs are a savings of approximately $140 million (2011$) in 2020. The quantified 2020 net benefits (the difference between monetized benefits and costs) are $220 million (2011$) using a 3 percent discount rate. In 2030, as shown in Table 3, the illustrative compliance approach for Option 1—Approach B in Guam and Puerto Rico will yield monetized climate benefits of approximately $180 million (3 percent model average, 2011$). The illustrative annual compliance costs and monitoring and reporting costs in 2030 are a savings of $360 million, including reduced fuel expenditures from energy efficiency programs and re-dispatch. The quantified 2030 net benefits are $540 million (2011$, 3 percent discount rate).

For Option 2—Approach B,[10] the EPA estimates that in 2020, the illustrative compliance approach for Guam and Puerto Rico will yield monetized climate benefits of approximately $73 million (3 percent model average, 2011$), as shown in Table 4. The illustrative annual compliance costs and monitoring and reporting costs are a savings of approximately $130 million (2011$) in 2020. The quantified 2020 net benefits (the difference between monetized benefits and costs) are $210 million (2011$) using a 3 percent discount rate. In 2025, as shown in Table 4, the illustrative compliance approach for Option 2—Approach B in Guam and Puerto Rico will yield monetized climate benefits of approximately $110 million (3 percent model average, 2011$). The illustrative annual compliance costs and monitoring and reporting costs in 2025 are a savings of $200 million, including reduced fuel expenditures from energy efficiency programs and re-dispatch. The quantified 2025 net benefits are $300 million (2011$, 3 percent discount rate).

For all options and approaches, the proposed guidelines would reduce emissions of precursor pollutants (e.g., $SO_2$, $NO_X$ and directly emitted particles) in the territories, which in turn would lower ambient concentrations of fine particulate ($PM_{2.5}$) and ozone ($O_3$). Apart from the climate benefits described above, there will also likely be significant health co-benefits association with the projected reductions of $SO_2$ and $NO_X$ emissions in Guam and Puerto Rico. However, the EPA is unable to quantify these health co-benefits because the benefit-per-ton values the EPA typically uses for this purpose are only appropriate for areas within the continental United States. As is described in the June 18, 2014, proposal, reducing exposure to $PM_{2.5}$ is associated with significant human health benefits, including avoiding premature mortality for adults and infants, cardiovascular morbidities such as heart attacks, hospital admissions and respiratory morbidities such as asthma attacks, acute bronchitis, hospital and emergency department visits, work loss days, restricted activity days and respiratory symptoms. Reducing exposure to $O_3$ is also associated with significant human health benefits, including avoiding mortality and respiratory morbidity such as fewer asthma attacks, hospital and emergency room visits and school loss days.

TABLE 1—SUMMARY OF THE MONETIZED BENEFITS, COMPLIANCE COSTS AND NET BENEFITS FOR THE PROPOSED GUIDELINES FOR GUAM AND PUERTO RICO—OPTION 1—APPROACH A[a]

[Millions of 2011$]

| | 2020 | 2030 |
|---|---|---|
| **Proposed Guidelines Illustrative Compliance Approach** | | |
| Climate Benefits[b] | $73 | $170. |
| Annualized Capital, Energy Efficiency and Monitoring, Reporting, & Recordkeeping Costs. | $24 | $190. |
| Change in Fuel Expenditure | −$160 | −$540. |
| Total Compliance Costs[c] | −$140 | −$350. |

[8] Option 2 represents compliance with the goals calculated using the procedure outlined in section III.C of this supplemental proposal, reflecting less stringent application of the building blocks and a shorter implementation period.

[9] Option 1 represents compliance with the goals calculated using the procedure outlined in section III.B of this supplemental proposal. As explained in more detail in section III.B, Approach B includes an adjustment to the proposed methodology from the June 18, 2014, proposal for building block 3.

[10] Option 2 represents compliance with the goals calculated using the procedure outlined in section III.C of this supplemental proposal, reflecting less stringent application of the building blocks and a shorter implementation period.

TABLE 1—SUMMARY OF THE MONETIZED BENEFITS, COMPLIANCE COSTS AND NET BENEFITS FOR THE PROPOSED GUIDELINES FOR GUAM AND PUERTO RICO—OPTION 1—APPROACH A [a]—Continued

[Millions of 2011$]

| | 2020 | 2030 |
|---|---|---|
| Net Monetized Benefits [d] | $210 | $520. |
| Non-monetized Benefits | Health benefits of reductions in $SO_2$, $NO_2$, $PM_{2.5}$ and $O_3$.<br>Reductions in hazardous air pollutants (HAP) such as mercury (Hg) and hydrochloric acid (HCl).<br>Ecosystem effects.<br>Visibility impairment. | |

[a] All estimates are rounded to two significant figures, so figures may not sum.

[b] The climate benefit estimate in this summary table reflects global impacts from $CO_2$ emission changes and does not account for changes in non-$CO_2$ GHG emissions. Also, different discount rates are applied to the social cost of carbon (SCC) than to the other estimates because $CO_2$ emissions are long-lived and subsequent damages occur over many years. The benefit estimates in this table are based on the average SCC estimated for a 3 percent discount rate. However, the EPA emphasizes the importance and value of considering the full range of SCC values. As shown in the regulatory impact analysis (RIA), climate benefits are also estimated using the other three SCC estimates (model average at 2.5 percent discount rate, 3 percent and 5 percent; 95th percentile at 3 percent). The SCC estimates are year-specific and increase over time.

[c] Total costs include capital costs, monitoring, recordkeeping, and reporting costs, demand side energy efficiency program and participant costs, and changes in fuel expenditures. Capital costs are annualized at a capital charge rate of 14.29 percent. Energy efficiency costs are calculated at a 3 percent discount rate.

[d] The estimates of net benefits in this summary table are calculated using the global SCC at a 3 percent discount rate (model average). The RIA includes combined climate and health estimates based on these additional discount rates.

TABLE 2—SUMMARY OF THE MONETIZED BENEFITS, COMPLIANCE COSTS AND NET BENEFITS FOR THE PROPOSED GUIDELINES FOR GUAM AND PUERTO RICO—OPTION 2—APPROACH A [a]

[Millions of 2011$]

| | 2020 | 2025 |
|---|---|---|
| **Proposed Guidelines Illustrative Compliance Approach** | | |
| Climate Benefits [b] | $68 | $99. |
| Annualized Capital, Energy Efficiency and Monitoring, Reporting, & Recordkeeping Costs. | $19 | $78. |
| Change in Fuel Expenditure | −$150 | −270. |
| Total Compliance Costs [c] | −$130 | −$190. |
| Net Monetized Benefits [d] | $200 | $290. |
| Non-monetized Benefits | Health benefits of reductions in $SO_2$, $NO_2$, $PM_{2.5}$ and $O_3$.<br>Reductions in HAP such as Hg and HCl.<br>Ecosystem effects.<br>Visibility impairment. | |

[a] All estimates are rounded to two significant figures, so figures may not sum.

[b] The climate benefit estimate in this summary table reflects global impacts from $CO_2$ emission changes and does not account for changes in non-$CO_2$ GHG emissions. Also, different discount rates are applied to SCC than to the other estimates because $CO_2$ emissions are long-lived and subsequent damages occur over many years. The benefit estimates in this table are based on the average SCC estimated for a 3 percent discount rate. However the EPA emphasizes the importance and value of considering the full range of SCC values. As shown in the RIA, climate benefits are also estimated using the other three SCC estimates (model average at 2.5 percent discount rate, 3 percent and 5 percent; 95th percentile at 3 percent). The SCC estimates are year-specific and increase over time.

[c] Total costs include capital costs, monitoring, recordkeeping, and reporting costs, demand side energy efficiency program and participant costs, and changes in fuel expenditures. Capital costs are annualized at a capital charge rate of 14.29 percent. Energy efficiency costs are calculated at a 3 percent discount rate.

[d] The estimates of net benefits in this summary table are calculated using the global SCC at a 3 percent discount rate (model average). The RIA includes combined climate and health estimates based on these additional discount rates.

TABLE 3—SUMMARY OF THE MONETIZED BENEFITS, COMPLIANCE COSTS AND NET BENEFITS FOR THE PROPOSED GUIDELINES FOR GUAM AND PUERTO RICO—OPTION 1—APPROACH B [a]

[Millions of 2011$]

| | 2020 | 2030 |
|---|---|---|
| **Proposed Guidelines Illustrative Compliance Approach** | | |
| Climate Benefits [b] | $77 | $180. |
| Annualized Capital, Energy Efficiency and Monitoring, Reporting, & Recordkeeping Costs. | $38 | $220. |
| Change in Fuel Expenditure | −$180 | −$580. |
| Total Compliance Costs [c] | −$140 | −$360. |
| Net Monetized Benefits [d] | $220 | $540. |
| Non-monetized Benefits | Health benefits of reductions in $SO_2$, $NO_2$, $PM_{2.5}$ and $O_3$. | |

TABLE 3—SUMMARY OF THE MONETIZED BENEFITS, COMPLIANCE COSTS AND NET BENEFITS FOR THE PROPOSED GUIDELINES FOR GUAM AND PUERTO RICO—OPTION 1—APPROACH B [a]—Continued

[Millions of 2011$]

| | 2020 | 2030 |
|---|---|---|
| | Reductions in hazardous air pollutants (HAP) such as mercury (Hg) and hydrochloric acid (HCl).<br>Ecosystem effects.<br>Visibility impairment. | |

[a] All estimates are rounded to two significant figures, so figures may not sum.
[b] The climate benefit estimate in this summary table reflects global impacts from $CO_2$ emission changes and does not account for changes in non-$CO_2$ GHG emissions. Also, different discount rates are applied to the SCC than to the other estimates because $CO_2$ emissions are long-lived and subsequent damages occur over many years. The benefit estimates in this table are based on the average SCC estimated for a 3 percent discount rate. However, the EPA emphasizes the importance and value of considering the full range of SCC values. As shown in the RIA, climate benefits are also estimated using the other three SCC estimates (model average at 2.5 percent discount rate, 3 percent and 5 percent; 95th percentile at 3 percent). The SCC estimates are year-specific and increase over time.
[c] Total costs include capital costs, monitoring, recordkeeping, and reporting costs, demand side energy efficiency program and participant costs, and changes in fuel expenditures. Capital costs are annualized at a capital charge rate of 14.29 percent. Energy efficiency costs are calculated at a 3 percent discount rate.
[d] The estimates of net benefits in this summary table are calculated using the global SCC at a 3 percent discount rate (model average). The RIA includes combined climate and health estimates based on these additional discount rates.

TABLE 4—SUMMARY OF THE MONETIZED BENEFITS, COMPLIANCE COSTS AND NET BENEFITS FOR THE PROPOSED GUIDELINES FOR GUAM AND PUERTO RICO—OPTION 2—APPROACH B [a]

[Millions of 2011$]

| | 2020 | 2025 |
|---|---|---|
| **Proposed Guidelines Illustrative Compliance Approach** | | |
| Climate Benefits [b] | $73 | $110. |
| Annualized Capital, Energy Efficiency and Monitoring, Reporting, & Recordkeeping Costs. | $33 | $98. |
| Change in Fuel Expenditure | −$170 | −$300. |
| Total Compliance Costs [c] | −$130 | −$200. |
| Net Monetized Benefits [d] | $210 | $300. |
| Non-monetized Benefits | Health benefits of reductions in $SO_2$, $NO_2$, $PM_{2.5}$ and $O_3$.<br>Reductions in HAP such as Hg and HCl.<br>Ecosystem effects.<br>Visibility impairment. | |

[a] All estimates are rounded to two significant figures, so figures may not sum.
[b] The climate benefit estimate in this summary table reflects global impacts from $CO_2$ emission changes and does not account for changes in non-$CO_2$ GHG emissions. Also, different discount rates are applied to SCC than to the other estimates because $CO_2$ emissions are long-lived and subsequent damages occur over many years. The benefit estimates in this table are based on the average SCC estimated for a 3 percent discount rate. However the EPA emphasizes the importance and value of considering the full range of SCC values. As shown in the RIA, climate benefits are also estimated using the other three SCC estimates (model average at 2.5 percent discount rate, 3 percent and 5 percent; 95th percentile at 3 percent). The SCC estimates are year-specific and increase over time.
[c] Total costs include capital costs, monitoring, recordkeeping, and reporting costs, demand side energy efficiency program and participant costs, and changes in fuel expenditures. Capital costs are annualized at a capital charge rate of 14.29 percent. Energy efficiency costs are calculated at a 3 percent discount rate.
[d] The estimates of net benefits in this summary table are calculated using the global SCC at a 3 percent discount rate (model average). The RIA includes combined climate and health estimates based on these additional discount rates.

There are additional important benefits that the EPA could not monetize. These unquantified benefits include climate benefits from reducing emissions of non-$CO_2$ GHGs (e.g., nitrous oxide and methane) [11] and co-benefits from reducing direct exposure to HAP (e.g., Hg and HCl), as well as from reducing ecosystem effects and visibility impairment.

*B. Organization and Approach for This Supplemental Proposal*

This action presents the EPA's proposed emission guidelines for developing plans to reduce GHG emissions from the electric power sector in U.S. territories and areas of Indian country with affected EGUs. This action is based on the analytical approach of the June 18, 2014, proposal, and this preamble adopts and relies on all of the information in that proposal, including the background information, explanations, analyses, alternatives, solicitations of comment, etc.

Section II of this supplemental proposal provides background, implications for U.S. territories and areas of Indian country and a summary of the EPA's stakeholder outreach efforts. Section III of this supplemental proposal describes how this proposal is based on the analytical approach of the June 18, 2014, proposal, including the use of the four building blocks, as applied to each U.S. territory or each area of Indian country with affected EGUs, for setting goals, and also identifies the proposed goals for those areas. Section IV of this supplemental

[11] Although $CO_2$ is the predominant greenhouse gas released by the power sector, EGUs also emit small amounts of nitrous oxide and methane. See Chapter 2 of the June 2014 RIA for more detail about power sector emissions and the U.S. Greenhouse Gas Reporting Program's power sector summary, *http://www.epa.gov/ghgreporting/ghgdata/reported/powerplants.html.*

proposal provides an explanation of the proposed requirements for the required jurisdictional plans, which, again, are based on the proposed requirements in the June 18, 2014, proposal. Impacts of the proposed action are then described in section V of this supplemental proposal, followed by a discussion of statutory and executive order reviews in section VI and the statutory authority for this action in section VII of this supplemental proposal.

In addition to relying on, and building upon, the June 18, 2014, proposal for existing sources, this supplemental proposal is related to two other recently proposed rulemakings for $CO_2$ emissions: The proposed rulemaking that the EPA published on January 8, 2014, for newly constructed affected sources,[12] and the proposed rulemaking that the EPA published on June 18, 2014, for modified and reconstructed sources.[13] Those two rulemakings each have their own rulemaking docket, and the comment period for those two rulemakings has closed. This action is a supplemental proposal for the June 18, 2014, proposal for existing sources, and, as a result, comments on this supplemental proposal will be included in the docket for that June 18, 2014, proposal. Accordingly, commenters who wish to comment on any aspect of this supplemental proposal, including a topic that overlaps an aspect of one or both of the other related rulemakings, should make those comments on this supplemental proposal. Because this supplemental proposed rulemaking (i) adopts and relies on the information in the June 18, 2014, proposal, as noted above, as well as generally applies the same analytic framework described in the June 18, 2014, proposal, and (ii) is in the same docket as that June 18, 2014, proposal, commenters should limit their comments on this supplemental proposed rulemaking to the issues of the analytic framework that are relevant for U.S. territories and areas of Indian country with affected EGUs, as well as the question of how areas without affected sources could participate in multi-jurisdictional plans, as discussed in the next paragraph and in section IV.D.

The EPA is also soliciting comment on whether jurisdictions—including any states, territories and areas of Indian country—without existing fossil fuel-fired EGUs subject to this rule can partner with jurisdictions that are subject to this rule in developing multi-jurisdictional plans. An important benefit of these types of partnerships may include crediting investments that jurisdictions without affected sources may be able to make in renewable energy (RE) or demand-side energy efficiency resources for reducing $CO_2$ emissions from affected sources in other jurisdictions.

## II. Background

### *A. Carbon Pollution Emission Guidelines Proposal*

On June 18, 2014, the EPA proposed emission guidelines for states to follow in developing plans to address greenhouse gas emissions from existing fossil fuel-fired EGUs under the authority of CAA section 111(d).[14] More specifically, the EPA proposed state-specific rate-based goals for $CO_2$ emissions from affected EGUs, as well as guidelines for states to follow in developing plans to achieve the state-specific goals. The EPA indicated in the June 18, 2014, proposal that it intended to publish a supplemental proposal to establish emission performance goals for areas of Indian country and U.S. territories with affected EGUs.[15]

The June 18, 2014, proposal discussed the climate change impacts from GHG emissions, GHG emissions from fossil fuel-fired EGUs, the utility power sector, statutory and regulatory requirements, pre-proposal stakeholder outreach, the applicability requirements, the legal basis, the authority to regulate $CO_2$ and EGUs, combining the two existing categories for affected EGUs into a single category, the best system of emission reduction (BSER) and building blocks for setting goals, guidelines for plans, implications for other EPA programs and rules, the impacts of the June 18, 2014, proposal and other considerations. This supplemental proposal presumes familiarity with the June 18, 2014, proposal. Moreover, in this supplemental proposal, the EPA relies on the information and analytic framework provided in the June 18, 2014, proposal, is not repeating that information and analytic framework and adopts that information and analytic framework as they pertain to the requirements for U.S. territories and areas of Indian country. The EPA specifically solicited comment on the issues in the analytic framework in the June 18, 2014, proposal.

### *B. Implications for U.S. Territories*

As discussed previously, the June 18, 2014, proposal for existing sources did not propose $CO_2$ goals for U.S. territories with affected EGUs. The EPA indicated in the June 18, 2014, proposal that, after conducting additional outreach, it intended to issue this supplemental proposal to establish territory-specific rate-based goals for $CO_2$ emissions and guidelines for U.S. territories to follow for the development, submission and implementation of plans to achieve their goal. The EPA intends to take final action on this supplemental proposal in conjunction with the final action for the June 18, 2014, proposal.

The EPA is aware of two U.S. territories with affected EGUs: Puerto Rico and Guam. The EPA is not aware of any affected EGUs in American Samoa or the Commonwealth of the Northern Mariana Islands. Information provided to the EPA indicates that there are two potentially affected EGUs in the U.S. Virgin Islands; however, they have not been in operation since before 2012. Therefore, in this action, Puerto Rico and Guam are the only U.S. territories for which the EPA is proposing to set goals. The EPA requests comment on whether there are any other affected EGUs located in U.S. territories that were not identified for this supplemental proposal.

The U.S. territories are generally subject to CAA section 111(d) requirements in the same manner as states. CAA section 111(d) imposes obligations on ''each State,'' and CAA section 302(d) defines the term ''State'' to include the U.S. territories. As discussed in more detail in section IV of this supplemental proposal, the CAA section 111(d) state plan requirements for U.S. territories are the same as those proposed for states in the June 18, 2014, proposal for existing sources.

### *C. Implications for Areas of Indian Country*

Although affected EGUs located in Indian country operate as part of the interconnected system of electricity production and distribution, those affected EGUs would not generally be encompassed within any state's CAA section 111(d) plan because state plans are generally not approved in Indian country. The EPA is aware of four facilities with affected EGUs located in Indian country: The South Point Energy Center, in Fort Mojave Indian country geographically located within Arizona; the Navajo Generating Station, in Navajo Indian country geographically located within Arizona; the Four Corners Power Plant, in Navajo Indian country geographically located within New Mexico; and the Bonanza Power Plant, in Ute Indian country geographically located within Utah. The South Point facility is a natural gas combined cycle (NGCC) power plant, and the Navajo,

[12] 79 FR 1430.

[13] 79 FR 34960.

[14] 79 FR 34830.

[15] 79 FR 34854.

Four Corners and Bonanza facilities are coal-fired EGUs. The operators and co-owners of these four facilities include investor-owned utilities, cooperative utilities, public power agencies [16] and independent power producers, most of which also own or co-own affected EGUs within states, but outside of areas of Indian country. The EPA requests comment on whether there are any other affected EGUs located in Indian country beyond the four facilities identified for this supplemental proposal.

The EPA indicated in the June 18, 2014, proposal that, after conducting additional outreach, the agency would issue this supplemental proposal to establish rate-based $CO_2$ emission performance goals for the three areas of Indian country with affected EGUs. As noted above, the EPA intends to take final action on this supplemental proposal in conjunction with the final action for the June 18, 2014, proposal. As discussed in more detail in section IV.B, tribes are not required to develop plans to implement the guidelines under CAA section 111(d) for affected EGUs in their areas of Indian country. Pursuant to the Tribal Authority Rule (TAR),[17] the EPA must promulgate federal plan provisions if it determines that such provisions are necessary or appropriate, unless a tribe on whose lands an affected source (or sources) is located seeks and obtains authority from the EPA to establish a plan itself. If the EPA determines that it is necessary or appropriate to promulgate implementation plan provisions, it will promulgate such provisions as are necessary or appropriate to achieve $CO_2$ emission performance goals through a transparent public process and after providing opportunity for consultation with the affected tribal government or governments.

### *D. Additional Outreach and Consultation*

Section III (''Stakeholder Outreach and Conclusions'') of the June 18, 2014, proposal documents the EPA's extensive outreach efforts prior to the proposal, including outreach to officials in the territories and tribal officials. Prior to the June 18, 2014, proposal, agency officials held meetings with the Governor of Puerto Rico, the Governor of the U.S. Virgin Islands, the Puerto Rico Environmental Quality Board and the U.S. Virgin Islands Department of Planning and Natural Resources. The EPA also met with stakeholders from Puerto Rico on July 22 and 23, 2014, to provide an overview of the June 18, 2014, proposal and ask for input on this supplemental proposal. Issues raised during the meetings included concerns regarding the crediting of pre-2012 building block control strategies as well as resource plans that integrate some of the building block control strategies. On September 8, 2014, the EPA met with Guam Environmental Protection Agency, Guam Power Authority and the Consolidated Commission on Utilities to provide an overview of the June 18, 2014, proposal and ask for input on this supplemental proposal. Issues raised during the meeting included Guam's plans to modify certain power plants, including introduction of ultra-low sulfur diesel fuel and liquefied natural gas (LNG).

Tribes are not required to, but may, develop or adopt CAA programs. Because this supplemental proposal addresses affected sources located within Indian country, the EPA offered consultation with tribal officials to permit tribes to have meaningful and timely input into its development. The EPA held consultations with all three tribes that have affected EGUs on their lands, as well as other tribes that requested consultation. The EPA held a consultation with the Ute Tribe, the Crow Nation, and the Mandan, Hidatsa and Arikara (MHA) Nation (the Three Affiliated Tribes of Ft. Berthold) on July 18, 2014, the Fort Mojave Tribe on August 22, 2014, and the Navajo Nation on September 15, 2014. The Navajo Nation sent a letter to the EPA on September 18, 2014, summarizing the information presented at the consultation and the Navajo Nation's position on this supplemental proposal. The EPA also met with tribal environmental staff with the National Tribal Air Association, by teleconference, on June 26, 2014, August 4, 2014, and September 5, 2014. In those teleconferences, the EPA provided background information on the GHG emission guidelines to be developed and a summary of issues being explored by the agency. The tribes expressed an interest in the scope of the guidelines being considered by the agency (e.g., over what time period, relationship to state and multi-state plans) and how tribes will participate in these planning activities. Tribes raised concerns about the impacts of the regulations on EGUs and the subsequent impact on jobs and revenue for their tribes. The Navajo Nation raised concerns about the application of certain building blocks to the EGUs on their lands, the impact of the proposed rule on renewable energy projects on their lands and the ability of the Navajo Nation to control any available carbon credits under a trading program. Detail regarding the EPA's outreach to tribes can be found in section VI.F of this supplemental proposal.

The EPA has used information from these meetings to inform this supplemental proposal. The EPA expects that a dialogue with tribal governments and other stakeholders will continue through the comment period and even after the rule is finalized. The EPA recognizes the importance of working with all stakeholders to ensure a clear and common understanding of the role they will play in addressing carbon pollution from power plants.

## III. Goals for U.S. Territories and Areas of Indian Country

### *A. Overview*

In this section, the EPA sets out proposed $CO_2$ emission performance goals to guide U.S. territories with affected EGUs in developing their plans. The EPA also sets out proposed emission performance goals for areas of Indian country with affected EGUs. The proposed goals reflect the EPA's quantification of each area's adjusted output-weighted average emission rate from affected EGUs that could be achieved by 2030 and sustained thereafter. The EPA is also proposing interim goals that would apply over a 2020–2029 phase-in period, through reasonable implementation, considering the unique circumstances of each individual area, of the BSER adequately demonstrated (based on all four building blocks as described in the June 18, 2014, proposal). See 79 FR 34855. These goals are presented in section III.B and are the basis for Option 1 in the discussion of the impacts of this proposed action in sections I.A and V. In addition, the EPA is taking comment on a second set of area-specific goals for U.S. territories and Indian country with affected EGUs that would reflect less stringent application of the same BSER, in this case by 2025, with interim goals that would apply over a 2020–2024 phase-in period. These goals are presented in section III.C and are the basis for Option 2 in the discussion of the impacts of this proposed action in sections I.A and V. When promulgated in the final rule following consideration of comments received, the interim and final goals would be binding emission guidelines for plans in each area. See 79 FR 34893 for a discussion of the stringency of the building blocks used to calculate goals.

[16] One of these public power agencies is the U.S. Bureau of Reclamation.

[17] 63 FR 7254, February 12, 1998. See 40 CFR 49.1 to 49.11.

The proposed goals are expressed in the form of area-specific, adjusted [18] output-weighted-average $CO_2$ emission rates for affected EGUs. However, jurisdictions are authorized to translate the form of the goal to a mass-based form, as long as the translated goal achieves the same degree of emission limitation.[19]

*B. Proposed Goals and Computation Procedure*

The methodology used to compute the proposed interim and final $CO_2$ emission performance goals for U.S. territories and areas of Indian country with affected EGUs mirrors to the fullest extent possible the approach used to calculate goals for states discussed in section VII of the preamble to the June 18, 2014, proposal. See 79 FR 34892 for a detailed discussion of the methodology. That methodology is described in more detail in the ''Goal Computation Technical Support Document'' [20] issued in conjunction with the June 18, 2014, proposal, which includes a numerical example illustrating the full procedure. The development of the data inputs used in the computation procedure for the state goals is discussed in section VI of the June 18, 2014, proposal (79 FR 34855), and in the ''GHG Abatement Measures'' TSD [21] issued in conjunction with the June 18, 2014, proposal. The methodology and data inputs used to compute the proposed goals for U.S. territories and areas of Indian country are discussed in detail in the ''Technical Support Document for Calculating Carbon Pollution Goals for Existing Power Plants in Territories and Areas of Indian Country,'' available in the docket for this rulemaking.

The EPA has developed proposed $CO_2$ emission performance goals for territories and areas of Indian country with affected EGUs, reflecting application of the BSER, based on all four building blocks described in the June 18, 2014, proposal, to pertinent data for each territory and area of Indian country with affected EGUs. The final goal for each area, expressed as a $CO_2$ emission rate on an output-weighted-average basis, is intended to represent the emission performance level achievable collectively by all of an area's affected EGUs by 2030, after a 2020–2029 phase-in period, with certain computation adjustments described below, to reflect the potential to achieve emission reductions by avoiding fossil fuel-fired generation. For each area, in addition to the final goal, the EPA has developed an interim goal that would apply during the 2020–2029 period on a cumulative or average basis as the area progresses toward the final goal. The proposed goals are set forth in Tables 5 and 6 below, followed by a discussion of several considerations that should be noted regarding the computation methodology. For U.S. territories, as detailed in the discussion of the considerations, the EPA is co-proposing two approaches for the application of building block 3, which are shown as approaches A and B in Table 5, and also taking comment on an alternative to the proposed approaches for the application of building block 3, as shown in Table 7. For areas of Indian country with affected EGUs, the EPA is proposing one option, as shown in Table 6, and taking comment on alternatives. (The issue of how areas could demonstrate emission performance consistent with the interim and final goals is addressed in section IV of this supplemental proposal, below, which addresses plans.)

TABLE 5—PROPOSED GOALS FOR TERRITORIES WITH AFFECTED EGUS

[Adjusted output-weighted-average pounds of $CO_2$ per net MWh from all affected fossil fuel-fired EGUs]

| Area | Goal using proposed approach A for building block 3 | | Goal using proposed approach B for building block 3 | |
|---|---|---|---|---|
| | Interim goal | Final goal | Interim goal | Final goal |
| Guam | 1,733 | 1,586 | 1,708 | 1,556 |
| Puerto Rico | 1,470 | 1,413 | 1,459 | 1,399 |

TABLE 6—PROPOSED GOALS FOR AREAS OF INDIAN COUNTRY WITH AFFECTED EGUS

[Adjusted output-weighted-average pounds of $CO_2$ per net MWh from all affected fossil fuel-fired EGUs]

| Area | Goal using proposed approach A for building block 3 | |
|---|---|---|
| | Interim goal | Final goal |
| Lands of the Fort Mojave Tribe | 856 | 855 |
| Lands of the Navajo Nation | 1,991 | 1,989 |
| Lands of the Ute Tribe of the Uintah and Ouray Reservation | 2,000 | 1,988 |

As stated previously, the EPA applied the same four building blocks described in the June 18, 2014, proposal to determine the goals. However, applying the methodology from the June 18, 2014, proposal for building block 1 would not result in any adjustments to the goals for Guam or the Fort Mojave Indian country because there are no coal-fired affected EGUs in those areas. Applying the methodology for building block 2 would not result in any adjustments to the goal for the Fort Mojave Indian country for the same reason. Applying the methodology for building block 2 also would not result in any adjustments to the goals for Guam or any of the other areas of Indian country because there are no NGCC units for re-dispatch within those areas. With respect to Puerto Rico, the EPA believes that

[18] As described below, the emission rate goals include adjustments to incorporate the potential effects of emission reduction measures that address power sector $CO_2$ emissions primarily by reducing the amount of electricity produced at an area's affected EGUs (associated with, for example, increasing the amount of new low- or zero-carbon generating capacity or increasing demand-side energy efficiency) rather than by reducing their $CO_2$ emission rates per unit of energy output produced.

[19] A method for translating from a rate-based goal to a mass-based goal is discussed in the ''Projecting $CO_2$ Emission Performance in State Plans Technical Support Document'' (TSD) issued in conjunction with the June 18, 2014, proposal.

[20] This document is included in the docket with Document ID No. EPA–HQ–OAR–2013–0602–0460.

[21] This document is included in the docket with Document ID No. EPA–HQ–OAR–2013–0602–0437.

existing and planned LNG import capacity in Puerto Rico supports 70 percent dispatch at the territory's existing NGCC facility in building block 2 of goal setting.[22]

The EPA is co-proposing two options for the application of building block 3 for the territories with affected EGUs. The first co-proposal option, shown as approach A in Table 5, mirrors the proposed methodology from the June 18, 2014, proposal for determining RE, which applies, for each jurisdiction, an annual growth factor to the area's baseline (that is, the year 2012) amount of RE. This methodology applies the annual growth factor for each year from 2017 to the final target in 2029. The EPA is also proposing this option for the application of building block 3 for areas of Indian country, as shown in Table 6. For the territories, the EPA applied Hawaii's 9 percent annual growth factor because the territories appear to have relatively similar RE resource bases and power system characteristics (e.g., independent utility grids and unique fossil fuel generation portfolios with high electricity and fuel costs). For areas of Indian country, the EPA applied the West region's 6 percent annual average growth factor because those areas are geographically located within the West region. However, with respect to all of the U.S. territories and areas of Indian country for which the EPA is proposing goals in this supplemental proposal, the available information indicates that there was no generation from utility-scale, non-hydroelectric RE in 2012. Because each territory and area of Indian Country has a baseline amount of RE equal to zero, the application of the growth factor (that is, multiplying the baseline amount of zero by the growth factor) results in each of those areas having an RE amount of zero for building block 3. Therefore, strictly applying the methodology from the June 18, 2014, proposal for building block 3 would result in no additional emission reductions required, and, therefore, no change to the goals for these areas.[23]

The second co-proposal option for U.S. territories with affected EGUs, shown as approach B in Table 5, reflects a conclusion that there is potential for RE development in the territories and includes an adjustment to the proposed methodology, which results in a positive amount of RE for building block 3 for each of the territories. This adjustment is based on the EPA's view that there is in fact potential for renewable generation in each of the territories with affected EGUs. With this adjustment, the EPA changed the amount of RE in 2017 to be 0.37 percent of the 2012 total electricity generation, which is consistent with the lowest amount among the 50 states in 2012.[24] Proceeding with the methodology, the EPA then applies the annual growth factor for each area in the assigned amount (noted above) through 2029. Using this approach, RE targets for the U.S. territories grow from 0.37 percent to 1.0 percent of 2012 total generation by 2030. The goals calculated using this approach are presented as proposed approach B for building block 3 in Table 5.

The EPA's view is that there is also potential for RE generation in each of the areas of Indian country with affected EGUs. The EPA notes that if the methodology described above (changing the amount of RE in 2017 to be 0.37 percent of the 2012 total electricity generation and applying the annual growth factor for each area in the assigned amount through 2029) is used for areas of Indian country, the amount of RE included under this option would be a significant portion of the area's electricity demand. This is due to the fact that, unlike all other jurisdictions covered by the June 18, 2014, proposal and this supplemental proposal, there are significant differences between the electricity generation in each of the areas of Indian country with affected EGUs and electricity demand within those same areas. Although the basis for including RE in building block 3 as part of the BSER, as discussed in the June 18, 2014, proposal, does not depend on the amount of electricity demand within state, territory or area of Indian country (79 FR 34883–34890), the Navajo Nation stated during its consultation, that building block 3 is not appropriate for the Navajo Nation because the tribe's use of electricity is small compared to the generation at the power plants. The EPA seeks comment on whether the methodology co-proposed for the territories is appropriate for areas of Indian country, or if adjustments to the proposed option or other approaches for the application of building block 3 for areas of Indian country are more appropriate. For example, an RE target could be established based on a percentage of the electric demand within the jurisdiction, where the percentage would be consistent with the amounts of RE generation in building block 3 in other jurisdictions (e.g. the lowest, average or greatest percentage of RE per electric demand in other affected jurisdictions).

In the June 18, 2014, proposal, the EPA solicited comment on an alternative RE approach for building block 3 that relied on technical potential within states, and in this supplemental proposal, the EPA is soliciting comment on that same approach as applied to U.S. territories with affected EGUs. The goals calculated using this approach are presented in Table 7. The EPA is presenting information on this alternative approach for Puerto Rico. The EPA is not presenting information on this alternative approach for Guam because the EPA does not have technical potential data for Guam. The EPA is seeking comments on available technical potential for Guam in order to allow us to calculate a RE target based on the alternative approach. The EPA has limited technical potential data for Puerto Rico—that is, only solar photovoltaic and wind data—and is also seeking comments on available technical potential for that jurisdiction. Even without RE market potential data to pair with the technical potential data for Puerto Rico, the RE target is 1.2 percent of 2012 total generation by 2030, which is well below the mandatory renewable portfolio standard target of 15 percent by 2020. For areas of Indian country, similar to the discussion above regarding the application of approach B for areas of Indian country, in light of concerns expressed by the Navajo Nation that its use of electricity is small compared to generation at the power plants, coupled with the fact that the amount of RE required for each area of Indian country under this alternative approach would be in excess of the area's electricity demand, the EPA seeks comment on the need for, and possible types of, adjustments to the alternative approach for the application of building block 3 for areas of Indian country.

The cumulative RE amounts for each territory using the two options for the proposed approach and the alternative approach for building block 3, represented as percentages of 2012 total generation, are shown in Table 8. The EPA is co-proposing the two RE approaches for U.S. territories and is

[22] The information supporting the potential for the LNG capacity to support 70 percent dispatch is further detailed in the ''Technical Support Document for Calculating Carbon Pollution Goals for Existing Power Plants in U.S. Territories and Areas of Indian Country.''

[23] Consistent with the methodology used in the June 18, 2014, proposal, the proposed RE target for Puerto Rico does not include 2012 hydropower generation. The ''Technical Support Document for Calculating Carbon Pollution Goals for Existing Power Plants in U.S. Territories and Areas of Indian Country'' presents Puerto Rico's RE target both with and without the inclusion of 2012 hydropower generation.

[24] With 0.37 percent, Kentucky had the lowest percentage of renewable generation in 2012. See 79 FR 34868 and Table 4–1 in the ''GHG Abatement Measures'' TSD on page 4–6.

proposing one option and taking comment on alternatives for areas of Indian country with affected EGUs, as well as seeking comment on the alternative approach for territories. The EPA is also seeking comment on sources of RE data from these areas.

TABLE 7—PROPOSED GOALS FOR TERRITORIES WITH AFFECTED EGUS USING ALTERNATIVE APPROACH FOR BUILDING BLOCK 3

[Adjusted output-weighted-average pounds of $CO_2$ per net MWh from all affected fossil fuel-fired EGUs]

| Area | Goal using alternative approach for building block 3 | |
|---|---|---|
| | Interim goal | Final goal |
| Guam | 1,733 | 1,586 |
| Puerto Rico | 1,452 | 1,397 |

TABLE 8—RE GENERATION LEVELS FOR TERRITORIES GOAL DEVELOPMENT

[Percentage of 2012 total generation]

| Area | 2012 Non-hydro RE (percent) | 2012 Total RE (percent) | Proposed approach A for building block 3 | | Proposed approach B for building block 3 | | Alternative approach for building block 3 | |
|---|---|---|---|---|---|---|---|---|
| | | | Interim level (percent) | Final level (percent) | Interim level (percent) | Final level (percent) | Interim level (percent) | Final level (percent) |
| Guam | 0 | 0 | 0 | 0 | 0.7 | 1.0 | 0 | 0 |
| Puerto Rico | 0 | 0.7 | 0 | 0 | 0.7 | 1.0 | 1.2 | 1.2 |

The proposed goal computation procedure for building block 4, demand-side energy efficiency, for U.S. territories and Indian country, mirrors the method and data sources used for setting goals for states to the fullest extent possible. Data sources the EPA has used for purposes of establishing demand-side energy efficiency targets for states are generally available for areas of Indian Country with identified affected EGUs. These sources include reduced fuel expenditures from demand-side energy efficiency programs (Energy Information Administration (EIA) Form 861), retail sales (EIA Form 861) and projections of future growth of retail sales by region (Annual Energy Outlook (AEO)). For the U.S. territories, Guam and Puerto Rico, however, projected retail electricity sales growth is not available from the 2012 AEO as it was for states.[25] The EPA is not aware of another source for this information and, thus, is using a zero percent per year growth rate for the retail sales data. Other values that the EPA considered using were the recent historic sales growth value from EIA Form 861 of −0.19 percent annually for Puerto Rico and −0.76 percent annually for Guam, or the projected sales growth rate for the continental U.S. from the 2012 AEO of 0.78 percent per year (2012–2040). The EPA solicits comments identifying alternative approaches and/or data sources for projections of retail electricity sales in these two territories. For the three areas of Indian country with affected EGUs, the EPA was able to employ the exact same method and data sources as used for states to compute goals for building block 4. For the Ute Tribe of the Uintah and Ouray Reservation, the source for retail sales is based on EIA Form 861 data for the Moon Lake Electric Association in Utah.

One issue raised by the Navajo Nation during consultation was the need to increase access to electricity in areas of Indian country where electricity access and consumption is significantly below the national average. For example, the Navajo Nation indicated that 32 percent of the Navajo do not have electricity. The Navajo Nation indicated that the goal for their area of Indian country should account for the need to increase energy usage on their lands. The proposed goal is not intended to limit the ability to increase the availability of electricity in unserved portions of Indian country. The EPA notes that the methodology for building block 4 applies demand-side energy efficiency assuming future growth in sales of electricity, with the goal of ensuring future growth is accomplished efficiently. For the areas of Indian country, the EPA used the projected retail electricity sales growth for the grid region from the 2012 AEO, which is 1.3 percent per year for the Navajo Nation and the Fort Mojave Tribe, and 1 percent per year for the Ute Tribe. The EPA requests comment on this approach. It should also be noted that sales of electricity in areas of Indian country are small compared to the total generation from affected EGUs in those areas. As a result, the avoided generation due to demand-side energy efficiency measures in building block 4 would yield very few emission reductions and, therefore, would have a very small impact on the overall goal for these areas. Accordingly, the EPA is seeking comment on the appropriateness of using, in the alternative, a minimum starting value for demand-side energy efficiency in areas of Indian country, and what that value should be.

The EPA invites comment on all aspects of the goal computation procedure for U.S. territories and areas of Indian country with affected EGUs. The EPA also specifically invites comment on the area-specific historical data for affected EGUs in U.S. territories and Indian country to which the building blocks are applied in order to compute the area's goals, as well as the area-specific data for U.S. territories and Indian country used to develop the area-specific data inputs for building blocks 3 and 4. These data are contained in the ''Technical Support Document for Calculating Carbon Pollution Goals for Existing Power Plants in U.S. Territories and Areas of Indian Country.'' Consistent with the June 18, 2014, proposal, the EPA also requests comment on whether $CO_2$ emission reductions associated with other measures not currently included in any of the four proposed building blocks

[25] For states, projected retail sales growth was derived from AEO regional results.

should be accounted for in developing the goals for U.S. territories and Indian country. Section VI.C.5 of the June 18, 2014, proposal discusses such other measures. See 79 FR 34875.

*C. Alternate Goals Offered for Comment and Other Approaches Considered*

Consistent with the June 18, 2014, proposal, in addition to the proposed area-specific emission rate-based goals described above, the EPA has developed for public comment an alternate set of goals reflecting less stringent application of the building blocks and a shorter implementation period. The alternate final goals represent emission performance that would be achievable by 2025, after a 2020–2024 phase-in period, with interim goals that would apply during the 2020–2024 period on a cumulative or average basis as areas progress toward the final goals. As discussed in section III.B of this supplemental proposal, the EPA is co-proposing two approaches for the application of building block 3 for U.S. territories.

The alternate goals are set forth in Tables 9 and 10 below. See 79 FR 34898 for a discussion of the alternate goals and how the stringency of the building blocks used to calculate alternate goals compares to the proposed goals.

TABLE 9—ALTERNATE GOALS FOR TERRITORIES WITH AFFECTED EGUS

[Adjusted output-weighted-average pounds of $CO_2$ per net MWh from all affected fossil fuel-fired EGUs]

| Area | Goal using proposed approach A for building block 3 | | Goal using proposed approach B for building block 3 | |
|---|---|---|---|---|
| | Interim goal | Final goal | Interim goal | Final goal |
| Guam | 1,854 | 1,794 | 1,831 | 1,768 |
| Puerto Rico | 1,542 | 1,521 | 1,533 | 1,510 |

TABLE 10—ALTERNATE GOALS FOR AREAS OF INDIAN COUNTRY WITH AFFECTED EGUS

[Adjusted output-weighted-average pounds of $CO_2$ per net MWh from all affected fossil fuel-fired EGUs]

| Area | Goal using proposed approach A for building block 3 | |
|---|---|---|
| | Interim goal | Final goal |
| Lands of the Fort Mojave Tribe | 857 | 857 |
| Lands of the Navajo Nation | 2,035 | 2,034 |
| Lands of the Ute Tribe of the Uintah and Ouray Reservation | 2,052 | 2,048 |

In the June 18, 2014, proposal, the EPA discussed issues related to the stringency and timing of these alternative goals. See 79 FR 34898. The EPA continues to seek comment on those issues as they relate to U.S. territories and areas of Indian country with affected EGUs.

*D. Additional Considerations for U.S. Territories and Indian Country*

With respect to U.S. territories, the EPA is aware of affected EGUs in only Puerto Rico and Guam. As noted above, although the EPA has identified two fossil fuel-fired EGUs in the U.S. Virgin Islands, neither of these EGUs has operated recently or is currently operating, and, as a result, the EPA is not proposing a goal for the U.S. Virgin Islands. The EPA plans to evaluate whether a goal is appropriate for the U.S. Virgin Islands if either of its affected EGUs resumes operations in the future.

In the June 18, 2014, proposal, the EPA sought comment on issues related to U.S. territories. In particular, the EPA solicited comment on appropriate alternatives for those territories that do not have access to natural gas.[26] In addition, the EPA requested comment on whether heat rate improvements for non-coal fossil fuel-fired EGUs, including oil-fired steam EGUs, should be included in the building blocks and, therefore, be part of the basis for determining the BSER, with particular reference to the U.S. territories.[27] The EPA is reiterating its request for comments on those issues, including on whether heat rate improvements are appropriate for oil-fired steam EGUs in territories in light of the fact that these EGUs make up a large portion of the EGU fleet in the territories.

In addition, U.S. territories have many high utilization oil combustion turbines and oil-fired combined cycle units. These units are currently not included in the 2012 baseline because they are not covered by the proposed CAA section 111(b) rules for $CO_2$ emissions from newly constructed or modified/reconstructed fossil fuel-fired EGUs. See 79 FR 1430, 1446 (January 8, 2014) (newly constructed EGUs); 79 FR 34960, 34972 (June 18, 2014) (modified/reconstructed EGUs). The EPA is requesting comment on the appropriateness of including these units in the CAA section 111(d) plans for the territories.

## IV. CAA Section 111(d) Plans

*A. U.S. Territories*

After the EPA establishes the jurisdiction-specific rate-based $CO_2$ goals in the emission guidelines, as described in section III above, each territory that has a goal must then develop, adopt and submit a plan under CAA section 111(d) for achieving its goal. In the June 18, 2014, proposal, the EPA discusses at length the procedural and substantive requirements for CAA section 111(d) plans and solicits comment on numerous issues. Although, as noted above, that discussion is incorporated by reference in this proposal, for convenience, key aspects of the plan requirements are reiterated here.

A territory must first determine the emission performance level it will include in its plan, which entails deciding whether it will adopt the rate-based $CO_2$ goal set by the EPA or translate the rate-based goal to a mass-based goal. The territory must then establish an emission standard or set of emission standards, and, perhaps, other measures, along with implementing and

[26] 79 FR 34893.

[27] 79 FR 34877.

enforcing measures, that will achieve a level of emission performance that is equal to or better than the level specified in the plan. The territory has discretion to choose the measures it will include in its plan to achieve its goal as long as it can demonstrate that those measures will achieve the goal, and those measures meet and address necessary plan approvability criteria and plan components. The territory may use the same set of measures as in the EPA's approach to setting the goals, or the territory may use other or additional measures to achieve the required $CO_2$ reductions. A territory's plan may rely on enforceable $CO_2$ emission limits that are applied directly to affected EGUs such that those limits are sufficient to ensure compliance with the territory's $CO_2$ performance goal, or, alternatively, the plan may take a portfolio approach, which includes enforceable $CO_2$ emission limits that apply to specific affected EGUs as well as other enforceable measures, such as RE and demand-side energy efficiency measures, which avoid EGU $CO_2$ emissions and are implemented by the territory or by another entity.

The EPA is proposing that U.S. territories follow the same guidelines for developing their plans that were proposed for states in the June 18, 2014, proposal. These guidelines include four general plan approvability criteria, 12 required components for a plan to be approvable, the process and timing for plan submittal and the process and timing for demonstrating achievement of the $CO_2$ emission performance level in the plan. These guidelines are summarized briefly below, and discussed in more detail in section VIII of the June 18, 2014, proposal.

The EPA is proposing to evaluate and approve a territory's plan based on four general criteria: (1) Enforceable measures that reduce EGU $CO_2$ emissions; (2) projected achievement of emission performance equivalent to the goals established by the EPA, on a timeline equivalent to that in the emission guidelines; (3) quantifiable and verifiable emission reductions; and (4) a process for reporting on plan implementation, progress toward achieving $CO_2$ goals and implementation of corrective actions, if necessary. In addition, each territory's plan must follow the EPA framework regulations at 40 CFR 60.23. The proposed components of the plans that territories are required to submit under CAA section 111(d) are as follows:

- Identification of affected entities.
- Description of plan approach and geographic scope.
- Identification of territory's emission performance level.
- Demonstration that plan is projected to achieve emission performance level.
- Identification of programmatic milestones.
- Identification of corrective measures.
- Identification of emission standards and any other measures.
- Demonstration that each emission standard is quantifiable, non-duplicative, permanent, verifiable and enforceable.
- Identification of monitoring, reporting and recordkeeping requirements.
- Description of territory's reporting.
- Certification of hearing on territory's plan.
- Supporting material.

The plan must also include a process for annual reporting on plan implementation, provisions ensuring progress toward achieving $CO_2$ goals and provisions requiring implementation of corrective actions if necessary. No less frequently than every 2 rolling calendar years, beginning January 1, 2022, the territory will be required to compare $CO_2$ emission performance achieved by affected EGUs in the territory with the emissions performance projected in the territory's plan, and report that to the EPA.

The proposed timetable for submission of plans by the territories is the same as described in the June 18, 2014, proposal for the states. That is, each territory must submit a plan to the EPA by June 30, 2016. However, the EPA recognizes that some territories may need more than 1 year to complete all of the actions needed for their final plans, including technical work, legislative and rulemaking activities, coordination with third parties and coordination among jurisdictions involved in multi-jurisdictional plans. Therefore, the EPA is proposing an optional two-phased submittal process for plans. In phase 1, each territory needing additional time to submit a complete plan would be required to submit an initial plan containing certain required components by June 30, 2016. The initial plan would also document the reasons the territory needs more time and include commitments to take concrete steps that will ensure that the territory will submit a complete plan by June 30, 2017 or 2018, as appropriate. To be approvable, the initial plan must include specific components, including, among others, a description of the plan approach, initial quantification of the level of emission performance that will be achieved through the plan, a commitment to maintain existing measures that limit $CO_2$ emissions, an explanation of the path to completion and a summary of the territory's response to any significant public comment on the approvability of the initial plan.

If the EPA does not notify the territory within 60 days that the initial plan is deficient because it does not contain one or more of the required components, the extension of time to submit a complete plan will be deemed granted and a territory would have until June 30, 2017, to submit a complete plan if the geographic scope of the plan is limited to that territory. If the territory develops a plan that includes a multi-jurisdictional approach, it would have until June 30, 2018, to submit a complete plan. Further, the EPA is proposing that where a territory is participating in a multi-jurisdictional plan, a single joint plan may be submitted on behalf of all of the participating jurisdictions, provided it is signed by authorized officials for each of the jurisdictions participating in the plan and contains the necessary regulations, laws, etc., for each jurisdiction in the plan.

The EPA is proposing the same process for EPA review of the plans submitted by the territories as in the June 18, 2014, proposal. Following submission of complete plans, the EPA will review plan submittals for approvability. Given the diverse approaches territories may take to meet the emission performance goals in the emission guidelines, the EPA is proposing to extend the period for EPA review and approval or disapproval of territories' plans from the 4-month period provided in the EPA framework regulations to a 12-month period.

The EPA is proposing the same timetables for territories to achieve their emission performance levels as in the June 18, 2014, proposal for states. Under this proposed timetable, a territory would need to meet its interim $CO_2$ emission performance level on average over the 10-year period from 2020–2029, as well as achieve its final $CO_2$ emission performance level by 2030 and maintain that level subsequently. For a more detailed discussion of the proposed guidelines for plans, see section VIII of the June 18, 2014, proposal. In that proposal, the EPA specifically solicited comment on several aspects of the guidelines as they relate to state plans, and the EPA now solicits comment on the same issues as they relate to U.S. territories.

*B. Areas of Indian Country With Affected EGUs*

The TAR identifies CAA provisions for which it is appropriate for the EPA to grant Indian tribes treatment in the same manner as states (TAS). Pursuant to the TAR, tribes may apply for TAS for purposes of CAA section 111(d). As a result, a tribe that has an affected EGU located in its area of Indian country has the opportunity, but not the obligation, to apply for TAS status and, if granted that status by the EPA, to develop a plan that establishes standards of performance for $CO_2$ emissions from affected EGUs located in its area of Indian country. The EPA is not proposing a determination regarding any particular tribe's eligibility for TAS or ability to regulate EGUs located in its area of Indian country as part of this supplemental proposal. If a tribe has an affected EGU located in its area of Indian country, but does not seek and obtain the authority from the EPA to establish a CAA section 111(d) plan, then the EPA has the responsibility to establish such plans for the areas of Indian country where affected sources are located if the EPA determines that such a plan is necessary or appropriate. If a tribe with affected EGUs located in its area of Indian country obtains the authority to develop and submit a plan, the tribe would have the flexibility and authority [28] described in section VIII of the June 18, 2014, proposal for states in developing a plan.

The EPA asked for comment on a number of specific aspects of plans in section VIII of the June 18, 2014, proposal, and the EPA solicits comment on those same issues as they relate to areas of Indian country with affected EGUs.[29] In particular, the EPA requested comment on whether a tribe wishing to develop and implement a CAA section 111(d) plan should have the option of including the EGUs located in its area of Indian country in a multi-jurisdictional plan with one or more states, territories or tribes. As stated previously in section II.D of this supplemental proposal, the Navajo Nation indicated during consultation that the Navajo Nation should control, under a trading program, any available $CO_2$ allowances from the affected EGUs at Navajo Generating Station and Four Corners Power Plant. The EPA also requested comment in the June 18, 2014, proposal on whether a federal plan for areas of Indian country with affected EGUs, should the EPA conclude at a later date that such a plan is necessary or appropriate, could be developed on a multi-jurisdictional basis in conjunction with nearby (or potentially other) states developing CAA section 111(d) state plans.

*C. Applicability of the Proposed Emission Guidelines to U.S. Territories and Eligible Indian Tribes*

As stated previously, the EPA is proposing the same emission guidelines for U.S. territories and tribes that seek and obtain the authority to establish a plan that were proposed for states in the June 18, 2014, proposal. The term ''state'' as used in the emission guidelines proposed in the June 18, 2014, proposal would encompass U.S. territories with one or more affected EGUs that commenced construction on or before January 8, 2014, and any Indian tribe that has been approved by the EPA pursuant to 40 CFR 49.9 as eligible to administer the emission guidelines, in addition to the 50 states and the District of Columbia that have one or more affected EGUs. The EPA believes that this is the case without the need for the emission guidelines to directly and separately refer to these entities. Section 302(d) of the CAA defines the term ''State'' to include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands. While 40 CFR part 60 contains a separate definition of ''state'' at § 60.2, this definition expands on, rather than narrows, the definition in section 302(d) of the CAA. The introductory language to 40 CFR 60.2 provides: ''The terms in this part are defined in the Act or in this section as follows.'' Section 60.2 defines ''State'' as ''all non-Federal authorities, including local agencies, interstate associations, and State-wide programs that have been delegated authority to implement: (1) The provisions of this part and/or (2) the permit program established under part 70 of this chapter. *The term State shall have its conventional meaning where clear from the context.''* (Emphasis added.) The EPA believes that the last sentence refers to the conventional meaning of ''state'' under the CAA. Thus, the EPA believes the term ''state'' as used in the emission guidelines is most reasonably interpreted as including the meaning ascribed to that term in section 302(d) of the CAA, which expressly includes U.S. territories. Further, an Indian tribe with one or more affected EGUs in its area of Indian country seeking to obtain approval of a plan would need to be approved by the EPA as eligible to administer the emission guidelines following the procedure set forth in 40 CFR part 49. Once a tribe is approved as eligible for that purpose, it would be treated in the same manner as a state, and references in the emission guidelines to states would refer equally to the tribe. The EPA notes that while tribes have the opportunity to apply for eligibility to administer CAA programs, they are not required to do so. Further, the EPA has established procedures in 40 CFR part 49 (see particularly 40 CFR 49.7(c)) that permit eligible tribes to request approval of reasonably severable partial program elements. Those procedures are applicable here. Although the EPA believes the current emission guidelines are sufficiently inclusive, the EPA has decided to amend the applicability provision of the emission guidelines slightly to avoid any doubt that the guidelines apply to territories with affected EGUs and to any Indian tribe that has been approved by the EPA as eligible to develop and implement a plan. The revised regulatory text can be found in the ''Amended Regulatory Text for Supplemental Proposal: Carbon Pollution Emission Guidelines for Existing Power Plants in Indian Country and U.S. Territories'' memo in the rulemaking docket.

*D. Areas Without Affected EGUs* [30]

Certain areas, including the state of Vermont, the District of Columbia, certain U.S. territories and most areas of Indian country, do not have any affected EGUs. Numerous stakeholders have expressed interest in areas that do not have affected EGUs having the opportunity to participate in multi-jurisdictional plans with areas that have affected EGUs. With this approach, an area without affected EGUs, which in many cases consumes energy produced elsewhere, could contribute to meeting a multi-jurisdictional $CO_2$ goal with its RE resources, demand-side energy efficiency programs and other new low- or non-emitting electricity generation.[31] The Navajo Nation, which does have affected EGUs on its lands, also expressed an interest during consultation in the ability of RE resources on the Navajo Nation to contribute to the achievement of state $CO_2$ goals.

[28] This authority is found in CAA section 301(d) and the TAR.

[29] For a list of the topics that the EPA is soliciting comment on regarding plans please see *http://www2.epa.gov/sites/production/files/2014-08/documents/clean-power-plan-comment-categories.pdf* under the Category heading of ''State Plans.''

[30] It should be noted that this subsection applies to all types of areas, and not just territories and areas of Indian Country.

[31] See the June 18, 2014, proposal at 79 FR 34923 for a more robust description of how new NGCC can aid in meeting a jurisdiction's goal.

The EPA requests comment on whether areas without affected EGUs may participate in multi-jurisdictional plans. The EPA requests comment on whether there are considerations that would specifically pertain to a multi-jurisdiction mass-based plan versus a rate-based plan. The EPA also requests comment on how $CO_2$ emissions avoided through RE generating resources,[32] demand-side energy efficiency measures, and other new low- and non-emitting electricity generation from areas without affected EGUs could be used to adjust or credit $CO_2$ emission rates in states required to develop CAA section 111(d) plans. The EPA also requests comment on how RE generating resources, demand-side energy efficiency measures, and other new low- and non-emitting electricity generation in areas of Indian country that do have affected EGUs can be included, and if their inclusion is dependent upon whether or not the tribe has adopted a CAA section 111(d) plan or EPA has made a finding and adopted a federal plan for that area of Indian country.

Some stakeholders are also interested in the treatment of RE across international boundaries, particularly in instances where entities in another country are providing, or could provide, low- or non-emitting electricity generation to serve an area in the United States. In particular, stakeholders have asked whether RE resources from Canada can be used to contribute to meeting a jurisdiction's goal. The EPA is soliciting comment on all aspects of the treatment of RE, demand-side energy efficiency, and other new low- or non-emitting electricity generation across international boundaries in a CAA section 111(d) plan, considering the components for approvable plans described in the June 18, 2014, proposal, including any mechanisms that could be used to ensure that the low or non-emitting generation was in fact offsetting fossil-fuel-fired generation in the jurisdiction that would use it to meet its goal.

It should be noted that multi-jurisdictional plans that include areas without affected EGUs must still meet the plan components and criteria to determine whether a state's plan is ''satisfactory'' under CAA section 111(d)(2)(A) as described in section VIII of the June 18, 2014, proposal.[33] The EPA solicits comment on these components and criteria for jurisdictions without affected EGUs that wish to be a part of a multi-jurisdiction plan.

## V. Impacts of the Proposed Action

### *A. What are the air impacts?*

With regard to Guam and Puerto Rico, the EPA estimates implementation of Option 1—Approach A[34] will result in emission reductions of roughly 1.6 million metric tons of $CO_2$ in 2020 and reductions of 3.1 million metric tons of $CO_2$ in 2030. The EPA estimates that implementation of Option 2—Approach A[35] would result in emission reductions of roughly 1.5 million metric tons of $CO_2$ in 2020 and reductions of 2.0 million metric tons of $CO_2$ in 2025.

For Guam and Puerto Rico, the EPA estimates implementation of Option 1—Approach B[36] will result in emission reductions of roughly 1.7 million metric tons of $CO_2$ in 2020 and reductions of 3.3 million metric tons of $CO_2$ in 2030. The EPA estimates that implementation of Option 2—Approach B[37] would result in emission reductions of roughly 1.6 million metric tons of $CO_2$ in 2020 and reductions of 2.1 million metric tons of $CO_2$ in 2025.

For all options and approaches, the EPA also expects reductions of criteria pollutants including $SO_2$, $NO_X$ and $PM_{2.5}$ as a result of actions taken to implement the goals proposed in this action. Due to data limitations, the EPA is not able to accurately estimate the co-reductions of criteria pollutant that would occur as a result of actions to implement the proposed goals.

The EPA does not expect any additional emission reductions from areas of Indian country with affected EGUs. The EGUs in the Navajo Nation's area of Indian country are already expected to meet the proposed goals through compliance with other regulations. Three EGUs at Four Corners Power Plant shut down at the beginning of 2014 to comply with requirements for Best Available Retrofit Technology (BART).[38] At Navajo Generating Station, the EPA expects that by 2019, one EGU will shut down or generation will be curtailed to comply with requirements for BART.[39] These units represented approximately 30 percent of total EGU $CO_2$ emissions in Navajo territory in 2012. As a result, substantial $CO_2$ reductions from the shutdowns are expected prior to the target date for the goals proposed in this action, which would mean the Navajo territory would meet the proposed goal without additional actions beyond the shutdowns, if the goal is converted to a mass-based goal. The reductions associated with compliance with the goals for the lands of the Fort Mojave Tribe and the Ute Tribe of the Uintah and Ouray Reservation were already accounted for in the June 18, 2014, proposal. The impacts analysis for the June 18, 2014, proposal did not separate out and exclude electricity demand and reduced fuel expenditures associated with energy efficiency from tribal lands from the states in which they are located. Thus, the emission reductions associated with achieving reduced electricity generation levels of building block 4 as part of this supplemental proposal were previously accounted for in the June 18, 2014, proposal. There is one affected EGU on Ute territory. This EGU was not an affected unit in the June 18, 2014, proposal, but had the option to implement a heat rate improvement in the system-wide modeling conducted for that proposal.[40] Because the modeling reflected this optional heat rate improvement, the emission reductions from a heat rate improvement for this EGU were accounted for in the June 18, 2014, proposal.

### *B. What are the energy impacts?*

As discussed previously, one area of Indian country with affected EGUs is expected to meet the proposed goal based on compliance with other regulations, and the impacts of compliance with the proposed goals for the other two areas were already accounted for in the June 18, 2014, proposal. In U.S. territories, the EPA anticipates a small degree of re-dispatch from coal- and oil-fired generation to natural gas-fired generation. It is possible that some portion of this shift away from coal- and oil-fired generation may occur in the absence of the rule, due primarily to the relatively high cost of petroleum-based fuel and electricity in these areas. For example, the Puerto

[32] Further discussion of applying RE (in particular renewable energy certificates) across jurisdiction borders can be found in the ''State Plan Considerations'' TSD, which is available in the docket for this rulemaking.

[33] For more information on plan components see the June 18, 2014, proposal at 79 FR 34911.

[34] Option 1 represents compliance with the goals calculated using the procedure outlined in section III.B of this supplemental proposal.

[35] Option 2 represents compliance with the goals calculated using the procedure outlined in section III.C of this supplemental proposal, reflecting less stringent application of the building blocks and a shorter implementation period.

[36] Option 1 represents compliance with the goals calculated using the procedure outlined in section III.B of this supplemental proposal.

[37] Option 2 represents compliance with the goals calculated using the procedure outlined in section III.C of this supplemental proposal, reflecting less stringent application of the building blocks and a shorter implementation period.

[38] See 79 FR 46514, August 24, 2012.

[39] See 77 FR 51620, August 8, 2014.

[40] See Integrated Planning Model results at: *http://www.epa.gov/airmarkets/powersectormodeling/cleanpowerplan.html.*

Rico Electric Power Authority (PREPA) plans to add natural gas capacity at existing petroleum-burning plants. Additionally, both Guam and Puerto Rico are implementing Renewable Portfolio Standards programs.

While the EPA did not perform a full resource adequacy analysis as was conducted for the June proposal, the EPA does not expect actions taken to implement the proposed goals to raise reliability concerns because these actions are likely consistent with planned activities in the affected areas. (For example, present and planned actions on Navajo territory to implement criteria pollutant reductions and planned expansion of natural gas-fired capacity in Puerto Rico.)

*C. What are the compliance costs?*

The compliance costs of this proposed action are represented in this analysis as the change in electric power generation costs between the base case and the proposed rule in which U.S. territories pursue a distinct set of strategies beyond the strategies taken in the base case to meet the proposed goals. The compliance assumptions and projected compliance costs set forth in this analysis are illustrative in nature. There is uncertainty about the precise measures that territories will adopt to meet the proposed requirements, because there are considerable flexibilities afforded to them in developing their state plans. These illustrative compliance scenarios are designed to reflect, to the extent possible, the scope and the nature of the proposed guidelines.

For Guam and Puerto Rico, the illustrative annual compliance costs and monitoring and reporting costs for Option 1—Approach A are a savings of approximately $140 million (2011$) in 2020 and a savings of $350 million in 2030, including reduced fuel expenditures from energy efficiency programs and re-dispatch. For Option 2—Approach A, the illustrative annual compliance costs and monitoring and reporting costs for Guam and Puerto Rico are a savings of approximately $130 million (2011$) in 2020 and a savings of $190 million in 2025, including reduced fuel expenditures from energy efficiency programs and re-dispatch.

For Guam and Puerto Rico, the illustrative annual compliance costs and monitoring and reporting costs for Option 1—Approach B are a savings of approximately $140 million (2011$) in 2020 and a savings of $360 million in 2030, including reduced fuel expenditures from energy efficiency programs and re-dispatch. For Option 2—Approach B, the illustrative annual compliance costs and monitoring and reporting costs for Guam and Puerto Rico are a savings of approximately $130 million (2011$) in 2020 and a savings of $200 million in 2025, including reduced fuel expenditures from energy efficiency programs and re-dispatch.

The EPA does not expect any additional compliance costs for areas of Indian country with affected EGUs. As discussed in section V.A of this supplemental proposal, the EPA expects that the goal for the lands of the Navajo Nation will be met without any further action beyond the shutdowns that are occurring, if the goal is converted to a mass-based goal. The costs for meeting the goal for the lands of the Fort Mojave Tribe and the Ute Tribe of the Uintah and Ouray Reservation were already included in the June 18, 2014, proposal.

*D. What are the economic and employment impacts?*

Changes in supply or demand for electricity, natural gas, oil and coal can impact markets for goods and services produced by sectors that use these energy inputs in the production process or that supply those sectors. Changes in cost of production may result in changes in price and/or quantity produced and these market changes may affect the profitability of firms and the economic welfare of their consumers. The EPA recognizes that these guidelines provide significant flexibilities and the territories implementing the guidelines may choose to mitigate impacts to some markets outside the EGU sector. Similarly, demand for new generation or energy efficiency can result in changes in production and profitability for firms that supply those goods and services. The guidelines provide flexibility for territories that may want to enhance demand for goods and services from those sectors.

Executive Order 13563 directs federal agencies to consider regulatory impacts on job creation and employment. According to the Executive Order, ''our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science.'' Although standard benefit-cost analyses have not typically included a separate analysis of regulation-induced employment impacts, during periods of sustained high unemployment, employment impacts are of particular concern and questions may arise about their existence and magnitude.

Under all scenarios analyzed for the territories of Guam and Puerto Rico, the annualized costs of the illustrative compliance strategies are expected to be negative for each year in the analysis as a result of reductions in field expenditures. Quantifying any employment impacts associated with implementing the proposed goals is difficult, as each area has the flexibility to implement a wide range of policies and practices for compliance with the proposed goals. The June 18, 2014, proposal used the cost projections from the engineering-based Integrated Planning Model to help estimate employment impacts in the electricity, natural gas and coal sectors, but these projections are not available for territories, making quantitative assessment of employment impacts for Guam and Puerto Rico more difficult. However, because annualized costs for the territories are relatively low or negative, the EPA does not expect significant adverse employment impacts under the illustrative compliance strategies. A critical component of the overall labor impacts of implementing the GHG guidelines is the impact of the labor associated with the demand-side energy efficiency activities. Like the RIA for the June 18, 2014, proposal indicated, the EPA anticipates that this rule may stimulate investment in clean energy technologies and services, resulting in considerable increases in energy efficiency in particular. The EPA expects these increases in energy efficiency, specifically, to support a significant number of jobs existing in related industries.

The EPA does not expect any economic or employment impacts for EGUs in Indian country arising from this proposed action, as the costs for meeting the proposed goals for the lands of the Fort Mojave Tribe and the Ute Tribe of the Uintah and Ouray Reservation were already accounted for in the June 18, 2014, proposal, and the goal for the lands of the Navajo Nation is expected to be met without any further action beyond the shutdowns that are occurring.

*E. What are the benefits of the proposed action?*

The EPA has used the SCC estimates presented in the 2013 ''Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866'' (2013 SCC TSD) to analyze $CO_2$ climate benefits of this rulemaking.[41]

[41] Docket ID No. EPA–HQ–OAR–2013–0495, *Technical Support Document: Technical Update of*

Continued

The EPA refers to these estimates, which were developed by the U.S. government, as ''SCC estimates.'' The U.S. government first published the SCC estimates in 2010 following an interagency process that included the EPA and other executive branch entities; the process used three integrated assessment models (IAM) to develop SCC estimates and selected four global values for use in regulatory analyses. The U.S. government recently updated these estimates using new versions of each IAM and published them in 2013. The 2013 update did not revisit the 2010 modeling decisions (e.g., with regard to the discount rate, reference case socioeconomic and emission scenarios or equilibrium climate sensitivity). Rather, improvements in the way damages are modeled are confined to those that have been incorporated into the latest versions of the models by the developers themselves and published in the peer-reviewed literature. The 2010 SCC TSD provides a complete discussion of the methods used to develop these estimates and the 2013 SCC TSD presents and discusses the updated estimates.[42]

The EPA and other agencies have sought public comment on the SCC estimates as part of various rulemakings. In addition, OMB's Office of Information and Regulatory Affairs recently sought public comment on the approach used to develop the estimates. The comment period ended on February 26, 2014, and OMB is reviewing the comments received.

The four SCC estimates, updated in 2013, are as follows: $13, $46, $68 and $137 per metric ton of $CO_2$ emissions in the year 2020 (2011 dollars).[43] The first three values are based on the average SCC from the three IAMs, at discount rates of 5, 3 and 2.5 percent, respectively. SCCs at several discount rates are included because the literature shows that the SCC is quite sensitive to assumptions about the discount rate, and because no consensus exists on the appropriate rate to use in an intergenerational context (where costs and benefits are incurred by different generations). The fourth value is the 95th percentile of the SCC from all three models at a 3 percent discount rate. It is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution (representing less likely, but potentially catastrophic, outcomes).

The proposed guidelines would reduce emissions of precursor pollutants (e.g., $SO_2$, $NO_X$ and directly emitted particles) in the territories, which in turn would lower ambient concentrations of $PM_{2.5}$ and $O_3$. However, the EPA is unable to quantify the health co-benefits of $SO_2$ and $NO_X$ reductions in the U.S. territories because the benefit-per-ton values the EPA used in the June 18, 2014, proposal are only appropriate for areas within the continental U.S. These benefit-per-ton values are not appropriate to use in estimating co-benefits for the U.S. territories because those territories were not represented in the air quality modeling used to generate the benefit-per-ton estimate.

As described in the June 18, 2014, proposal, reducing exposure to $PM_{2.5}$ is associated with significant human health benefits, including avoiding premature mortality for adults and infants, cardiovascular morbidities such as heart attacks, hospital admissions, and respiratory morbidities such as asthma attacks, acute bronchitis, hospital and emergency department visits, work loss days, restricted activity days, and respiratory symptoms. Reducing exposure to $O_3$ is also associated with significant human health benefits, including avoiding mortality and respiratory morbidity such as fewer asthma attacks, hospital and emergency room visits and school loss days. In addition, the EPA could not monetize other important benefits, including climate benefits from reducing emissions of non-$CO_2$ GHG and co-benefits from reducing exposure to HAP (e.g., Hg and HCl) concentrations, as well as ecosystem and visibility benefits.

For Guam and Puerto Rico, the EPA estimates that in 2020, the illustrative compliance approach for Option 1—Approach A will yield monetized climate benefits of approximately $73 million with a 3 percent model average (2011$). The EPA estimates that in 2030, the illustrative compliance approach for Option 1—Approach A in Guam and Puerto Rico will yield monetized climate benefits of approximately $170 million with a 3 percent model average (2011$). For Option 2—Approach A, the EPA estimates that in 2020, the illustrative compliance approach for Guam and Puerto Rico will yield monetized climate benefits of approximately $68 million with a 3 percent model average (2011$). The EPA estimates that in 2025, the illustrative compliance approach for Option 2—Approach A in Guam and Puerto Rico will yield monetized climate benefits of approximately $99 million with a 3 percent model average (2011$).

For Guam and Puerto Rico, the EPA estimates that in 2020, the illustrative compliance approach for Option 1—Approach B will yield monetized climate benefits of approximately $77 million with a 3 percent model average (2011$). The EPA estimates that in 2030, the illustrative compliance approach for Option 1—Approach B in Guam and Puerto Rico will yield monetized climate benefits of approximately $180 million with a 3 percent model average (2011$). For Option 2—Approach B, the EPA estimates that in 2020, the illustrative compliance approach for Guam and Puerto Rico will yield monetized climate benefits of approximately $73 million with a 3 percent model average (2011$). The EPA estimates that in 2025, the illustrative compliance approach for Option 2—Approach B in Guam and Puerto Rico will yield monetized climate benefits of approximately $110 million with a 3 percent model average (2011$).

The EPA does not expect any additional benefits associated with compliance for areas of Indian country with affected EGUs, as the benefits for meeting the proposed goals for the lands of the Fort Mojave Tribe and the Ute Tribe of the Uintah and Ouray Reservation were already accounted for in the June 18, 2014, proposal, and the goal for the lands of the Navajo Nation is expected to be met without any further action beyond the shutdowns that are occurring.

*the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, with participation by Council of Economic Advisers, Council on Environmental Quality, Department of Agriculture, Department of Commerce, Department of Energy, Department of Transportation, Environmental Protection Agency, National Economic Council, Office of Energy and Climate Change, Office of Management and Budget, Office of Science and Technology Policy, and Department of Treasury (May 2013, Revised November 2013). Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impactanalysis.pdf.*

[42] Docket ID No. EPA–HQ–OAR–2009–0472–114577, *Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, with participation by the Council of Economic Advisers, Council on Environmental Quality, Department of Agriculture, Department of Commerce, Department of Energy, Department of Transportation, Environmental Protection Agency, National Economic Council, Office of Energy and Climate Change, Office of Management and Budget, Office of Science and Technology Policy, and Department of Treasury (February 2010). Also available at: *http://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

[43] The 2010 and 2013 TSDs present SCC in $2007. The estimates were adjusted to 2011$ using the GDP Implicit Price Deflator. Also available at: *http://www.gpo.gov/fdsys/pkg/ECONI-2013-02/pdf/ECONI-2013-02-Pg3.pdf.*

## VI. Statutory and Executive Order Reviews

### *A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review*

Under section 3(f)(1) of Executive Order 12866 (58 FR 51735, October 4, 1993), this action is an ''economically significant regulatory action'' because it is likely to have an annual effect on the economy of $100 million or more or to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. The $100 million threshold can be triggered by either costs or benefits, or a combination of them. Accordingly, the EPA submitted this action to OMB for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011), and any changes made in response to OMB recommendations have been documented in the docket for this action. The EPA also prepared an analysis of the potential costs and benefits associated with this action in the RIA for this supplemental proposal.

Consistent with Executive Order 12866 and Executive Order 13563, the EPA estimated the costs and benefits for illustrative compliance approaches of implementing the proposed guidelines. This proposal sets goals to reduce $CO_2$ emissions from the electric power industry in U.S. territories and in Indian country. Actions taken to comply with the proposed guidelines will also reduce the emissions of directly emitted $PM_{2.5}$, $SO_2$ and $NO_X$. The benefits associated with these PM, $SO_2$ and $NO_X$ reductions are referred to as co-benefits, as these reductions are not the primary objective of this rule.[44]

The EPA has used the SCC estimates (i.e., the monetary value of impacts associated with a marginal change in $CO_2$ emissions in a given year) to analyze $CO_2$ climate impacts of this rulemaking. The four SCC estimates are associated with different discount rates (model average at 2.5 percent discount rate, 3 percent, and 5 percent; 95th percentile at 3 percent), and each increases over time. In this summary, the EPA provides the estimate of climate benefits associated with the SCC value deemed to be central by the U.S. government (the model average at 3 percent discount rate). There will likely be significant health co-benefits associated with reductions of $SO_2$ and $NO_X$. However, the EPA is unable to quantify health co-benefits $SO_2$ and $NO_X$ reductions in the U.S. territories because the benefit-per-ton values that the EPA often uses for this purpose are only appropriate for areas within the continental U.S. In addition, the EPA could not monetize other important benefits, including climate benefits from reducing emissions of non-$CO_2$ GHG and co-benefits from reducing exposure to HAP (e.g., Hg and HCl) concentrations, as well as ecosystem and visibility benefits.

For Guam and Puerto Rico, the EPA estimates that in 2020, the illustrative compliance approach for Option 1—Approach A will yield monetized climate benefits of approximately $73 million with a 3 percent model average (2011$). The annual illustrative compliance costs are a savings of approximately $140 million (2011$) in 2020. The EPA estimates that in 2030, the illustrative compliance approach for Option 1—Approach A in Guam and Puerto Rico will yield monetized climate benefits of approximately $170 million with a 3 percent model average (2011$). The annual illustrative compliance costs are a savings of approximately $350 million (2011$) in 2030. For Option 2—Approach A, the illustrative compliance approach for Guam and Puerto Rico will yield monetized climate benefits of approximately $68 million with a 3 percent model average (2011$) in 2025. The annual illustrative compliance costs are a savings of approximately $130 million (2011$) in 2020. The EPA estimates that in 2025, the illustrative compliance approach for Option 2 in Guam and Puerto Rico will yield monetized climate benefits of approximately $99 million with a 3 percent model average (2011$). The annual illustrative compliance costs result in a net savings of approximately $190 million (2011$) in 2025, including reduced fuel expenditures associated with energy efficiency programs and re-dispatch.

For Guam and Puerto Rico, the EPA estimates that in 2020, the illustrative compliance approach for Option 1—Approach B will yield monetized climate benefits of approximately $77 million with a 3 percent model average (2011$). The annual illustrative compliance costs are a savings of approximately $140 million (2011$) in 2020. The EPA estimates that in 2030, the illustrative compliance approach for Option 1—Approach B in Guam and Puerto Rico will yield monetized climate benefits of approximately $180 million with a 3 percent model average (2011$). The annual illustrative compliance costs are a savings of approximately $360 million (2011$) in 2030. For Option 2—Approach B, the illustrative compliance approach for Guam and Puerto Rico will yield monetized climate benefits of approximately $73 million with a 3 percent model average (2011$) in 2020. The annual illustrative compliance costs are a savings of approximately $130 million (2011$) in 2020. The EPA estimates that in 2025, the illustrative compliance approach for Option 2 in Guam and Puerto Rico will yield monetized climate benefits of approximately $110 million with a 3 percent model average (2011$). The annual illustrative compliance costs result in a net savings of approximately $200 million (2011$) in 2025, including reduced fuel expenditures associated with energy efficiency programs and re-dispatch.

The EPA does not expect any additional benefits associated with compliance for areas of Indian country with affected EGUs, as the benefits for meeting the proposed goals for the lands of the Fort Mojave Tribe and the Ute Tribe of the Uintah and Ouray Reservation were already accounted for in the June 18, 2014, proposal, and the goal for the lands of the Navajo Nation is expected to be met without any further action beyond the shutdowns that are occurring.

### *B. Paperwork Reduction Act*

The information collection requirements in this proposed rule have been submitted for approval to OMB under the PRA, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by the EPA has been assigned the EPA ICR number 2503.02.

This proposal does not directly impose specific requirements on EGU sources, including those located in U.S. territories and in Indian country. The proposal also does not impose specific requirements on tribal governments that have affected EGUs located in their area of Indian country. For Indian country, the proposal establishes $CO_2$ emission performance goals that could be addressed through either tribal or federal plans. A tribe would have the opportunity under the TAR, but not the obligation, to apply to the EPA for TAS for purposes of a CAA section 111(d) plan and, if approved by the EPA, to establish a CAA section 111(d) plan for its area of Indian country. To date, no tribe has requested or obtained TAS eligibility for purposes of a CAA section 111(d) plan. For areas of Indian country

[44] More details about the health benefits associated with reductions in $PM_{2.5}$, $SO_2$ and $NO_X$ can be found in the RIA for the June 18, 2014, proposal.

with affected sources where a tribe has not applied for TAS and submitted any needed plan, if the EPA determines that a CAA section 111(d) plan is necessary or appropriate, the EPA would have the responsibility to establish the plans. Because tribes are not required to implement section 111(d) plans and because no tribe has yet sought TAS eligibility for this purpose, this proposed action is not anticipated to impose any information collection burden on tribal governments over the 3-year period covered by this ICR.

This proposal does impose specific requirements on U.S. territory governments that have affected EGUs. Their information collection requirements are based on the recordkeeping and reporting burden associated with the requirement that the two affected U.S. territories (i.e., Puerto Rico and Guam) develop, implement and enforce a plan to limit $CO_2$ emissions from existing sources in the power sector within those U.S. territories. 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.

The annual burden for this collection of information for the territories (averaged over the first 3 years following promulgation of this proposed action) is estimated to be 29,200 hours at a total annual labor cost of $2.07 million. The total annual burden for the federal government (averaged over the first 3 years following promulgation of this proposed action) is estimated to be 2,530 hours at a total annual labor cost of $141,000. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 No. EPA–HQ–OAR–2013–0602. Submit any comments related to the ICR to the EPA and to OMB. See the **ADDRESSES** section at the beginning of this action 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 Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after November 4, 2014, a comment to OMB is best assured of having its full effect if OMB receives it by December 4, 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 that is defined by the Small Business Administration's (SBA's) regulations at 13 CFR 121.201 (for the electric power generation industry, the small business size standard is an ultimate parent entity with less than 750 employees). The North American Industry Classification System (NAICS) codes for the affected industry are in Table 11 below); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

TABLE 11—POTENTIALLY REGULATED CATEGORIES AND ENTITIES [a]

| Category | NAICS code | Examples of potentially regulated entities |
|---|---|---|
| Industry | 221112 | Fossil fuel electric power generating units. |
| State/Territorial/Local Government | [b] 221112 | Fossil fuel electric power generating units owned by municipalities. |

[a] Include NAICS categories for source categories that own and operate electric power generating units (includes boilers and stationary combined cycle combustion turbines).

[b] State, territory or local government-owned and operated establishments are classified according to the activity in which they are engaged.

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.

The proposed rule will not impose any requirements on small entities. Specifically, emission guidelines established under CAA section 111(d) do not impose any requirements on regulated entities and, thus, will not have a significant economic impact upon a substantial number of small entities. After emission guidelines are promulgated, each affected U.S. territory establishes standards on existing sources, and it is those requirements that could potentially impact small entities. Our analysis here is consistent with the analysis of the analogous situation arising when the EPA establishes national ambient air quality standards (NAAQS), which do not impose any requirements on regulated entities. As here with regard to U.S. territories, any impact of a NAAQS on small entities would only arise when states take subsequent action to maintain and/or achieve the NAAQS through their state implementation plans. See *American Trucking Assoc.* v. *EPA,* 175 F.3d 1029, 1043–45 (D.C. Cir. 1999) (NAAQS do not have significant

impacts upon small entities because NAAQS themselves impose no regulations upon small entities).

Nevertheless, the EPA is aware that there is substantial interest in the proposed rule among small entities. As detailed in section II.D of this supplemental proposal and section III.A of the preamble to the proposed carbon pollution emission guidelines for existing EGUs (79 FR 34845–34847, June 18, 2014), the EPA has conducted an unprecedented amount of stakeholder outreach on setting emission guidelines for existing EGUs. While formulating the provisions of the June 18, 2014, proposed rule, as well as this proposed rule, the EPA considered the input provided over the course of the stakeholder outreach. Sections II.D and VI.F of this supplemental proposal and section III.B of the preamble to the June 18, 2014, proposal (79 FR 34847) describe the key issues and messages from stakeholders. The EPA invites comments on all aspects of this proposal and its impacts, including potential impacts on small entities.

*D. Unfunded Mandates Reform Act*

This proposed action does not contain a federal mandate that may result in expenditures of $100 million or more for state,[45] local and tribal governments, in the aggregate, or the private sector in any one year. The emission guidelines proposed under CAA section 111(d) do not impose any direct compliance requirements on EGU sources. As explained in section VI.B above, the proposal also does not impose specific requirements on tribal governments that have affected EGUs located in their area of Indian country. The proposal does impose specific requirements on U.S. territory governments that have affected EGUs. Specifically, the U.S. territories are required to develop plans to implement the guidelines under CAA section 111(d) for affected EGUs. The burden for U.S. territories to develop CAA section 111(d) plans in the 3-year period following promulgation of the rule was estimated and is listed in section VI.B above, but this burden is estimated to be below $100 million in any one year. Thus, this proposed rule is not subject to the requirements of section 202 or section 205 of the UMRA.

This proposed rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Specifically, the governments with affected EGUs for which this action proposes specific requirements (i.e., the U.S. territories of Puerto Rico and Guam) are not considered small governments.

In light of the interest among governmental entities, the EPA initiated outreach with U.S. territory and tribal governmental entities while formulating the provisions of this proposed rule. Section III.A of the preamble to the proposed carbon pollution emission guidelines for existing EGUs (79 FR 34845–34847, June 18, 2014) describes the extensive stakeholder outreach the EPA has conducted on setting emission guidelines for existing EGUs. Section II.D of this supplemental proposal details the specific outreach that the EPA conducted to the U.S. territories with potentially affected EGUs. In addition, section VI.F of this supplemental proposal and section XI.F of the preamble to the June 18, 2014, proposed rule describe outreach to tribes and consultation with tribal officials. The EPA considered the input provided over the course of its stakeholder outreach developing the provisions of these proposed emission guidelines.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Executive Order 13132 applies only to states, whereas this action proposes emission performance goals covering affected power plants located in the U.S. territories and in specified areas of Indian country.[46] Thus, Executive Order 13132 does not apply to this action.

Nevertheless, as described in section II.D of this supplemental proposal and section III.A of the preamble to the proposed carbon pollution emission guidelines for existing EGUs (79 FR 34845–34847, June 18, 2014), the EPA has conducted an unprecedented amount of stakeholder outreach on setting emission guidelines for existing EGUs. Section II.D of this supplemental proposal details the outreach that the EPA conducted to the U.S. territories with potentially affected EGUs. In addition, section VI.F of this supplemental proposal and section XI.F of the preamble to the June 18, 2014, proposed rule describe outreach to tribes and consultation with tribal officials.

In the spirit of Executive Order 13132, and consistent with the EPA's policy to promote communications between the EPA and State and local governments, the EPA welcomes comment on this proposed action from U.S. territory and tribal officials.

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

Subject to Executive Order 13175 (65 FR 67249, November 9, 2000) the EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs on tribal governments and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or the EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

The EPA has concluded that this action may have tribal implications. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Tribes are not required to develop or adopt CAA programs, but they may apply to the EPA for TAS and, if approved, do so. Tribes are not required to develop plans to implement the guidelines under CAA section 111(d) for affected EGUs in their areas of Indian country. To the extent that a tribal government seeks and attains TAS status for that purpose, these proposed emission guidelines would require that planning requirements be met and emission management implementation plans be executed by the tribes. The EPA notes that this proposal does not directly impose specific requirements on affected EGUs, including those located in Indian country, but provides guidance to any tribe approved by the EPA to address $CO_2$ emissions from EGU sources found subject to section 111(d) of the CAA. The EPA also notes that none of the affected EGUs are owned or operated by tribal governments.

The June 18, 2014, proposed rule and this supplemental proposal were developed after extensive and vigorous outreach to stakeholders, including tribes. Tribes were invited to participate in the national informational webinar, ''Building a Common Understanding:

[45] ''State'' is defined under the Unfunded Mandates Reform Act (UMRA) as ''a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency, instrumentality, or fiscal agent of a State but does not mean a local government of a State.''

[46] ''State'' or ''States'' are defined under Executive Order 13132 as ''the States of the United States of America, individually or collectively, and, where relevant, to State governments, including units of local government and other political subdivisions established by the States.''

Clean Air Act and Upcoming Carbon Pollution Guidelines for Existing Power Plants,'' held August 27, 2013. The EPA also held a series of listening sessions prior to development of this proposed action. Tribes participated in a session on September 9, 2013, together with the state agencies, as well as in a separate tribe-only session on September 26, 2013. In addition, an outreach meeting was held on September 9, 2013, with tribal representatives from some of the 566 tribes.

As part of the outreach to tribes, EPA representatives also met with tribal environmental staff with the National Tribal Air Association, by teleconference, on July 25, 2013, December 19, 2013, June 26, 2014, and webinars on August 4, 2014, and September 5, 2014. In those teleconferences and webinars, the EPA provided background information on the GHG emission guidelines to be developed and a summary of issues being explored by the agency. Tribes have expressed varied points of view. Some tribes raised concerns about the impacts of the regulations on EGUs and the subsequent impact on jobs and revenue for their tribes. Other tribes expressed concern about the impact the regulations would have on the cost of water to their communities as a result of increased costs to the EGU that provide energy to transport the water to the tribes. Other tribes raised concerns about the impacts of climate change on their communities, resources, ways of life and hunting and treaty rights. The tribes were also interested in the scope of the guidelines being considered by the agency (e.g., over what time period, relationship to state and multi-state plans) and how tribes will participate in these planning activities.

The EPA conducted outreach to tribal environmental staff and offered consultation with tribal officials in developing this action. Because this supplemental proposal would affect sources located within Indian country, the EPA offered consultation with tribal officials early in the process of developing the proposed regulation to permit tribes to have meaningful and timely input into its development. The EPA sent consultation letters to the leaders of all of the federally recognized tribes. The letters provided information regarding the EPA's development of emission guidelines for existing power plants and offered consultation. The EPA held a consultation with the Ute Tribe, the Crow Nation, and the MHA Nation on July 18, 2014. On August 22, 2014, the EPA held a consultation with the Fort Mojave Tribe. On September 15, 2014, the EPA held a consultation with the Navajo Nation. The Navajo Nation sent a letter to the EPA on September 18, 2014, summarizing the information presented at the consultation and the Navajo Nation's position on this supplemental proposal. One issue raised by tribal officials was the potential impacts of the June 18, 2014, proposal and this supplemental proposal on tribes with budgets that are dependent on revenue from coal mines and power plants, as well as employment at the mines and power plants. The tribes noted the high unemployment rates and lack of access to basic services on their lands. Tribal officials also asked whether the rules will have any impact on a tribe's ability to seek TAS. Tribal officials also expressed interest in agency actions with regard to facilitating power plant compliance with regulatory requirements. The Navajo Nation made the following recommendations in their letter of September 18, 2014: The Navajo Nation supports a mass-based $CO_2$ emission standard based on the highest historical $CO_2$ emissions since 1996; the Navajo Nation requests that the EPA grant the Navajo Nation carbon credits and that the Navajo Nation retains ownership and control of such credits; building block 2 is not appropriate for the Navajo Nation because there are no NGCC plants located on the Navajo Nation; building block 3 is not appropriate for the Navajo Nation because the Navajo people already receive virtually all of their electricity from carbon-free sources (mostly hydroelectric power) and their use of electricity is negligible compared to the generation at the power plants; building block 4 is not appropriate for the Navajo Nation because of the inadequate access to electricity, and the goal should allow for an increase in energy consumption on the Navajo Nation; the supplemental proposal should consider the useful life of the power plants located on the Navajo Nation; and the supplemental proposal should clarify that RE projects located within the Navajo Nation that provide electricity outside the Navajo Nation should be counted toward meeting the relevant state's RE goals under the Clean Power Plan.

The EPA will continue the ongoing dialogue with tribal officials regarding this proposed action. During the public comment period for this proposal, the EPA will hold meetings with tribal environmental staff to inform them of the content of this proposal, as well as offer further consultation with tribal elected officials, where it is appropriate. 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*

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not involve decisions on environmental health or safety risks that may disproportionately affect children. The EPA believes that the $CO_2$ emission reductions resulting from implementation of the proposed guidelines, as well as substantial $O_3$ and $PM_{2.5}$ emission reductions as a co-benefit, would further improve children's health.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. Affected EGUs in one area of Indian country are expected to meet the proposed goal based on compliance with other regulations; the impacts of meeting the proposed goals for the other two areas of Indian country were already accounted for in the June 18, 2014, proposal. In U.S. territories, the EPA anticipates a small degree of re-dispatch from coal- and oil-fired generation to natural gas-fired generation. It is possible that some portion of this shift away from coal- and oil-fired generation may occur in the absence of the rule, due primarily to the relatively high cost of petroleum-based fuel and electricity in these areas. For example, PREPA plans to add natural gas capacity at existing petroleum-burning plants. Additionally, both Guam and Puerto Rico are implementing Renewable Portfolio Standards programs which may contribute to implementing these goals at a different cost than projected in the RIA. The ''Technical Support Document for Calculating Carbon Pollution Goals for Existing Power Plants in U.S. Territories and Areas of Indian Country'' provides additional information about PREPA's planned expansion of natural gas electricity generation and the Guam and Puerto Rico Renewable Portfolio Standards programs. The EPA does not account for

these existing trends in this analysis due to data limitations. Additionally, since the EPA estimated these impacts without the use of an economic dispatch model, the EPA is potentially overstating the costs of implementation in these areas.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory and procurement 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 one or more VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency does not use available and applicable VCS. This proposed rulemaking does not involve technical standards.

The EPA welcomes comments on this aspect of the proposed rulemaking and specifically invites the public to identify potentially-applicable VCS and to explain why such standards should be used in this action.

*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 U.S.

Section II.A of the preamble to the proposed carbon pollution emission guidelines for existing EGUs (79 FR 34841–34843, June 18, 2014) summarizes the public health and welfare impacts from GHG emissions that were detailed in the 2009 Endangerment Finding under CAA section 202(a)(1).[47] As part of the Endangerment Finding, the Administrator considered climate change risks to minority or low-income populations, finding that certain parts of the population may be especially vulnerable based on their circumstances. These include the poor, the elderly, the very young, those already in poor health, the disabled, those living alone, and/or indigenous populations dependent on one or a few resources. The Administrator placed weight on the fact that certain groups, including children, the elderly and the poor, are most vulnerable to climate-related health effects.

Strong scientific evidence that the potential impacts of climate change raise environmental justice issues is found in the major assessment reports by the U.S. Global Change Research Program, the Intergovernmental Panel on Climate Change and the National Research Council of the National Academies, summarized in the record for the Endangerment Finding. Their conclusions include that poor communities can be especially vulnerable to climate change impacts because they tend to have more limited adaptive capacities and are more dependent on climate-sensitive resources such as local water and food supplies. In addition, Native American tribal communities possess unique vulnerabilities to climate change, particularly those on established reservations that are restricted to reservation boundaries and, therefore, have limited relocation options. Tribal communities whose health, economic well-being and cultural traditions depend upon the natural environment will likely be affected by the degradation of ecosystem goods and services associated with climate change. Southwest native cultures are especially vulnerable to water quality and availability impacts. Native Alaskan communities are likely to experience disruptive impacts, including shifts in the range or abundance of wild species crucial to their livelihoods and well-being. The most recent assessments continue to strengthen scientific understanding of climate change risks to minority and low-income populations.

This proposed rule would limit GHG emissions by establishing $CO_2$ emission guidelines for use in developing CAA section 111(d) plans to address $CO_2$ emissions from affected EGUs. In addition to reducing $CO_2$ emissions, implementing the proposed rule through the development of CAA section 111(d) plans would reduce other emissions from EGUs that become dispatched less frequently due to their relatively low energy efficiency. These emission reductions will include $SO_2$ and $NO_X$, which form ambient $PM_{2.5}$ and $O_3$ in the atmosphere, and HAP, such as Hg and HCl. In the final rule revising the annual $PM_{2.5}$ NAAQS,[48] the EPA identified persons with lower socioeconomic status as an at-risk population for experiencing adverse health effects related to PM exposures. Persons with lower socioeconomic status have been generally found to have a higher prevalence of pre-existing diseases, limited access to medical treatment, and increased nutritional deficiencies, which can increase this population's risk to PM-related and $O_3$-related effects.[49] Therefore, in areas where this rulemaking ultimately results in reductions in exposure to $PM_{2.5}$, $O_3$ and methylmercury, persons with low socioeconomic status would also benefit. The RIA for this rulemaking, included in the docket for this rulemaking, provides additional information regarding the health and ecosystem effects associated with these emission reductions.

While there will be many locations with improved air quality for $PM_{2.5}$, $O_3$ and HAP, there may also be EGUs whose emissions of one or more of these pollutants or their precursors increase as a result of implementation of the proposed emission guidelines for existing fossil fuel-fired EGUs. This may occur at EGUs that become dispatched more intensively than in the past because they become more energy efficient. The EPA has considered the potential for such increases and the environmental justice implications of such increases.

As noted in the preamble for the June 18, 2014, proposal, as part of a jurisdiction's CAA section 111(d) plan, the jurisdiction may require an affected EGU to undertake physical or operational changes to improve the EGU's efficiency that result in an increase in the EGU's dispatch and an increase in its annual emissions of GHGs and/or other regulated pollutants. However, a jurisdiction can take steps to avoid increased utilization of particular EGUs and emissions of regulated pollutants whose environmental effects would be more localized around the affected EGU. To the extent that jurisdictions take this path, there would be no new environmental justice concerns in the areas near such EGUs.

[47] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," 74 FR 66496 (Dec. 15, 2009) ("Endangerment Finding").

[48] "National Ambient Air Quality Standards for Particulate Matter, Final Rule," 78 FR 3086 (Jan. 15, 2013).

[49] U.S. Environmental Protection Agency (U.S. EPA). 2009. *Integrated Science Assessment for Particulate Matter (Final Report).* EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. December. Available on the Internet at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546.*

In addition, the applicable jurisdiction or federal permitting program can adjust its CAA section 111(d) plan to ensure that there are no new NAAQS exceedances and that no existing NAAQS exceedances are made worse. For those EGUs in a permitting situation for which the EPA is the permit reviewing authority, the EPA will consider environmental justice issues as required by Executive Order 12898.

In addition to some EGUs possibly being required by a jurisdiction to make modifications for increased energy efficiency, another potential effect of the proposed $CO_2$ emission guidelines for existing fossil fuel-fired EGUs would be increased utilization of other, unmodified EGUs with relatively low GHG emissions per unit of electrical output, in particular high efficiency gas-fired EGUs. Such plants would have more hours in the year in which they operate and emit pollutants, including pollutants whose environmental effects if any would be localized rather than global as is the case with GHG emissions. Changes in utilization already occur now as demands for and sources of electrical energy evolve, but the proposed $CO_2$ emission guidelines for existing fossil fuel-fired EGUs can be expected to cause more such changes. Because gas-fired EGUs emit essentially no Hg, increased utilization would not increase methylmercury concentrations in their vicinities. Increased utilization generally would not cause higher peak concentrations of $PM_{2.5}$, $NO_X$ or $O_3$ around such EGUs than is already occurring because peak hourly or daily emissions generally would not change, but increased utilization may make periods of relatively high concentrations more frequent. It should be noted that the gas-fired sources that are likely to become dispatched more frequently than at present have very low emissions of primary PM, $SO_2$ and HAP per unit of electrical output, such that local (or regional) air quality for these pollutants is likely to be affected very little. For natural gas-fired EGUs, the EPA found that regulation of HAP emissions ''is not appropriate or necessary because the impacts due to HAP emissions from such EGUs are negligible based on the results of the study documented in the utility RTC [response to comments].'' [50] In studies done by the U.S. Department of Energy's National Energy Technology Laboratory comparing cost and performance of coal- and natural gas-fired generation, they assumed $SO_2$, PM (and Hg) emissions to be ''negligible.'' Their studies predict $NO_X$ emissions from a NGCC unit to be approximately 10 times lower than a subcritical or supercritical coal-fired boiler. Many are also very well controlled for emission of $NO_X$ through the application of after combustion controls such as selective catalytic reduction, although not all gas-fired sources are so equipped. Depending on the specificity of the jurisdiction's CAA section 111(d) plan, the jurisdiction may be able to predict which EGUs and communities may be in this type of situation and to address any concerns about localized $NO_X$ concentrations in the design of the CAA section 111(d) program, or separately from the CAA section 111(d) program but before its implementation. In any case, existing tracking systems will allow jurisdictions and the EPA to be aware of the EGUs whose utilization has increased most significantly, and, thus, to be able to prioritize our efforts to assess whether air quality has changed in the communities in the vicinity of such EGUs. There are multiple mechanisms in the CAA to address situations in which air quality has degraded significantly. In conclusion, this proposed rule would result in regional and national pollutant reductions; however, there likely would also be some locations with more times during the year of relatively higher concentrations of pollutants with potential for effects on localized communities than would be experienced in the absence of the proposed rule. The EPA cannot exactly predict how emissions from specific EGUs would change as an outcome of the proposed rule due to the jurisdiction-led implementation. Therefore, the EPA has concluded that it is not practicable to determine whether there would be disproportionately high and adverse human health or environmental effects on minority, low income or indigenous populations from this proposed rule.

In order to provide opportunities for meaningful involvement early on in the rule making process, the EPA has hosted webinars and conference calls on August 27, 2013, and September 9, 2013, for the June 18, 2014, proposal specifically for environmental justice and tribal communities and has taken all comments and suggestions into consideration in the design of the emission guidelines. Additionally, after the June 18, 2014, rule was proposed, the EPA hosted public hearings in Denver, Colorado, Atlanta, Georgia, Washington, DC and Pittsburgh, Pennsylvania, from July 29–August 1, 2014. Additionally, as referenced in the public hearing section of this proposal, the EPA will also be holding a public hearing on this supplemental proposal. Also, as part of the outreach conducted for the Clean Power Plan, the EPA has created interactive maps that provide the locations of fossil fuel fired power plants covered by the proposed Clean Power Plan and summaries that describe each area's power sector $CO_2$ emission rates (using 2012 data) and each area's proposed emission rate goal. These interactive maps are available at: *http://cleanpowerplanmaps.epa.gov/CleanPowerPlan/*. Additionally, the public is invited to submit comments or identify peer-reviewed studies and data that assess effects of exposure to the pollutants addressed by this proposal.

## VII. Statutory Authority

The statutory authority for this action is provided by sections 111, 301, 302, and 307(d)(1)(V) of the CAA, as amended (42 U.S.C. 7411, 7601, 7602, 7607(d)(1)(V)). This action is also subject to section 307(d) of the CAA (42 U.S.C. 7607(d)).

## Proposed Rule Amendment With Changes

To facilitate understanding of the amendments to the proposed subpart UUUU being proposed in this action, the EPA is providing a Technical Support Document in the docket for this rulemaking that shows in track changes the proposed amendments to the text of the proposed subpart UUUU in the June 18, 2014, **Federal Register** publication.

## List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 28, 2014.

**Gina McCarthy,**

*Administrator.*

For the reasons stated in the preamble, title 40, chapter I, part 60 of the Code of the Federal Regulations, as proposed to be amended at 79 FR 34830, June 18, 2014, is proposed to be further amended as follows:

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

[50] 65 FR 79831.

## Subpart UUUU—Emission Guidelines for Greenhouse Gas Emissions and Compliance Times for Electric Utility Generating Units

■ 2. Revise § 60.5710 to read as follows:

### § 60.5710 Am I affected by this subpart?

If you are the Administrator of an air quality program of a state, the Commonwealth of Puerto Rico, Guam and any other United States' territory, or an Indian tribe that has been approved by EPA pursuant to 40 CFR 49.9 as eligible to administer this subsection (hereinafter a state) in state with one or more affected EGUs that commenced construction on or before January 8, 2014, you must submit a state plan to the U.S. Environmental Protection Agency (EPA) that implements the emission guidelines contained in this subpart. You must submit a negative declaration letter in place of the state plan if there are no affected EGUs for which construction commenced on or before January 8, 2014 in your state.

■ 3. Amend Table 1 to Subpart UUUU of Part 60—State Rate-Based $CO_2$ Emission Performance Goals (Pounds of $CO_2$ per net MWh)by adding entries for Puerto Rico, Guam, Lands of the Navajo Nation, Lands of the Ute Tribe of the Uintah and Ouray Reservation, and Lands of the Fort Mojave Tribe to the end as follows:

TABLE 1 TO SUBPART UUUU OF PART 60—STATE RATE-BASED $CO_2$ EMISSION PERFORMANCE GOALS

[Pounds of $CO_2$ per net MWh]

| State | Interim goal | Final goal |
|---|---|---|
| * * * * * * * | | |
| Puerto Rico | 1,470 | 1,413 |
| Guam | 1,733 | 1,586 |
| Lands of the Navajo Nation | 1,991 | 1,989 |
| Lands of the Ute Tribe of the Uintah and Ouray Reservation | 2,000 | 1,988 |
| Lands of the Fort Mojave Tribe | 856 | 855 |

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Part III

## Department of Transportation

Federal Aviation Administration

14 CFR Parts 25 and 33

Airplane and Engine Certification Requirements in Supercooled Large Drop, Mixed Phase, and Ice Crystal Icing Conditions; Final Rule

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 25 and 33**

**[Docket No. FAA–2010–0636; Amendment Nos. 25–140 and 33–34]**

**RIN 2120–AJ34**

# Airplane and Engine Certification Requirements in Supercooled Large Drop, Mixed Phase, and Ice Crystal Icing Conditions

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Aviation Administration is amending the airworthiness standards applicable to certain transport category airplanes certified for flight in icing conditions and the icing airworthiness standards applicable to certain aircraft engines. The regulations will improve safety by addressing supercooled large drop icing conditions for transport category airplanes most affected by these icing conditions; mixed phase and ice crystal conditions for all transport category airplanes; and supercooled large drop, mixed phase, and ice crystal icing conditions for all turbojet, turbofan, and turboprop engines.

**DATES:** Effective January 5, 2015.

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

**FOR FURTHER INFORMATION CONTACT:** For part 25 technical questions contact Robert Hettman, FAA, Propulsion/Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2683; facsimile (425) 227–1320; email *robert.hettman@faa.gov.*

For part 33 technical questions contact John Fisher, FAA, Rulemaking and Policy Branch, ANE–111, Engine and Propeller Directorate Standards Staff, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7149; facsimile (781) 238–7199; email *john.fisher@faa.gov.*

For part 25 legal questions contact Douglas Anderson, FAA, Office of the Regional Counsel, ANM–7, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2166; facsimile (425) 227–1007; email *douglas.anderson@faa.gov.*

For part 33 legal questions contact Vince Bennett, FAA, Office of the Regional Counsel, ANE–007, New England Region, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7044; facsimile (781) 238–7055; email *vincent.bennett@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety for the design and performance of aircraft; regulations and minimum standards in the interest of safety for inspecting, servicing, and overhauling aircraft; and regulations for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it prescribes—

- New safety standards for the design and performance of certain transport category airplanes and aircraft engines; and
- New safety requirements necessary for the design, production, and operation of those airplanes, and for other practices, methods, and procedures relating to those airplanes and engines.

## Overview of Final Rule

The FAA is adopting this final rule to revise certain regulations in Title 14, Code of Federal Regulations (14 CFR) part 25 (Airworthiness Standards: Transport Category Airplanes) and part 33 (Airworthiness Standards: Aircraft Engines) related to the certification of transport category airplanes and turbine airplane engines in icing conditions. We are also creating the following new regulations: § 25.1324—Angle of attack systems; § 25.1420—Supercooled Large Drop Icing Conditions; Appendix O to Part 25—Supercooled Large Drop Icing Conditions; Appendix C to Part 33 (this is intentionally left blank as a placeholder for potential future rulemaking unrelated to icing); and Appendix D to Part 33 Mixed Phase and Ice Crystal Icing Envelope (Deep Convective Clouds). To improve the safety of transport category airplanes operating in supercooled large drop (SLD), mixed phase, and ice crystal icing conditions, these regulations will:

- Require airplanes most affected by SLD icing conditions to meet certain safety standards in an expanded certification icing environment that includes freezing drizzle and freezing rain. These safety standards include airplane performance and handling qualities requirements.
- Expand the engine and engine installation certification, and some airplane component certification regulations (for example, angle of attack and airspeed indicating systems) to include freezing drizzle, freezing rain, mixed phase, and ice crystal icing conditions.

## Summary of the Costs and Benefits of the Final Rule

The benefits and costs are summarized in the table below. As shown in the table, the total estimated benefits exceed the total estimated costs for this final rule.

| | 2012$ | | 7% Present value | |
|---|---|---|---|---|
| | Benefit | Cost | Benefit | Cost |
| Part 33 Engines | Qualitative | $13,936,000 | Qualitative | $11,375,927 |
| Large Part 25 Airplanes | $362,319,857 | 14,126,333 | $76,861,295 | $11,531,295 |
| Other Part 25 Airplanes | $220,570,582 | 33,198,788 | $50,028,690 | $19,385,401 |
| Total | $582,890,439 | 61,261,121 | $126,889,985 | $42,292,624 |

**Background**

Safety concerns about the adequacy of the icing certification standards were brought to the forefront of public and governmental attention by a 1994 accident in Roselawn, Indiana, involving an Avions de Transport Régional (ATR) ATR 72 series airplane. The National Transportation Safety Board (NTSB), with assistance from ATR, the FAA, the French Direction Général de l'Aviation Civile, Bureau D'Enquetes et D'Analyses, the National Aeronautics and Space Administration (NASA), and others, conducted an extensive investigation of this accident. This investigation determined that freezing drizzle-sized drops created a ridge of ice on the wing's upper surface aft of the deicing boots and forward of the ailerons. The investigation further concluded that this ridge of ice contributed to an uncommanded roll of the airplane. Based on these findings, the NTSB recommended changes to the icing certification requirements.

The atmospheric icing conditions for certification are specified in part 25, appendix C. The atmospheric condition (freezing drizzle) that contributed to the Roselawn accident is outside the icing envelope currently used for certifying transport category airplanes. The term ''icing envelope'' is used in part 25, appendix C, and in this rule to refer to the environmental icing conditions within which the airplane must be shown to be able to safely operate. The term ''transport category airplanes'' is used throughout this rulemaking document to include all airplanes type-certificated to part 25 regulations.

Another atmospheric icing environment outside the current icing envelope is freezing rain. The FAA has not required airplane manufacturers to show that airplanes can operate safely in a freezing drizzle or freezing rain icing environment.

As a result of this accident and consistent with related NTSB recommendations,[1] the FAA tasked the Aviation Rulemaking Advisory Committee (ARAC),[2] through its Ice Protection Harmonization Working Group (IPHWG), to do the following:

- Define an icing environment that includes SLD conditions.
- Consider the need to define a mixed phase icing environment (supercooled liquid and ice crystals).
- Devise requirements to assess the ability of an airplane to either safely operate without restrictions in SLD and mixed phase conditions or safely operate until it can exit these conditions.
- Study the effects icing requirement changes could have on §§ 25.773, *Pilot compartment view;* 25.1323, *Airspeed indicating system;* and 25.1325, *Static pressure systems.*
- Consider the need for a regulation on ice protection for angle of attack probes.

The FAA ultimately determined that the revised icing certification standards should include SLD, mixed phase, and ice crystal icing conditions. This rule is based on ARAC's recommendations to the FAA.

*A. Related Actions*

ARAC's IPHWG submitted additional icing rulemaking recommendations to the FAA that led to the Part 25 and Part 121 Activation of Ice Protection final rules.[3] For certain airplanes certificated for flight in icing, those rulemaking actions revise the certification and operating rules for flight in icing conditions by requiring either installation of ice detection equipment or changes to the airplane flight manual (AFM) to ensure timely activation of the airframe ice protection system. Although those rulemaking actions address flight in icing conditions, they do not directly impact this final rule.

*B. NTSB Recommendations*

The NTSB issued NTSB Safety Recommendation Numbers A–96–54 and A–96–56 as a result of the Roselawn accident previously discussed. This rulemaking partially addresses those NTSB recommendations. The FAA is considering separate rulemaking activities associated with revisions to 14 CFR part 23 regulations for small airplanes and 14 CFR part 121 operational regulations to complete the FAA response to these NTSB recommendations. The NTSB recommendations are as follows:

1. A–96–54

Revise the icing criteria published in 14 CFR parts 23 and 25, in light of both recent research into aircraft ice accretion under varying conditions of liquid water content (LWC), drop size distribution, and temperature, and recent developments in both the design and use of aircraft. Also, expand the appendix C icing certification envelope to include freezing drizzle/freezing rain and mixed water/ice crystal conditions, as necessary (A–96–54 supersedes A–81–116 and –118).

2. A–96–56

Revise the icing certification testing regulation to ensure that airplanes are properly tested for all conditions in which they are authorized to operate, or are otherwise shown to be capable of safe flight into such conditions. If safe operations cannot be demonstrated by the manufacturer, operational limitations should be imposed to prohibit flight in such conditions, and flightcrews should be provided with the means to positively determine when they are in icing conditions that exceed the limits for aircraft certification.

*C. Summary of the Notice of Proposed Rulemaking*

The notice of proposed rulemaking (NPRM), Notice No. 10–10, published in the **Federal Register** on June 29, 2010 (75 FR 37311), is the basis for this final rule. After receiving several requests to extend the public comment period, the FAA extended the comment period by 30 days to September 29, 2010, with a document published in the **Federal Register** on August 16, 2010 (75 FR 49865).

To improve the safety of transport category airplanes operating in SLD, mixed phase, and ice crystal icing conditions, the FAA proposed new regulations in the NPRM to:

- Expand the certification icing environment to include freezing drizzle and freezing rain environments.
- Require airplanes most affected by SLD icing conditions to meet certain safety standards in the expanded certification icing environment, including airplane performance and handling qualities requirements.
- Expand the engine and engine installation certification regulations, and some airplane component certification regulations (for example, angle of attack and airspeed indicating systems), to include freezing rain environments, freezing drizzle environments, mixed phase, and ice crystal icing conditions. For certain regulations, we proposed using a subset of these icing conditions.

*D. General Overview of Comments*

The FAA received comments from 31 commenters during the public comment period: Five private citizens, the Aerospace Industries Association (AIA), Airbus Industrie (Airbus), AirDat LLC, the Airline Pilots Association (ALPA),

[1] NTSB Safety Recommendations A–96–54 and A–96–56 are available in the rule Docket No. FAA–2010–0636 and on the Internet at *http://www.ntsb.gov/doclib/recletters/1996/A96_48_69.pdf.*

[2] Published in the **Federal Register** on December 8, 1997 (62 FR 64621). *http://www.gpo.gov/fdsys/pkg/FR-1997-12-08/pdf/97-32034.pdf.*

[3] *Part 25 Activation of Ice Protection,* Docket No. FAA–2007–27654, published in the **Federal Register** on August 3, 2009 (74 FR 38328). *Part 121 Activation of Ice Protection,* Docket No. FAA–2009–0675, published in the **Federal Register** on August 22, 2011 (76 FR 52241).

American Kestrel Company, LLC, (AKC), The Boeing Company, Bombardier, Cessna, Dassault Aviation, Embraer, Eurocopter, the European Aviation Safety Agency (EASA), Foster Technology, LLC, the General Aviation Manufacturers Association (GAMA), GE Aviation, Gulfstream, Goodrich Sensors and Integrated Systems (GSIS), Honeywell Engines, the National Research Council (NRC), the NTSB, Pratt & Whitney Canada, the Regional Airline Association (RAA), the Swiss Federal Office of Civil Aviation (FOCA), Snecma, Transport Canada Civil Aviation (TCCA), and Turbomeca. Each commenter submitted multiple comments.

Twelve commenters stated specific support for the rulemaking, recognized the efforts made by the ARAC working group, and suggested specific changes intended to clarify the regulations or to clarify the intent. The NTSB and two private citizens were disappointed that the rulemaking took so long.

Fourteen commenters stated neither support nor opposition, but suggested specific changes or identified areas for clarification.

Two commenters, a rotorcraft manufacturer and a rotorcraft engine manufacturer, opposed the proposed changes to §§ 33.68 and 33.77. These commenters suggested the FAA make provisions to exclude rotorcraft from the revised regulations.

Two private citizens expressed concern for the data and methods used to define the SLD conditions proposed in part 25, appendix O.

One commenter suggested that the FAA should begin a certification process toward use of a new methodology for detecting ice over a pitot inlet, for which the commenter has filed a provisional patent.

The FAA received additional comments in a letter dated June 21, 2011, signed by four private citizens. The letter provided additional explanation for previously submitted comments. The FAA also considered this additional information while drafting this final rule.

The FAA made changes to the final rule in response to the public comments. Summaries of the issues raised by the public comments and FAA responses, including explanations of changes, are provided below. The full text of each commenter's submission is available in the docket for this rulemaking.

**Discussion of Public Comments and Final Rule**

*Proposed Appendix O to Part 25*

In the NPRM, the FAA proposed to expand the existing icing conditions identified in appendix C of part 25 to include new SLD icing conditions defined in a new appendix O. The FAA made changes to appendix O as a result of comments received, but the general format remains unchanged. Appendix O is structured like part 25, appendix C, with part I defining icing conditions and part II defining airframe ice accretions for showing compliance with the airplane performance and handling qualities requirements of part 25, subpart B.

Three private citizens provided comments related to the flight data collection approach used to acquire information about SLDs, the flight data used, and the analysis approach to generate the SLD engineering standards in part 25, appendix O. We will address these three commenters as a group.

One concern was with the methods related to collecting and evaluating SLD icing conditions. One commenter stated that the research aircraft were well equipped to document the environment; however, both research aircraft had serious deficiencies regarding their on-board ability to document aircraft performance degradation from icing.

Two commenters were concerned that only the database jointly created by Environment Canada and NASA was used to define the SLD icing conditions. Another commenter was concerned about the statistical significance of the data collected and did not think there was enough flight test evidence collected to provide the same level of probability established for part 25, appendix C, icing conditions. Two commenters stated that the flight test campaign failed to relate their data collection results to previously published results, such as those published by the University of Wyoming. Specifically, the commenters noted that appendix O does not contain data for a LWC greater than 0.45 grams per cubic meter.

One commenter also stated that other published analysis methods for an SLD encounter, such as the University of Wyoming LWC/drop size technique, result in the most adverse icing conditions and are not contained within appendix O. The commenter also noted that a clear distinction does not exist between the icing conditions defined in part 25, appendix C, and the conditions defined in part 25, appendix O. This uncertainty would leave the pilot with the responsibility of making a scientific finding of which icing conditions the airplane was in, unless on-board droplet size and LWC measurement means and droplet data processing are provided.

Regarding the flight research project's lack of on-board ability to document aircraft performance degradation from icing, we agree. However, obtaining measurements of aircraft performance within icing conditions was the lowest priority objective of the flight research project. The primary objectives of the test were to identify icing conditions beyond those covered in appendix C of part 25, and to identify a method for presenting the data in a way that could be used as an engineering standard. Specific aircraft performance and handling degradations in icing conditions are unique for each aircraft design. Performance degradation and handling qualities criteria for appendix C and appendix O icing encounters will need to be determined by the design approval holder for each aircraft design based on the applicable regulations, guidance materials, and testing as necessary to demonstrate compliance. This final rule specifies the expanded environmental icing conditions for consideration during the certification process as well as the performance and handling qualities that must be demonstrated.

Regarding the sufficiency of the flight test data to form a statistically reliable database, we disagree. In developing appendix O, we used all historically available flight research data on SLD, not just the Environment Canada-NASA flight test data. This broad collection of data is statistically similar to the data that was used to develop appendix C.

Regarding the comments about our proposed definition of SLD in appendix O, we also disagree. The University of Wyoming data were included in the FAA master database on SLD icing conditions. However, these data were not used to support the final determinations for the LWC values for the appendix O engineering standards. The University of Wyoming aircraft was not equipped with two-dimensional optical array probes, which were deemed essential by the IPHWG. Without the probes, it was not possible to distinguish between cloud drops and ice particles. Therefore, the University of Wyoming cloud data were not considered usable for supporting the analysis of SLD LWC/drop size properties for appendix O. As a result, the Environment Canada-NASA database was used to determine the engineering standards because of the quality of the data contained therein and the analysis methods used in that database. Both the quality of the data

and the analysis method used by the database ensured the accuracy of the definition for appendix O icing conditions.

Regarding the comment that the University of Wyoming LWC/drop size technique results in the most adverse icing conditions and are not contained within appendix O, we disagree. That analysis technique suggests that one type of icing condition would be severe for all airplanes, regardless of the type of ice protection system used, or the extent of the protection. Appendix O contains a variety of icing conditions, not just those deemed most severe using the University of Wyoming analysis technique.

In response to other comments, figures 1 and 4 of appendix O have been revised in this final rule to reflect the LWC proposed by the IPHWG. As a result, freezing drizzle conditions with a median volume diameter (MVD) greater than 40 microns fall within the adverse region that would be identified using the University of Wyoming LWC/drop size technique. No changes to appendix O were made as a result of these comments.

With regard to the comment suggesting that the pilot will have to make a scientific finding to determine which icing conditions the airplane is in, we disagree. For those types of airplanes most vulnerable to SLD icing conditions, the level of operations in SLD icing conditions for which the airplane is approved will be determined during the airplane certification process in accordance with § 25.1420. If approval is requested for operations in a portion of the icing conditions defined in appendix O, then the airplane manufacturer will have to show that the pilot can determine if the operational envelope for which the airplane is certified has been exceeded as required by § 25.1420(a)(2). Since part of the certification will be evaluating the means used to distinguish when the airplane is in icing conditions outside the certified envelope, the pilot will not be faced with the ambiguity of trying to determine the distribution of water drops in the environment in which he or she is flying.

Several commenters said that proposed figures 1, 4, and 7 in appendix O of the NPRM were different than what was proposed by the IPHWG, and that the FAA did not provide an explanation for those differences. The commenters also noted that the higher LWC contained in the figures proposed in the NPRM could have a significant impact on an applicant's design. GSIS specifically noted that the higher water content defined in appendix O will have the effect of greatly increasing power requirements for electro-thermal deicing systems. Several commenters also suggested that figures 1, 3, 4, and 6 of appendix O would be easier to use if the corner data points were defined in the figures.

We agree. We reviewed the figures proposed in the NPRM and the data used by the IPHWG to generate the figures. We revised figures 1 and 4 to reflect the lower water content values proposed by the IPHWG, but the water content in appendix O is still higher than within appendix C at the same temperature. The higher water content may increase the power requirements for some electro-thermal deicing system designs, but not to the extent that may have been necessary with the water contents proposed in the NPRM. The environmental conditions defined in appendix O are valid conditions that will need to be considered for applicable future designs. Our review of the data used to generate the scaling factor curve in figure 7 indicates that the figure 7 proposed by the IPHWG in the task 2 working group report was incorrect;[4] figure 7 in the NPRM was correct. Therefore, figure 7 in this final rule remains as proposed in the NPRM. Figures 1, 3, 4, and 6 of appendix O in this final rule have been revised to identify the corner data points for clarity.

GSIS asked if there is a scientific basis for applying the horizontal extent of 17.4 nautical miles. GSIS also noted that the same MVD, temperature, and LWC at altitude exist in both appendix O and appendix C and asked the FAA to clearly define the mass distribution boundary between appendix O and appendix C.

Our application of the 17.4 nautical mile horizontal extent in appendix O was made on a practical basis and not on a purely scientific basis; it was selected for consistency with the appendix C continuous maximum icing conditions with which designers are already familiar. We are unaware of any scientific reasons for not applying the 17.4 nautical mile horizontal extent in this manner.

The LWC values in appendix O are based on an analysis of the data from the jointly created Environment Canada-NASA flight research SLD database, report DOT/FAA/AR–09/10.[5] Figure 11 of that report shows a plot of temperature versus LWC for appendix O freezing drizzle environments that is valid for the reference distance of 17.4 nautical miles (32.2 km). Appendix C and appendix O define environmental conditions that overlap one another as the conditions transition from appendix C to appendix O. Therefore, there is not a clear mass distribution boundary that can be defined.

One commenter, a private citizen, noted that the NPRM did not identify the vertical extent for part 25, appendix O, figure 6. We disagree. The pressure altitude range and vertical extent for freezing rain were provided in appendix O, part I, paragraph (b) in the NPRM located under figure 3. We clarified appendix O, part I, by moving all of the general text describing the meteorological parameters, including vertical extent, ahead of the figures.

One commenter suggested that the icing conditions in appendix O should be revised to reflect water drop distribution as a function of mean effective diameter (MED) as opposed to MVD. We do not agree. MED is the term used in part 25, appendix C. Examination of National Advisory Committee for Aeronautics (NACA) references[6] shows that MED is the same as MVD if certain assumptions are made about the drop distribution, namely that it is one of the Langmuir distributions. MVD, as the more general term, is applicable to any drop distribution. Since the drop distribution described in appendix O does not follow a Langmuir distribution, MVD is more appropriate. We did not change the final rule or appendix O as a result of this comment.

A private citizen commented that appendix O should define a time to use for delayed recognition of entry into icing conditions and the time to exit icing conditions. We do not agree. The responsibility for proposing delayed recognition times, delayed ice protection system activation times, or times required to exit icing conditions, based on unique operational procedures or performance characteristics of the ice protection system, rests with the applicant. We did not change the rule based on this comment.

Boeing suggested a change to appendix O, part I, paragraph (c), to add an equation to determine the LWC for

[4] The data used to complete the IPHWG report is detailed in report DOT/FAA/AR–09/10, *Data and Analysis for the Development of an Engineering Standard for Supercooled Large Drop Conditions,* dated March 2009. A copy of the report is available in the rule Docket No. FAA–2010–0636. The data used for figure 7 are described on pages 34–39 of that report.

[5] A copy of the report is in the rule Docket No. FAA–2010–0636.

[6] National Advisory Committee for Aeronautics Technical Note 2738, *A Probability Analysis of the Factors Conducive to Aircraft Icing in the United States,* by William Lewis and Norman R. Bergrun, July 1952.

horizontal distances other than 17.4 nautical miles.

We agree that adding such an equation could be beneficial. The equation proposed by Boeing, however, expressed horizontal distance in kilometers, which would be inconsistent with other figures in appendix O. Instead of the equation proposed by Boeing, we added to appendix O, part I, paragraph (c), a similar equation that uses units of nautical miles.

Several commenters noted that appendix O, part II, paragraph (b)(5)(ii), in the NPRM made reference to §§ 25.143(k) and 25.207(k). However, §§ 25.143(k) and 25.207(k) do not exist in the current part 25 and were not added by the NPRM.

We agree. The references to those sections were inadvertently included in the NPRM. We revised appendix O to delete the statement referencing §§ 25.143(k) and 25.207(k).

Airbus noted that part II, paragraph (c)(7)(v) of appendix O states that crew activation of the ice protection system is in accordance with a normal operating procedure provided in the AFM, except that after beginning the takeoff roll, it must be assumed that the crew does not take any action to activate the ice protection system until the airplane is at least 400 feet above the takeoff surface. Airbus commented that this appears to be a direct cut and paste from the appendix C regulations and recommended removing the sentence. Airbus claimed that while this is perhaps understandable for appendix C icing conditions, it would seem reasonable to expect the crew to activate the wing anti-ice system (WAIS) prior to takeoff if there are SLD icing conditions within 400 feet of the runway, whether the AFM specifically states that it is required or not.

We do not agree. The rule addresses flightcrew actions occurring after beginning the takeoff roll, while Airbus' comment refers to actions that the flightcrew would take before beginning the takeoff. Nevertheless, the FAA does not expect flightcrews to be aware of all SLD icing conditions that may exist up to a height of 400 feet above the takeoff surface, nor do we agree that it would be reasonable to expect the flightcrew to activate the WAIS prior to takeoff if there was no procedure telling them to do so. We did not change the rule based on this comment.

Embraer commented that the last sentence in appendix O, part II, paragraph (b)(2)(ii), which proposed to define the holding ice conditions in part 25, appendix O, part II, paragraph (b)(2), should be applicable to the whole of paragraph (b)(2), and not just to the transit time through one appendix O cloud and one appendix C cloud specified in paragraph (b)(2)(ii). Embraer commented that it would be clearer to describe the total holding time in a separate paragraph (b)(2)(iii) that says: ''The total exposure to the icing conditions need not exceed 45 minutes.'' We agree, and changed appendix O, part II, paragraph (b)(2), to indicate that the total exposure time for holding ice does not need to exceed 45 minutes.

*Availability of Engineering Tools To Show Compliance With the Rule*

Several commenters stated that available engineering tools (icing wind tunnels and tankers, ice accretion prediction codes, and other analysis methods) are inadequate for showing compliance with the new rule. Bombardier commented that without validated tools, it is not practical to implement the requirements proposed in the NPRM. Bombardier believed that efforts should be focused on implementing incremental regulatory changes in parallel with the appropriate technological developments to meet that regulatory change.

Boeing commented similarly, stating that the FAA and NASA had developed a plan several years ago to align the timing of the new regulations with the availability of validated engineering tools and test capabilities for SLD conditions. Boeing added that the tools and test facilities necessary to effectively demonstrate compliance with the regulations are not available, and that this lack of availability will be particularly problematic for applicants desiring to operate within appendix O conditions. Boeing noted that the current situation will require applicants to either use highly conservative approaches, build new icing wind tunnel facilities, or expend great efforts to conduct extensive flight testing in search of a meteorological condition, which occurs very infrequently. Boeing said that this was not the approach anticipated by industry, and that it will impose a severe burden on many applicants beyond that established in the economic evaluation of the proposed regulation, without adding any commensurate safety benefit.

AKC also commented that current test facilities are limited in their ability to produce freezing drizzle, in particular drop distributions greater than 40 microns MVD. The water drop distribution curves provided in appendix O are not produced by any facility known to AKC, and there are no facilities that produce freezing rain in a fashion that duplicates either the flight or ground test environment.

The NRC of Canada's comments reflected concerns about how the water drop distribution curves in appendix O are to be used. Further, a private citizen commented that the droplet diameters for appendix O conditions can only be reproduced in a few icing wind tunnels.

We do not agree that available engineering tools (icing wind tunnels and tankers, ice accretion prediction codes, and other analysis methods) are inadequate for showing compliance with the new rule. We recognize that the current engineering tools available to show compliance with the new SLD rule have not been validated in every aspect, and also have some limitations. We also recognize that for freezing rain, few validated engineering tools are available. However, methods are available to simulate freezing drizzle. Further, we recognize that relying upon available simulation methods, combined with engineering judgment, will be required for finding compliance with the appendix O requirements of part 25, especially for freezing rain conditions.

After reviewing the current state of available compliance methods and engineering tools, the FAA has determined that there is sufficient capability for applicants to effectively demonstrate compliance with this final rule. The IPHWG evaluated the current capabilities of these tools in 2008–2009 during a review requested by industry members through ARAC. The IPHWG evaluation of SLD engineering tools, which proposed methods of compliance based on the current state of the available engineering tools, supports the FAA conclusion. The FAA considered estimates provided by industry and has made adjustments to the proposed economic evaluation, which is incorporated in the economic evaluation for this final rule. This adjustment increases the cost for complying with the requirements of this final rule; however, this final rule remains cost beneficial. A summary of the final regulatory evaluation is provided in the ''Regulatory Notices and Analyses'' section of this final rule and the complete document is included in the public docket.

As to freezing drizzle, the current icing wind tunnel test capabilities for SLD icing conditions have been demonstrated. However, we recognize that some limitations exist: Icing wind tunnel spray systems evaluated during the IPHWG's review do not support bi-modal mass distributions (mass ''peaks'' for two different drop sizes) provided in appendix O and do not produce realistic freezing rain simulations for the

majority of those conditions. NASA examined alternate spray methods to simulate portions of a bi-modal spray using spray sequencing techniques to approximate drop distributions found in natural conditions (reference: American Institute of Aeronautics and Astronautics report AIAA 2005–76, *Simulation of a Bimodal Large Droplet Icing Cloud in the NASA Icing Research Tunnel*[7]). NASA demonstrated the water spray sequencing technique for an airfoil with unprotected surfaces and the results showed rougher ice accretion textures than appendix C ice shapes.

Experience indicates that SLD icing conditions generally result in rougher ice accretion textures. NASA has also developed preliminary scaling methods for SLD test applications and has developed large droplet algorithm improvements to its ice accretion prediction code by adding SLD subroutines. Other ice accretion code developers have incorporated SLD capabilities in their respective computational tools. A number of icing wind tunnel owners have tested SLD icing conditions in their facilities and are capable of performing tests for at least a portion of the appendix O environments.

Regarding flight testing, § 25.1420 requires that applicants provide analysis to establish that ice protection for the various airplane components is adequate, taking into account the various operational configurations. Section 25.1420 also describes flight testing in natural or simulated icing conditions, as necessary, to support the analysis. The IPHWG acknowledged the difficulties in flight testing in natural SLD, and agreed it would not be specifically required under § 25.1420. We concur, and have left flight testing as an option in the regulation. Until the engineering tools become more mature, flight tests in natural appendix O icing conditions may be necessary to achieve certification for unrestricted flight in appendix O conditions in accordance with § 25.1420(a)(3).

*Proposed Revisions to § 33.68 Should Not Apply to Engines Installed on Rotorcraft*

Eurocopter and Turbomeca noted the proposed part 33 changes would apply to all turbine engines, including turboshaft engines intended for installation in rotorcraft. The proposed revision to § 33.68 would require all turbine engines to be capable of operating in the extended icing conditions defined in part 25, appendix O. However, the IPHWG task 2 report and the NPRM only addressed airplane accidents and incidents; it did not include rotorcraft. Eurocopter and Turbomeca proposed provisions to exclude rotorcraft from the new engine requirements. The FAA did not receive any comments providing specific support for the proposed applicability to rotorcraft.

We agree. The IPHWG did not review rotorcraft accidents or incidents in icing conditions and did not propose rulemaking associated with rotorcraft. As a result, we revised the proposed § 33.68 to separate the icing requirements for turboshaft engines used for rotorcraft from turbojet, turbofan, and turboprop engines used for airplanes. The icing requirements pertaining to turboshaft engines are unchanged and require that turboshaft engines operate safely throughout the icing conditions defined in part 29, appendix C. Section 33.68 now requires that turbojet, turbofan, and turboprop engines not installed on rotorcraft operate safely throughout the icing conditions defined in part 25, appendix C, the SLD conditions defined in part 25, appendix O, and the mixed phase and ice crystal conditions defined in part 33, appendix D.

*Applicability of Proposed § 25.1420*

In the NPRM, the FAA proposed to add a new § 25.1420. Proposed § 25.1420 would have required specific airplanes certified for flight in icing conditions to be capable of either: (1) Operating safely within the new SLD icing conditions defined in part 25, appendix O; (2) operating safely in a portion of the new appendix O conditions, with the capability to detect when conditions beyond those used for certification have been encountered, and then safely exit all icing conditions; or (3) have a means to detect when appendix O icing conditions are encountered, and be capable of safely exiting all icing conditions. The FAA proposed to limit the applicability of § 25.1420 to airplanes that have a maximum takeoff weight (MTOW) of less than 60,000 pounds, or airplanes equipped with reversible flight controls regardless of MTOW.

The applicability of § 25.1420 was discussed within the IPHWG and consensus could not be reached. A discussion of this issue was provided in the NPRM under the heading ''Differences from the ARAC Recommendations.'' Bombardier, ALPA, EASA, Goodrich, Gulfstream, the NTSB, and the TCCA provided comments to the NPRM that supported the majority position of the IPHWG, questioning the technical justification used to exclude airplanes with a MTOW of 60,000 pounds or greater. Airbus, AIA, Boeing, and GAMA provided comments in response to the NPRM to support the proposed applicability based on MTOW because airplanes with a MTOW of 60,000 pounds or greater have not previously experienced accidents or incidents associated with flight in SLD. Embraer and Pratt & Whitney Canada comments to the NPRM specifically noted support for AIA's position.

A review of the IPHWG analysis indicates that airplanes with a MTOW of 60,000 pounds or greater have not experienced accidents or incidents associated with flight in SLD. The FAA originally considered including all new airplanes in the applicability for § 25.1420, regardless of MTOW; however, the projected costs of extending the rule to include airplanes with a MTOW of 60,000 pounds or greater exceeded the projected benefits due to the positive in-service history (i.e., lack of accidents) of these airplanes in SLD.

The commenters did not present any new data or information that was not discussed within the IPHWG, or discussed within the NPRM. The commenters that opposed limiting the applicability of the rule suggested that lift and control surface size, or wing chord length, are important parameters affecting sensitivity to a given ice accretion. They based their opposition on airplane weight, in part, because the ratio of wing and control surface sizes to airplane weight varies between airplane designs.

We agree that design features such as control surface size and wing chord length are important parameters, which can affect the sensitivity of a wing to the icing conditions described in part 25, appendix O. As proposed in the NPRM, in order to issue a rule with estimated costs commensurate with the estimated benefits, the applicability of § 25.1420 is limited based on airplane weight due to the positive service histories of certified airplanes.

If future designs for larger airplanes contain novel or unusual design features that affect this successful in-service history, and those design features make the airplane more susceptible to the effects of flight in SLD icing conditions, the FAA can issue special conditions to provide adequate safety standards. The FAA issues special conditions in accordance with § 21.16. No changes have been made to the applicability of § 25.1420 as a result of these comments.

[7] A copy of this report is available in the rule Docket No. FAA–2010–0636.

*Clarification of Definitions*

Embraer noted that § 25.1420(b) uses the terms ''simulated icing tests'' and ''simulated ice shapes'' in various subparagraphs. Embraer suggested that subparagraphs § 25.1420(b)(1) and (b)(2) use the phrase ''artificial ice'' as defined in Advisory Circular (AC) 25–28, *Compliance of Transport Category Airplanes with Certification Requirements for Flight in Icing Conditions,* instead of ''simulated icing tests.''

We do not agree. Section 25.1420(b)(1) and (b)(2) describe test methods, not the resulting ice shapes. The terminology ''simulated icing tests'' is used in § 25.1420 consistently with § 25.1419. We added definitions for ''Simulated Ice Shape'' and ''Simulated Icing Test'' to § 25.1420 that are consistent with previously issued guidance.

AIA, Boeing, and GAMA suggested a clarification to the definition of ''reversible flight controls.'' AIA and GAMA suggested that the addition of servo tab inputs in the examples provides a more complete and accurate description.

We agree and have clarified the definition of ''reversible flight controls'' to include the example of servo tab inputs. In addition, since the definition of ''reversible flight controls'' is necessary to determine the applicability of § 25.1420, we added the definition to § 25.1420.

*Applicability of Proposed Appendix O Icing Conditions to Part 23 Airplanes and Previously Certified Part 25 Airplanes*

The NTSB and a private citizen commented that the icing conditions proposed in appendix O should be applicable to part 23 airplanes because they are the type of airplanes most affected by flight into icing conditions. The NTSB also stated that the proposed rule should be expanded beyond newly certified airplanes to include all deice boot-equipped airplanes currently in service that are certified for flight in icing conditions (reference NTSB Safety Recommendation A–07–16).[8] The NTSB pointed out SLD is an atmospheric condition that can create dangerous flight conditions for both the current fleet of aircraft and newly certified aircraft.

Regarding the applicability of proposed appendix O to part 23 airplanes, we disagree with adding part 23 airplanes to the applicability, as that is beyond the scope of this rulemaking. However, we chartered an Aviation Rulemaking Committee (ARC) to review the IPHWG's rulemaking recommendations for part 25 and to make similar recommendations for part 23. The ARC transmitted a report detailing part 23 rulemaking recommendations to the FAA in a letter dated February 19, 2011, and provided supplemental recommendations in a letter dated April 27, 2011. The ARC transmitted its recommendations for a final task in early 2012. We are studying these recommendations and may pursue additional rulemaking for part 23 airplanes.

We agree that severe icing conditions, including SLD, can create dangerous flight conditions for both current and future airplanes. However, we do not agree that the part 25 and part 33 rule changes discussed in this amendment should apply to existing airplanes. Such a retroactive application would, in effect, be changing the certification basis of operational airplanes to correct an unsafe condition, something generally done by airworthiness directive (AD). To address the unsafe condition, we have already issued ADs to mandate procedures to activate the ice protection equipment at the first sign of ice accretion, and to incorporate procedures into the AFM so the flightcrew can identify when they are in severe icing conditions that exceed certificated limitations, and safely exit.

New airworthiness standards are not intended to correct an unsafe condition; rather, they are intended to improve the level of safety for new airplane designs. In the context of SLD, we are considering operational rules to mandate certain elements of the airworthiness standards adopted in this rulemaking for previously certified airplanes. However, those requirements are beyond the scope of this rulemaking and require separate rulemaking action.

*Applicability of Part 33, Appendix D, to § 25.1093, Induction System Icing Protection, and § 33.68, Induction System Icing*

The NTSB supported changes to §§ 33.68 and 33.77, noting that since we issued an icing-related AD for the Beechjet 400A no additional reports of unsafe icing conditions on that airplane have been noted. The FAA infers that the NTSB was referring to AD 2006–21–02.[9] That AD was issued following reports of dual engine flameouts in high altitude icing conditions believed to include ice crystals. AIA, Airbus, Boeing, and GAMA supported the addition of mixed phase and ice crystal conditions, such as those defined in part 33, appendix D.

Honeywell commented that the current lack of and/or immature state of engine test facilities to demonstrate compliance to part 33, appendix D, could result in a significant increase in an applicant's activities to show compliance because of the additional flight testing required to locate the ice crystal conditions. Honeywell also noted that flying in actual ice crystal conditions would put the flightcrew at considerable risk. Honeywell recommended that appendix D be removed until test facilities have developed the capabilities to run tests for ice crystal conditions. Honeywell also suggested that the FAA make research funds available to facilities to develop this capability.

We agree, in part. We agree that only limited capability exists for testing engines in ice crystal conditions. We also agree that flightcrews unnecessarily operating in icing conditions puts them at risk. We do not agree, however, that appendix D should be removed until test facilities develop the capabilities to run tests for ice crystal conditions, or that FAA make funds available for research to develop these capabilities. Section 33.68(e) allows for certification demonstration by test, analysis, or combination of the two. Consistent with ARAC Engine Harmonization Working Group (EHWG) recommendations, until ice crystal tools and test techniques have been developed and validated, the engine manufacturer may use a comparative analysis to specific field events. This analysis should show that the new engine cycle or design feature, or both, would result in acceptable engine operation when operating in the ice crystal environment defined in appendix D to part 33. This comparative analysis should also take into account both suspected susceptible design features, as well as mitigating design features. We did not change the rule based on this comment.

GSIS suggested that provisions be made for a detect-and-exit strategy for part 33, appendix D, conditions; similar to what was proposed in the NPRM for part 25, appendix O, conditions.

We disagree. We do not believe part 33, appendix D, conditions can be detected with enough time to exit before damage occurs. Therefore, a detect-and-

[8] NTSB Safety Recommendation A–07–16 is available in the rule Docket No. FAA–2010–0636 and on the Internet at *http://www.ntsb.gov/doclib/recletters/2007/A07_12_17.pdf.*

[9] AD 2006–21–02, Docket No. FAA–2006–26004, published in the **Federal Register** on October 10, 2006 (71 FR 29363), is applicable to Raytheon (Beech) Model 400, 400A, and 400T series airplanes; and Raytheon (Mitsubishi) Model MU–300 airplanes.

exit strategy for part 33, appendix D, conditions is inappropriate. As proposed in the NPRM, the mixed phase and ice crystal icing conditions defined in part 33, appendix D, have been added to §§ 25.1093(b)(1) and 33.68(a).

*Applicability of Proposed Appendix O to § 25.1093, Induction System Icing Protection, and § 33.68, Induction System Icing*

AIA, Airbus, Boeing, and GAMA provided comments that there are no known events that support a safety concern due to engine induction system icing in SLD aloft. In particular, the EHWG evaluated known icing-related engine events since 1988 and found no events in SLD aloft. The EHWG credited this result to the current rigorous compliance to part 25, appendix C, conditions for engines. The commenters believe that the safety of these systems for flight in appendix O conditions has already been proven by service history. The commenters state that continuing to certify future systems to the requirements for appendix C icing conditions, in conjunction with consideration of excellent service history of similar designs in appendix O conditions, should be acceptable assurance of the safety of future designs. The commenters suggested that consideration of the icing conditions defined in appendix O be removed from § 25.1093.

We agree that there are no known events that support a safety concern due to engine induction system icing in SLD aloft. However, there have been reports of engine fan damage or high vibration while operating in SLD icing conditions. The ARAC database on engine events contains 231 icing events reported by engine manufacturers from approximately 1988 through 2003, and includes part 25, appendix C; part 25, appendix O; and part 33, appendix D events. Although the intent of the event database was to focus on icing events outside of appendix C, there are several appendix C events included in this database. The event database does not include any accidents.

The EHWG identified 46 part 25, appendix O (SLD) events. All events occurred on the ground and resulted in fan damage and/or high vibrations so a precise effect on the safety of these events was not discernible.

Additionally, the EHWG identified nine additional events that it thought might have been related to operations in SLD icing conditions: Four were in-flight and all nine were on tail mounted engine configurations. Again, the events resulted in fan damage and/or high vibrations, with indeterminable power loss. Although these nine events are of concern, the EHWG did not judge them to be safety significant.

An additional 14 in-flight events were not clearly identifiable as SLD events but were described as heavy icing below 22,000 feet and resulted in fan damage and/or high vibrations. These events did not clearly fall within conditions defined in either appendix C or appendix O. However, the general description of the icing conditions and engine damage is consistent with reports of engine damage that occurred within the icing conditions defined in appendix O, so those might have been SLD events.

After reviewing the data, the EHWG clearly identified SLD as a threat for engine damage during ground operations. Furthermore, the EHWG could not rule out SLD as a potential in-flight safety threat, and decided to include it as part of its recommendations to the FAA. As proposed in the NPRM, the part 25, appendix O, SLD icing conditions have been added to § 33.68. Also, as proposed in the NPRM, § 33.77 contains requirements to demonstrate engine capability to ingest the applicable minimum ice slab defined in Table 1 of § 33.77. The ice slab sizes defined in Table 1 of § 33.77 are a function of the engine inlet diameter. Turbojet, turbofan, and turboprop engine manufacturers must demonstrate, in part, that the engine will continue to operate throughout its power range in the icing conditions defined in part 25, appendix O, and following ingestion of an ice slab that is a function of the engine inlet diameter. The changes to the requirements in §§ 33.68 and 33.77 are intended to improve the level of safety for turbojet, turbofan, and turboprop engines used on transport category airplanes in icing conditions, in part because of reports of engine damage or high engine vibrations while operating in SLD conditions.

We agree large airplanes that have likely encountered appendix O conditions have had a successful in-service history with no clearly identifiable safety significant events. After considering the comments received, we revised § 25.1093(b), compared to what was proposed in the NPRM, so consideration of the icing conditions described in appendix O does not apply to airplanes with a MTOW equal to or greater than 60,000 pounds. As proposed in the NPRM, the applicability of the icing conditions described in part 25, appendix C; part 33, appendix D; and falling and blowing snow remain applicable to all turbine engine installations on transport category airplanes. In addition, the engine requirements in §§ 33.68 and 33.77 for operation in all icing conditions still apply to engines installed on part 25 airplanes regardless of the airplanes' MTOW. The applicability of appendix O conditions in § 25.1093(b) as a function of airplane weight is consistent with the revised applicability of § 25.1420, which establishes minimum airworthiness standards for detection and safe operation in appendix O conditions. Airplanes that have been susceptible to performance issues while operating in SLD icing conditions have been smaller airplanes with a MTOW less than 60,000 pounds.

Section 25.1093(b) was revised to provide relief for larger airplanes because of the successful in-service history of existing larger airplane designs and larger airplane engine inlet designs. As previously discussed, the changes to the requirements in §§ 33.68 and 33.77 are intended to improve the level of safety for turbine engines used on all airplanes, including large airplanes, while operating in SLD conditions. If future designs for larger airplanes contain novel or unusual design features that affect this successful in-service history, and those design features make the airplane more susceptible to the effects of flight in SLD icing conditions, the FAA can issue special conditions to provide adequate safety standards.

Boeing, AIA, and GAMA also provided comments on the results of an SLD analysis, including the use of the NASA Lewis Ice Accretion Program, commonly referred to as LEWICE. The analysis yielded overly conservative accreted ice mass calculations resulting in large amounts of ice on the radome. The results from this analysis indicated to Boeing that radome ice shedding would be a concern, and it would require ice protection on the currently unprotected radome surfaces to reduce ice build-up to acceptable limits. The weight increase for radome ice protection equipment would result in increased fuel burn and increased operational costs that were not included in the IPHWG economic analysis. Boeing also stated that most large airplanes are operating without restrictions today and are safely encountering SLD conditions.

Analytical methods used by Boeing to determine SLD ice accretions on radomes show considerably higher ice mass accretions than either past calculations or past experience has indicated for other icing conditions. These analyses were never presented to the IPHWG and details were not

included with Boeing's comments to support the FAA's evaluation of Boeing's methods. As previously discussed, we revised § 25.1093(b) compared to what was proposed in the NPRM. For the purposes of compliance with § 25.1093(b), the icing conditions defined in appendix O are not applicable to airplanes with a MTOW equal to or greater than 60,000 pounds. To show compliance with § 25.1093(b), analysis may be used for the radome as a potential airframe ice source. For compliance with § 25.1093(b), applicants may use qualitative analysis supported by similarity to a previous design with a successful service history to show that ice accretions ingested into the engine from the new airplane design will be less than the ice slab size presented in § 33.77 Table 1, ''Minimum Ice Slab Dimensions Based on Engine Inlet Size.''

*Applicability of Proposed Appendix O to § 25.773, Pilot Compartment View*

AIA, Airbus, Boeing, and GAMA commented that there are no known events that support a safety concern due to windshield icing in SLD aloft. The commenters state the safety of these systems for flight in appendix O conditions has been proven by service history. They believe that continuing to certify future systems to the requirements for appendix C icing conditions, in conjunction with consideration of excellent service history of similar designs in appendix O conditions, should be an acceptable assurance of the safety of future designs. One commenter, an individual, commented that § 25.773 should not be changed, as ice accretion on the windshield is one of the few indications used to recognize the condition.

We do not agree. Section 25.773 is intended to ensure that a clear portion of the windshield is maintained in icing conditions, which enhances safety in icing conditions. For airplanes certified to detect appendix O conditions, or a portion of appendix O conditions, and required to exit all icing conditions when the icing conditions used for certification have been exceeded, the pilot must have a clear view out the windshield; not only when the airplane is in appendix O icing conditions, but also during the time it takes to detect and exit all icing conditions within which the airplane is not approved to operate. For airplanes not certified with the detect-and-exit strategy, appendix C and appendix O conditions need to be considered for the entire time the airplane is in the applicable icing conditions.

Section 25.773 does not require the windshield to be completely free of ice in all icing conditions. Therefore, this requirement does not preclude using ice accreting in certain locations on the windshield as an indication that the airplane is in icing conditions beyond those in which it is approved to operate. We did not change the rule based on these comments.

*Applicability of Proposed Appendix O to § 25.1323, Airspeed Indicating System, § 25.1324, Angle of Attack System, and § 25.1325, Static Pressure Systems*

AIA, Airbus, Boeing, and GAMA commented that there are no known events that support an in-flight safety concern for angle of attack systems in SLD aloft. They believe the safety of these component systems for flight in appendix O conditions has already been proven by service history. The commenters recommended the reference to appendix O be removed from the requirements in §§ 25.1323, 25.1324, and 25.1325.

We do not agree. If certification for flight in icing is desired, part 25 requires the airplane to be capable of safely operating in icing conditions. The airplane and its components are taken into account during flight in icing certification programs. For these reasons, all icing conditions should be considered. Sections 25.1323, 25.1324, and 25.1325 include considerations for the SLD icing environment defined in part 25, appendix O.

*Applicability of Proposed Appendix O to § 25.929, Propeller Deicing*

AIA and GAMA commented that there are no known events that support a safety concern with propeller icing in SLD. In particular, AIA and GAMA noted the EHWG evaluated all known icing-related events since 1988 and found no events in SLD aloft. The commenters credit the current rigorous compliance using appendix C conditions for this result. The commenters believe the safety of these systems for flight in appendix O conditions has already been proven by service history. They further believe that continuing to certify future systems to the requirements for appendix C icing conditions, in conjunction with consideration of excellent service history of similar designs in appendix O conditions, should be acceptable assurance for the safety of future designs.

We do not agree. Propeller icing is typically not implicated in events because ice accretion on the propeller is usually not visible in flight. However, in one suspected SLD event [10] included in the IPHWG list of applicable events, the NTSB Performance Group reported that the flight data recorder derived drag increment was much higher than an increment measured in flight test with intercycle ice (by a factor of 2 near the time where the pilot lost control of the airplane). The NTSB report does not speculate what caused the large drag increment, but it could have been airframe SLD ice accretion, propeller SLD ice accretion, or a combination of both. In addition, appendix J in AC 20–73A, *Aircraft Ice Protection,* dated August 16, 2006, documents a flight test encounter in which suspected SLD caused a severe performance penalty due to propeller ice accretion. FAA research tests, documented in report DOT/FAA/AR–06/60, *Propeller Icing Tunnel Test on a Full-Scale Turboprop Engine,* [11] have duplicated the event discussed in the AC, and showed that propeller ice accretion and resulting propeller efficiency loss is greater in SLD compared to appendix C conditions.

After further consideration, we have revised § 25.929 to require a means to prevent or remove hazardous ice accumulations that could form in the icing conditions defined in appendix C and the portions of appendix O for which the airplane is approved for flight. As compared to the NPRM, the phrase ''defined in appendices C and O'' has been replaced with ''defined in appendix C and in the portions of appendix O of this part for which the airplane is approved for flight.''

A private citizen commented that the words ''would jeopardize engine performance'' in the last portion of § 25.929(a) makes this requirement specific to engine performance. The commenter requested that the words be stricken from the regulation. The commenter did not provide justification to substantiate his proposed change.

We do not agree. First, we did not propose a change to this portion of the rule. Second, we reviewed the wording presented by the IPHWG and agree with its intent and its phrasing. Its applicability is broader than just an engine rule. We did not change the rule based on this comment.

[10] NTSB Investigation No. DFCA01MA031, Embraer EMB–120 Zero Injury Incident Near West Palm Beach, Florida on March 19, 2001, *http://www.ntsb.gov.*

[11] FAA Data Report DOT/FAA/AR–06/60, *Propeller Icing Tunnel Test on a Full-Scale Turboprop Engine,* dated March 2010. A copy of this report is available in the rule Docket No. FAA–2010–0636.

*Engine and Engine Installation Requirements*

The RAA commented that current facilities lack the capability to test large turbofans at very cold temperatures, and, while new sites may come on-line in the future, such facilities could not be constructed to comply with the proposed test conditions. The RAA also pointed out that future airplanes would not be certified for operations below zero degrees Fahrenheit when ''freezing fog'' is present, so it would create a restriction to what is currently considered a safe operating condition.

Airbus, AIA, Boeing, GAMA, GE, and a private citizen suggested that the choice of ambient temperature for the ground freezing fog rime icing demonstration should be driven by critical point analysis, as required by § 33.68(b)(1). This analysis could also be used to show that a more critical point does not exist at temperatures below the Table 1, condition 2, test temperatures in § 33.68. Airbus, AIA, Boeing, GAMA, GE, a private citizen, and RAA further suggested that the applicant should be permitted to use analysis to demonstrate safe operation of the engine at temperatures below the required test demonstration temperature. If safe operation is shown by this analysis, a temperature limitation would not be required for the AFM.

Airbus also suggested a further change to § 25.1093(b)(2) to ensure that the test is performed in accordance with aircraft procedures to provide adequate conservatism. These procedures are defined in collaboration with the engine manufacturer and may be defined on the basis of engine certification or development test results.

EASA and the FAA have recently addressed cold ground fog conditions. Specifically, the choice of ambient temperature for the ground freezing fog rime icing demonstration should be driven by critical point analysis (as required by § 33.68(b)(1)). We determined this analysis may also be used to show that at colder temperatures below the Table 1, condition 2, test temperatures in § 33.68, a more critical point does not exist. The analysis may also be used to demonstrate safe operation of the engine at temperatures below the required test demonstration. If an applicant does not show unlimited cold temperature operation, then the minimum ambient temperature that was demonstrated through test and analysis should also be a limitation. Finally, the acceleration to takeoff power or thrust should be accomplished in accordance with the procedures defined in the AFM. As a result, we changed §§ 25.1093(b)(2) and 25.1521(c)(3) based on these comments, to reflect these changes and recent developments with EASA.

AIA, GAMA, and a private citizen commented that the MVD for high LWC in Table 2 of § 33.68 may be difficult to achieve in practice due to icing facility constraints, and may result in repetitive equivalent level of safety (ELOS) findings. Expanding the upper limits of droplet size ranges will allow flexibility in test demonstrations. An upper limit of 30 microns for glaze ice conditions (points 1 and 3 in Table 1) and 23 microns for rime ice conditions (point 2 in Table 1) can be accepted if the critical point analysis shows that the engine is tested to equivalent or greater severity.

AIA, GAMA, and a private citizen also suggested changes to the drop diameters in Table 1 of § 33.68, noting that practical application of the required conditions dictates a wider acceptable droplet diameter range, without measurably impacting the severity of the intended engine test demonstration.

We agree. Although the commenters did not provide any data to validate the suggested change in drop diameters, we are aware of test facility limitations, and concur that the upper tolerance of drop size is limiting for some test facilities. As a result, the proposed ±3 micron droplet tolerance has been removed and a range for the MVDs is specified instead. This will still provide an adequate safety margin. Likewise, the upper drop size limit has also been increased to represent current test facility capabilities while preserving an adequate safety margin. Section 33.68, Table 1, has been revised to reflect these changes.

AIA and GAMA also suggested that the ground test conditions in Table 1, condition (iii), of § 25.1093 and Table 2, condition 4, of § 33.68(d) should have a consistent range of droplet sizes based on the values from part 25, appendix O.

We agree. We changed Table 2, condition 4, in § 33.68 by removing the maximum drop diameter so it is consistent with Table 1, condition (iii), in § 25.1093. Table 2 in § 33.68 was also revised to correct the conversion of degrees Centigrade to degrees Fahrenheit.

A private citizen remarked that including parenthetical examples in the rule text of § 33.68(a)(3) was not helpful and may be construed to be exclusionary of other pertinent, topical considerations. Furthermore, their absence does not diminish the clarity or understanding of the requirement.

We agree. We removed the parenthetical examples from the regulatory text in § 33.68.

A private citizen suggested a word change to our proposed wording of § 33.68(d). In the NPRM, we proposed to change § 33.68(d) to state that the engine should be run at ground idle speed for a minimum of 30 minutes in each of the icing conditions shown in Table 2. The commenter suggested replacing the phrase ''should be run'' with ''must demonstrate the ability to acceptably operate.'' The commenter noted that use of the word ''should'' is ambiguous and contrary to existing § 33.68, which uses the word ''must.'' Furthermore, the commenter suggested that eliminating the word ''run'' would be more consistent with the demonstration methods for snow, ice, and large drop glaze ice conditions (i.e., test, analysis, or combination of both) shown in Table 2 of § 33.68.

We agree and have clarified §§ 25.1093(b)(2) and 33.68(d) to state that the engine must operate at ground idle speed in the specified icing conditions.

*Alternatives to Rulemaking*

Several commenters said that operational solutions have proven to be extremely effective in managing weather related risks (e.g., thunderstorms and windshear). They suggested that the FAA should have been, or should start, placing at least as much emphasis on advancing alternatives to rulemaking as it does on creating new certification requirements. ALPA encouraged continuous research and development of technical systems that would automatically detect the presence of hazardous ice, measure the rate of accumulation, and then alert the crew as appropriate to take action in order to avoid a potentially unsafe flight condition. AirDat, LLC, commented that the FAA may have overlooked state-of-the-art meteorological tools, including airborne sensors, that are commercially available today, fully deployed, and in operation. AIA, Airbus, Boeing, and GAMA commented that the IPHWG did not thoroughly consider any alternatives to new rulemaking because the tasking statement did not include this option.

We agree in part. We agree that careful operations and new technologies may often enhance safety. However, we note that rulemaking is at the discretion of the agency, and we have exercised our discretionary rulemaking authority in this instance. This rule provides additional safety for the flying public when icing conditions are encountered, and it will improve the level of safety of future airplane designs.

*Applicability of Mixed Phase and Ice Crystal Conditions to Airspeed Indicating Systems*

We received several comments suggesting that the mixed phase and ice crystal environment in part 33, appendix D, should be used instead of the mixed phase and ice crystal environment that was proposed in Table 1 of § 25.1323. AIA, Airbus, Boeing, and GAMA stated the NPRM acknowledged new information is available to guide development of an ice crystal envelope appropriate for evaluation of airspeed indication systems. They also noted that proposed Table 1 of § 25.1323 does not reflect the current understanding of the ice crystal environment, nor does it include known pitot icing events, which are published in ''Interim Report no. 2,'' Bureau D'Enquetes et D'Analyses pour la securite d'aviation civile (BEA) F–GZCP.[12] GSIS recommended that Table 1 of § 25.1323, which defines a subset of part 33, appendix D, conditions, should be removed. Instead, the rule should require that airspeed indication systems must not malfunction in any of the conditions specified in appendix D.

EASA stated that the proposed environment in Table 1 of § 25.1323 would not address known events of airspeed indicating system malfunctions. EASA also fully supported including in part 25, the proposed mixed phase and ice crystal parameters in proposed part 33, appendix D. TCCA suggested that the FAA reconsider the icing conditions for the airspeed indicating system proposed in the NPRM within Table 1 of § 25.1323 and include the −60 °C conditions described in part 33, appendix D, instead.

Airbus supported the application of appendix D icing conditions to pitot and pitot-static probes, but pointed out it is necessary to develop an acceptable means of compliance that takes into account the capabilities of the existing engineering tools (for example, models and icing tunnels) and provide guidance on these new requirements. GSIS also commented that recent testing suggests testing at sea level atmospheric conditions may not be a conservative assumption for ice crystal testing.

NRC noted the requirements of § 25.1323 do not appear to take into account the effects of displacing the free stream ice water content around the fuselage of the airplane. If the probe is in a region affected by this, then the concentration detected by the probe would be higher than that of the free stream. Airbus mentioned that one test facility has made significant improvements in its capability to reproduce icing conditions but it is limited by the size of the test article it can accommodate. However, no test facilities are currently capable of reproducing the full range of icing conditions and flight conditions required by part 33, appendix D. Considering the state of the art of the engineering tools, there is a need for an agreed means of compliance.

We agree that the mixed phase and ice crystal environment in part 33, appendix D, should be used instead of the mixed phase and ice crystal environment proposed in Table 1 of § 25.1323. Therefore, §§ 25.1323 and 25.1324 have been revised to add a requirement to prevent malfunctions in the mixed phase and ice crystal environment defined in part 33, appendix D.

With regard to comments suggesting that testing at sea level atmospheric conditions may not be a conservative assumption, or that ice crystal concentrations at an exterior mounted probe could be higher than the free stream conditions, we agree. The conditions defined in part 33, appendix D, are atmospheric conditions. These atmospheric conditions include parameters for total water content as a function of temperature, altitude, and horizontal extent. We also agree that altitude may be an important parameter. Altitude is a parameter identified in part 33, appendix D, and must be considered when developing the test conditions and supporting analysis necessary to show compliance.

We also agree that depending on airplane size and the location of the probe, the ice water content at the probe may be higher than the ice water content values defined in part 33, appendix D. Since part 33, appendix D, describes atmospheric conditions, the potential for higher ice crystal concentrations at the probe location compared to the atmospheric concentrations defined in part 33, appendix D, must be considered when developing the test conditions and supporting analysis necessary to show compliance. Installation effects could be evaluated with a combination of computational fluid dynamics codes and icing tunnels. Devices mounted on smaller surfaces could be assessed in an icing tunnel. However, if the device is mounted on the fuselage and tunnel blockage effects would preclude a meaningful icing tunnel test, then codes that adequately predict the shadowing and concentration effects may be acceptable compliance methods.

Foster Technology, LLC (Foster), is an engineering consulting firm that has filed a provisional patent that includes a methodology for detecting ice over a pitot inlet, providing a corrected airspeed, and removing ice deposits. Foster suggested that the FAA should certify its new methodology.

We agree that existing regulations would allow certification of a new pitot probe with ice detection capability. However, we would certify a new pitot probe as part of a product's type design to be approved for installation, not the methodology described by Foster. If Foster seeks independent certification of a new pitot probe, we suggest Foster complete and submit an application for a supplemental type certificate, at which time we will evaluate the new probe.

*Heavy Rain Requirements for Airspeed Indication and Angle of Attack Systems*

Airbus and EASA fully supported a new requirement to cover the heavy rain conditions being considered in the NPRM. Airbus commented that some testing at high LWCs, such as those proposed in the NPRM, would help to ensure that water drainage in rain conditions, especially at takeoff, is adequate. A private citizen commented that the maximum freezing rain static temperature under consideration would be unlikely to result in ice accretion and is not in line with figure 4 of appendix O. AIA, Boeing, and GAMA commented that the proposed expanded parameters, the source of which was not provided, do not appear congruous with hard data from extensive icing research. GSIS commented that it wanted to understand how the specific values for LWC, horizontal extent, and mean droplet diameter were determined and what the technical justifications are for these levels.

We consider analysis of heavy rain conditions as proposed in the NPRM to be necessary to substantiate that water drainage from the airspeed indication and angle of attack systems is adequate. If the water drainage is inadequate, then the residual water may freeze as the pitot probes or angle of attack sensors are subjected to below freezing temperatures as the airplane climbs following takeoff. The heavy rain conditions are not intended as an icing condition as described in the NPRM. The heavy rain LWC is based on heavy rainfall data documented in MIL–STD–210C, *Military Standard: Climatic Information to Determine Design and Test Requirements for Military Systems*

[12] This report can be found on the BEA Web site at *http://www.bea.aero/docspa/2009/f-cp090601e2.en/pdf/f-cp090601e2.en.pdf.*

*and Equipment.*[13] The same rain data was used for the AIA Propulsion Committee Study, Project PC 338–1 documented in part 33, appendix B. Heavy rain conditions have been added to §§ 25.1323 and 25.1324. However, the conditions have been revised compared to the conditions proposed in the NPRM by removing temperature as a parameter.

*Applicability of the Icing Requirements in Part 25, Appendix O, and Part 33, Appendix D, to All Airspeed Indicating Systems*

EASA and TCCA suggested that §§ 25.1323 and 25.1324 be revised to include the icing certification of all external probes for flight instruments. EASA proposed a specific regulation including, but not limited to, pitot, pitot-static, static, angle-of-attack, sideslip angle, and temperature sensors. The regulation proposed by EASA would require addressing the icing conditions in part 25, appendix C; part 25, appendix O; and part 33, appendix D. Similarly, since total air temperature (TAT) is an input to calculating true airspeed, Goodrich requested clarification of whether or not TAT sensors should be considered part of the airspeed indicating system when addressing ''preventing malfunction'' in part 25, appendix O, and part 33, appendix D, environments as described in § 25.1323(i).

We do not agree with the commenters' suggestions to include icing requirements for all external probes and sensors in §§ 25.1323 and 25.1324. Section 25.1323(i) has traditionally applied to pitot probes (indicated airspeed), and the FAA did not propose a change to this applicability in the NPRM. As such, we did not intend to include TAT sensors, or other externally mounted instrument probes in § 25.1323(i). In addition, § 25.1324 was proposed specifically for angle-of-attack sensors. Revising §§ 25.1323 and 25.1324 so that all externally mounted flight instrument probes and sensors must operate in the various icing conditions is beyond the scope of this rulemaking. We did not change the rule in response to these comments.

*Proposal To Add Indication System for External Probes*

EASA advised that some failures of the pitot probe heating resistance may not be seen by the flightcrew due to the low current detection system installed on the airplane. As a result, failure to provide proper pitot probe deicing may not be detected. EASA suggested that a new regulation be created to explicitly cover abnormal functioning of the heating system for externally mounted probes.

We do not agree. If insufficient functioning of an externally mounted probe creates an unsafe operating condition, then warning information must be provided to the flightcrew in accordance with § 25.1309(c). Since we did not propose warning information specific to failure modes for certain externally mounted probes in the NPRM and the public did not have the opportunity to comment, we consider the EASA proposal to be beyond the scope of this rulemaking. No changes to the final rule have been made as a result of EASA's proposal.

*Expand the Parameters for Part 33, Appendix D*

AIA, Boeing, and GAMA commented that part 33, appendix D, should be expanded to reflect new engine power loss and airspeed data loss events in ice crystal conditions. Appendix D is based on a theoretical model, and Airbus agreed that the conditions in appendix D should be applied.

We do not agree that appendix D should be expanded in this final rule. The majority of recent airspeed data anomalies occurred within the altitude and temperature range described in part 33, appendix D. We know of only one temporary loss of airspeed data event just outside or at the perimeter of the altitude and temperature range in part 33, appendix D. Other conditions described in appendix D, such as what the ice water content actually was during the loss of airspeed data event, are unknown because it was not measured. We agree that appendix D is based on a theoretical atmospheric model. We are continuing to support the research necessary to validate the part 33, appendix D, conditions with flight test data, and it would be premature to expand the appendix D environment at this time. Expansion of part 33, appendix D, is out of scope of the originally proposed rulemaking. We did not change appendix D based on these comments.

Airbus commented that using the EHWG event database and referring to the flight distance between a TAT sensor anomaly and the engine event, one can see that almost half of the engine events occurred at a flight distance equal to or less than 10 nautical miles from the occurrence of the TAT anomaly, with the majority of events happening within less than 4 nautical miles. Based on these facts, Airbus concluded that short cloud exposures are the most critical. However, the new appendix D definition implies that the longest clouds are the most critical for engines and auxiliary power units (APUs), and adds a factor of 2 to the conservatism of the definitions already defined in EASA documents CS–E 780, *Tests in Ice-Forming Conditions,* and AMC 25.1419, *Ice Protection.*[14] Airbus commented that it is inappropriate to add an additional factor of 2 to the icing conditions for long exposures in appendix D icing conditions considering the uncertainty in the new rule.

We do not agree. We acknowledge that a TAT sensor anomaly may be one indicator of ice crystals; however, it is not a very reliable indicator. The amount and concentration of ice crystals required to create a TAT sensor anomaly is not understood. Also, the TAT sensor anomaly was only present in a portion of the engine events in the EHWG database. Therefore, the TAT anomaly data cannot accurately show cloud extent. Additionally, detailed review of the event data indicated that once the TAT probe iced over enough to cause an indication anomaly, the engine often would demonstrate a power upset very soon after the TAT probe anomaly. This period of time was insufficient for the pilot to take action since the ice accretion within the engine had already progressed to an advanced stage. Therefore, we concluded that TAT probe anomalies are poor precursor indications of the ice crystal threat to engines, in terms of reliability of the indication and the time period in advance of power loss. When establishing the cloud extent factor in part 33, appendix D, the EHWG and FAA did take into account EASA CS–E–780 cloud definition requirements. However, the EHWG was not able to validate the analysis used to develop the cloud extent factor in EASA CS–E–780. The cloud extent factor proposed by the EHWG for part 33, appendix D, represents the most accurate cloud extent factor that can be established using the available data. No changes were made as a result of these comments.

Snecma commented that the y-axis value in proposed part 33, appendix D, figure D3, was incorrect. The value should be 0.6 but the NPRM showed the value as zero.

We concur. We also found that both the x- and y-axis values proposed in the NPRM were incorrect. We changed part

[13] A copy of MIL–STD–210C, dated January 9, 1987, is available in the rule Docket No. FAA–2010–0636. MIL–STD–210 has since been superseded by MIL–HDBK–310, dated June 23, 1997, which is also available in the rule docket.

[14] Both of these documents are available on the EASA Web site at *http://www.easa.europa.eu.*

33, appendix D, figure D3, to depict the correct axis values. The lowest x-axis value is now 1 and the lowest y-axis value is now 0.6.

Several commenters noted that the horizontal cloud length proposed in the NPRM was stated in statute miles, and commented it should be provided in nautical miles. The commenters suggested that changing to nautical miles would make the distance measurement consistent with other tables and figures in appendix D.

We agree, and changed Table 1 to identify that the horizontal cloud length is depicted in nautical miles.

Several commenters asked why we included the reference to ''Reference 1'' in the text immediately following Table 1 in proposed part 33, appendix D, especially considering the material constituting ''Reference 1'' was not identified anywhere within the NPRM.

We agree. We removed the reference to ''Reference 1'' from the final rule.

**Establishing New Operating Limitations**

TCCA stated that it was not clear if the proposed requirements to exit all icing conditions were applicable only to in-flight icing encounters, or if they were also applicable to the takeoff phase of flight.

We agree that clarification is needed. We changed § 25.1533(c) to clarify that the additional limitations apply to all phases of flight.

*Additional Requirements for Safe Operation*

AIA, Boeing, and GAMA commented that proposed appendix O, paragraph (b) does not define takeoff ice accretions for airplanes not certified for takeoff in appendix O conditions. Therefore, they suggested that § 25.207(e)(1), which defines stall warning requirements for takeoff with ice accretions, should be added to the list of exceptions specified in § 25.21(g)(3).

We agree. We added the stall warning requirements in § 25.207(e)(1) to the exceptions listed in § 25.21(g)(3). As a result, applicants will not need to determine the stall warning margin for takeoff with appendix O ice accretions for airplanes not certified to take off in appendix O icing conditions.

TCCA commented that exposure to appendix O icing conditions may result in icing accretions further aft on fuselage, wing and stabilizer surfaces, and control surfaces, beyond what would normally be obtained in appendix C conditions. Therefore, TCCA suggested that compliance to § 25.251(b) through (e) should be shown for appendix O conditions.

We proposed to retain the provision from Amendment 25–121 for not requiring compliance with § 25.251(b) through (e) in appendix C icing conditions and extend it to include appendix O icing conditions. Although Amendment 25–121 only addressed appendix C icing conditions, the conclusion that compliance to § 25.251(b) through (e) need not be shown in icing conditions was based on a review of in-service experience in all icing conditions, not just appendix C icing conditions. Therefore, including § 25.251(b) through (e) within the exceptions listed in § 25.21(g) for certifications is equally applicable to either appendix C or appendix O conditions. No changes were made to the final rule as a result of this comment.

Dassault commented that the proposed ice accretion definitions in part II of appendix O did not include an ice accretion specific to the flight phase covered by § 25.121(a). Dassault added that the ice accretion used for showing compliance with § 25.121(a)(1) should be the accretion occurring between liftoff and the point at which the landing gear is fully retracted. Dassault requested that the FAA add the following definition: ''Takeoff—landing gear extended ice is the most critical ice accretion on unprotected surfaces, and any ice accretion on protected surfaces appropriate to normal ice protection system operation, occurring between liftoff and the point at which the landing gear is fully retracted, assuming accretion starts at liftoff in the icing conditions defined in Part I of this appendix.''

Instead of adding a definition for the ice accretion during the initial takeoff segment covered by § 25.121(a), we have reconsidered this issue and determined that this flight segment does not last long enough for significant ice accretions to occur, even in appendix O icing conditions. Therefore, we added § 25.121(a) to the list of requirements in § 25.21(g)(4) that do not have to be met with appendix O ice accretions. We also agree that our proposed definition for takeoff ice was inadequate. We did not intend to require that applicants include the small effect (if any) of ice accretion from the point of liftoff to the end of the takeoff distance in determining the takeoff distance under § 25.113, which the appendix C definition and the proposed appendix O definition may have implied. Therefore, we revised the definitions of takeoff ice and final takeoff ice in part 25, appendix C and appendix O, such that the ice accretion begins at the end of the takeoff distance, not at the point of liftoff. This change better aligns the definition of the takeoff and final takeoff ice with that of the takeoff path used for determining takeoff performance under §§ 25.111, 25.113, and 25.115.

*Request To Revise § 25.629*

TCCA commented that for airplanes exempt from § 25.1420, no evaluation of aeroelastic stability is required in appendix O icing conditions. For that reason, TCCA recommended that all icing considerations be included directly in § 25.629.

We do not agree. Section 25.629(b)(1) requires aeroelastic stability evaluations of the airplane in normal conditions. For airplanes approved for operation in icing conditions, ice accumulations are considered a normal condition under the rule. Since § 25.629 does not specifically distinguish between various types of icing conditions, all icing conditions for which the airplane is approved are considered normal conditions. For airplanes exempt from § 25.1420, or for which approval is not sought for flight in appendix O icing conditions, § 25.629(d)(3) requires that ice accumulations due to inadvertent icing encounters must be considered for airplanes not approved for operation in icing conditions. The intent is to consider ice accumulations due to inadvertent icing encounters from any icing conditions for which the airplane is not approved, including appendix O conditions. We did not change the rule as a result of this comment.

*Miscellaneous Issues*

After the FAA issued the NPRM to this rulemaking, we issued a final rule for *Harmonization of Various Airworthiness Standards for Transport Category Airplanes—Flight Rules* (docket number FAA–2010–0310). That final rule revised § 25.21(g)(1) to add the requirement that the stall warning margin requirements of § 25.207(c) and (d) must be met in the landing configuration in the icing conditions of appendix C. That final rule also revised § 25.253(c) to define the maximum speeds at which the static lateral-directional stability requirements of § 25.177(a) through (c) and the directional and lateral control requirements of § 25.147(f) must be met in the icing conditions of appendix C. We have retained those changes in §§ 25.21(g)(2) and 25.253(c) of this final rule. For consistency, we also revised § 25.21(g)(4) to require that § 25.207(c) and (d) must be met in the landing configuration in the appendix O icing conditions for which certification is sought. This revision is a logical outgrowth of the notice in this

rulemaking because the purpose of § 25.21(g)(4) is to ensure safe operation in appendix O conditions during all phases of flight, including the landing phase.

The FAA finds that clarifying the applicability of the proposed icing conditions to APU installations is necessary. Section 25.901(d) currently requires that each auxiliary power unit installation must meet the applicable provisions of the subpart. This requirement is unchanged by this rulemaking. The FAA considers § 25.1093(b) to be applicable to APU installations because they are turbine engines. An essential APU is used to provide air and/or power necessary to maintain safe airplane operation. A non-essential APU is used to provide air and/or power as a matter of convenience and may be shutdown without jeopardizing safe airplane operation. The FAA has traditionally required that essential APU installations continue to operate in part 25, appendix C, icing conditions. Non-essential APU installations either have restricted operation or are required to demonstrate that operation in icing conditions does not affect the safe operation of the airplane. References to part 25, appendix O, and part 33, appendix D, have been added to § 25.1093(b).

As previously discussed, the applicability of appendix O conditions in § 25.1093(b) excludes all turbine engine installations that are used on airplanes with a MTOW equal to or greater than 60,000 pounds. The FAA still considers APUs to be turbine engines that must comply with the installation requirements in §§ 25.901 and 25.1093; therefore, this rulemaking is not creating separate requirements for APU installations. Essential APU installations must continue to operate in the icing conditions applicable under § 25.1093(b). Non-essential APU installations must not affect the safe operation of the airplane when the icing conditions applicable under § 25.1093(b) are inadvertently encountered.

Also as previously discussed, the applicability of appendix O conditions in § 25.1093(b) was revised to provide relief for larger airplanes because of the successful in-service history of existing larger airplane and larger airplane turbine engine inlet designs. If future APU installations contain novel or unusual design features that affect this successful in-service history, and those design features make the airplane more susceptible to the effects of flight in SLD icing conditions, the FAA can issue special conditions to provide adequate safety standards.

A private citizen identified potential flightcrew training issues associated with this rulemaking. The commenter noted that while practical test standards for post-stall recovery procedures are clearly related to icing safety, they are not regulatory and may be changed without formal notice. The commenter also remarked that a common pilot input characteristic to add power and maintain the pitch angle of the airplane has been observed on the flight data recorder time histories related to several icing related accidents. In some cases, nose up pitch input was applied even against the nose down force being applied by the airplane's ''stick pusher'' that is designed to rapidly reduce the angle of attack. The commenter noted that these habit patterns are developed and reinforced as the required response in simulator training in accordance with FAA practical test standards for stall identification and recovery for minimum altitude loss. For example, ''Minimum altitude loss'' is trained as ''zero altitude loss.''

The flightcrew training issues addressed by the commenter are important safety considerations. However, flightcrew training is beyond the scope of this rulemaking because this rulemaking addresses design requirements. On July 6, 2010, the FAA published Safety Alert for Operators (SAFO) 10012. The SAFO discusses the possible misinterpretation of the practical test standards language ''minimal loss of altitude.'' [15]

In addition, on September 30, 2010, the FAA established the Stick Pusher and Adverse Weather Event Training Aviation Rulemaking Committee. One of the rulemaking committee objectives is to identify the best goals, procedures, and training practices that will enable air carrier pilots to accurately and consistently respond to unexpected stick pusher activations, icing conditions, and microburst and windshear events.[16] The ARC has submitted recommendations to the FAA, which are being considered for additional rulemaking activities. Such activities are beyond the scope of this rulemaking.

## Regulatory Notices and Analyses

### *Regulatory Evaluation*

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

In conducting these analyses, the FAA has determined that this final rule: (1) Has benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is ''not significant'' as defined in DOT's Regulatory Policies and Procedures; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

### *Total Benefits and Costs of This Final Rule*

[15] This document can be found at *http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/safo/all_safos/media/2010/SAFO10012.pdf.*

[16] A copy of the charter is available at *http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afs/afs200/media/208_ARC_Charter.pdf.*

TABLE 1—TOTAL BENEFITS AND COSTS OF THIS RULE

| | 2012$ | | 7% Present value | |
|---|---|---|---|---|
| | Benefit | Cost | Benefit | Cost |
| Part 33 Engines | Qualitative | $13,936,000 | Qualitative | $11,375,927 |
| Large Part 25 Airplanes | $362,319,857 | 14,126,333 | $76,861,295 | 11,531,295 |
| Other Part 25 Airplanes | $220,570,582 | 33,198,788 | $50,028,650 | 19,385,401 |
| Total | $582,890,439 | 61,261,121 | $126,889,985 | 42,292,624 |

* Details may not add to row or column totals due to rounding.

Persons Potentially Affected by This Final Rule

Part 25 airplane manufacturers,
Engine manufacturers, and
Operators of affected equipment.

Assumptions

The deliveries and affected fleets are analyzed over appropriate time periods and are customized based upon actual historical data. The fleet development is customized to the various (and different) airplane types. We conservatively assume that all certifications will occur in 2015 and deliveries will occur in the following year. As production time spans differ by size of airplane, it is important for the reader to focus on present value benefits and costs.

Present Value Discount rate—7%
Value of an Averted Fatality—$9.1 million in 2012

Both Costs and Benefits are expressed in 2012 dollars.

Benefits of This Final Rule

The FAA has analyzed events that would have been prevented if this final rule were in place at the time of certification. The events were evaluated for applicability and preventability in context with the requirements contained in this final rule.

For the categories of airplanes, first, we develop casualty rates for fatalities, injuries, investigations, and destroyed airplanes based on historical ice-related accidents. Next, we multiply the total annual affected airplanes by the annual risk per airplane. Lastly, we multiply the casualty rates by the projected number of part 25 newly certificated deliveries. When summed over time, the total estimated benefits are shown in Table 1.

Viewed from a breakeven analysis using only preventable fatalities, with each fatality valued at $9.1 million, this rule has benefits exceeding costs with only 7 fatalities prevented.

Costs of This Final Rule

The total estimated costs are shown in Table 1. We obtained the basis of our cost estimates from the industry. Since the NPRM, we have modified the estimates based upon industry comments and clarifications to those comments. The compliance costs are analyzed in context of the part 25 and part 33 certification requirements.

As summarized in Table 2, the cost categories in the regulatory evaluation incorporate both certification and operational costs. We analyze each cost category separately. The cost categories in this evaluation are the same as those provided by industry to comply with the requirements contained in this rule.

TABLE 2—COST SUMMARY

| | Nominal cost | 7% PV cost |
|---|---|---|
| Engine Certification Cost | $7,936,000 | $6,478,140 |
| Engine Capital Cost | 6,000,000 | 4,897,787 |
| Total Engine Cost | 13,936,000 | 11,375,927 |
| New Large Airplane Certification Cost | 14,126,333 | 11,531,295 |
| Large Airplane Hardware Cost | 0 | 0 |
| Large Airplane Fuel Cost | 0 | 0 |
| Total Large Airplane Cost | 14,126,333 | 11,531,295 |
| Other Airplane Certification Cost | 19,066,026 | 15,563,557 |
| Other Airplane Hardware Cost | 2,475,000 | 1,312,609 |
| Other Airplane Fuel Burn Cost | 11,657,762 | 2,509,236 |
| Total Other Airplane Costs | 33,198,788 | 19,385,401 |
| Total Costs | 61,261,121 | 42,292,624 |

* Details may not add to row or column totals due to rounding.

Alternatives Considered

Alternative 1—Make the entire rule applicable to all airplanes.

Not all the requirements in this rule extend to large transport category airplanes (those with a MTOW greater than 60,000 pounds). Under this alternative, the proposed design requirements would extend to all transport category airplanes. This alternative was rejected because this alternative would add significant costs without a commensurate increase in benefits.

Alternative 2—Limit the scope of applicability to small transport category airplanes.

Although this alternative would decrease the estimated cost, the FAA believes that medium and large airplanes are at risk of an SLD icing

event. The FAA does not want a significant proportion of the future fleet to be disproportionately at risk.

*Regulatory Flexibility Determination*

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

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

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear. Our initial determination was that the proposed rule would not have a significant economic impact on a substantial number of small entities. We received no public comments regarding our initial determination. As such, this final rule will not have a significant economic impact on a substantial number of small entities for the following reasons.

Airplane and Engine Manufacturers

Airplane and engine manufacturers will be affected by the requirements contained in this rule.

For airplane manufacturers, we use the size standards from the Small Business Administration for Air Transportation and Aircraft Manufacturing specifying companies having less than 1,500 employees as small entities. The current United States part 25 airplane manufacturers include Boeing, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, Raytheon Aircraft, and Sabreliner Corporation. Because all U.S. transport-category airplane manufacturers have more than 1,500 employees, none are considered small entities.

United States aircraft engine manufacturers include General Electric, CFM International, Pratt & Whitney, International Aero Engines, Rolls-Royce Corporation, Honeywell, and Williams International. All but one exceeds the Small Business Administration small-entity criteria for aircraft engine manufacturers. Williams International is the only one of these manufacturers that is a U.S. small business.

The FAA estimated that Williams International engines power approximately four percent of the engines on active U.S. airplanes. Assuming that future deliveries of newly certificated airplanes with Williams International engines will have the same percentage as the active fleet, we calculated that this final rule will add about 0.2 percent of their annual revenue. We do not consider a cost of 0.2 percent of annual revenue significant.

Operators

In addition to the certification cost incurred by manufacturers, operators will incur fuel costs due to the estimated additional impact of weight changes from equipment on affected airplanes. On average, operators affected by the final rule will incur no additional annual fuel costs for newly certificated large part 25 airplanes, and $189, in present value, in additional fuel costs for other newly certificated part 25 airplanes. This final rule will apply to airplanes that have yet to be designed; there will be no immediate cost to small entities. The other airplane annual fuel cost of $189, in present value, is not significant in terms of total operating expenses. We do not consider these annual fuel costs a significant economic impact.

This final rule will not have a significant economic impact on a substantial number of airplane manufacturers, engine manufacturers, or operators. Therefore, as the FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

*International Trade Analysis*

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the effect of this final rule and determined that it will not be an unnecessary obstacle to the foreign commerce of the United States as the purpose of this rule is to ensure aviation safety.

*Unfunded Mandates Assessment*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $143.1 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II do not apply.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The information collection requirements associated with this final rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and have been assigned OMB Control Number 2120–0018.

*International Compatibility and Cooperation*

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

(2) Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action will have no effect on international regulatory cooperation.

*Environmental Analysis*

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 4(j) and involves no extraordinary circumstances.

*Regulations Affecting Intrastate Aviation in Alaska*

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the FAA, when modifying its regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. In the NPRM, the FAA requested comments on whether the proposed rule should apply differently to intrastate operations in Alaska. The agency did not receive any comments, and has determined, based on the administrative record of this rulemaking, that there is no need to make any regulatory distinctions applicable to intrastate aviation in Alaska.

**Executive Order Determinations**

*Executive Order 13132, Federalism*

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

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

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

**How To Obtain Additional Information**

*Rulemaking Documents*

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

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

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

3. Access the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR.*

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

*Comments Submitted to the Docket*

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

*Small Business Regulatory Enforcement Fairness Act*

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

**List of Subjects**

*14 CFR Part 25*

Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

*14 CFR Part 33*

Aircraft, Aviation safety.

**The Amendment**

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

## PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

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

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

■ 2. Amend § 25.21 by revising paragraphs (g)(1) and (2) and adding paragraphs (g)(3) and (4) to read as follows:

**§ 25.21 Proof of compliance.**

* * * * *

(g) * * *

(1) Paragraphs (g)(3) and (4) of this section apply only to airplanes with one or both of the following attributes:

(i) Maximum takeoff gross weight is less than 60,000 lbs; or

(ii) The airplane is equipped with reversible flight controls.

(2) Each requirement of this subpart, except §§ 25.121(a), 25.123(c), 25.143(b)(1) and (2), 25.149, 25.201(c)(2), 25.239, and 25.251(b) through (e), must be met in the icing conditions specified in Appendix C of this part. Section 25.207(c) and (d) must be met in the landing configuration in the icing conditions specified in Appendix C, but need not be met for other configurations. Compliance must be shown using the ice accretions defined in part II of Appendix C of this part, assuming normal operation of the airplane and its ice protection system in accordance with the operating limitations and operating procedures established by the applicant and provided in the airplane flight manual.

(3) If the applicant does not seek certification for flight in all icing conditions defined in Appendix O of this part, each requirement of this subpart, except §§ 25.105, 25.107, 25.109, 25.111, 25.113, 25.115, 25.121, 25.123, 25.143(b)(1), (b)(2), and (c)(1), 25.149, 25.201(c)(2), 25.207(c), (d), and (e)(1), 25.239, and 25.251(b) through (e), must be met in the Appendix O icing conditions for which certification is not

sought in order to allow a safe exit from those conditions. Compliance must be shown using the ice accretions defined in part II, paragraphs (b) and (d) of Appendix O, assuming normal operation of the airplane and its ice protection system in accordance with the operating limitations and operating procedures established by the applicant and provided in the airplane flight manual.

(4) If the applicant seeks certification for flight in any portion of the icing conditions of Appendix O of this part, each requirement of this subpart, except §§ 25.121(a), 25.123(c), 25.143(b)(1) and (2), 25.149, 25.201(c)(2), 25.239, and 25.251(b) through (e), must be met in the Appendix O icing conditions for which certification is sought. Section 25.207(c) and (d) must be met in the landing configuration in the Appendix O icing conditions for which certification is sought, but need not be met for other configurations. Compliance must be shown using the ice accretions defined in part II, paragraphs (c) and (d) of Appendix O, assuming normal operation of the airplane and its ice protection system in accordance with the operating limitations and operating procedures established by the applicant and provided in the airplane flight manual.

■ 3. Amend § 25.105 by revising paragraph (a)(2) introductory text to read as follows:

**§ 25.105 Takeoff.**

(a) * * *

(2) In icing conditions, if in the configuration used to show compliance with § 25.121(b), and with the most critical of the takeoff ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g):

* * * * *

■ 4. Amend § 25.111 by revising paragraphs (c)(5)(i) and (ii) to read as follows:

**§ 25.111 Takeoff path.**

* * * * *

(c) * * *

(5) * * *

(i) With the most critical of the takeoff ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), from a height of 35 feet above the takeoff surface up to the point where the airplane is 400 feet above the takeoff surface; and

(ii) With the most critical of the final takeoff ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), from the point where the airplane is 400 feet above the takeoff surface to the end of the takeoff path.

* * * * *

■ 5. Amend § 25.119 by revising paragraph (b) to read as follows:

**§ 25.119 Landing climb: All-engines-operating.**

* * * * *

(b) In icing conditions with the most critical of the landing ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), and with a climb speed of $V_{REF}$ determined in accordance with § 25.125(b)(2)(ii).

■ 6. Amend § 25.121 by revising paragraphs (b)(2)(ii) introductory text, (c)(2)(ii) introductory text, and (d)(2)(ii) to read as follows:

**§ 25.121 Climb: One-engine-inoperative.**

* * * * *

(b) * * *

(2) * * *

(ii) In icing conditions with the most critical of the takeoff ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), if in the configuration used to show compliance with § 25.121(b) with this takeoff ice accretion:

* * * * *

(c) * * *

(2) * * *

(ii) In icing conditions with the most critical of the final takeoff ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), if in the configuration used to show compliance with § 25.121(b) with the takeoff ice accretion used to show compliance with § 25.111(c)(5)(i):

* * * * *

(d) * * *

(2) * * *

(ii) In icing conditions with the most critical of the approach ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g). The climb speed selected for non-icing conditions may be used if the climb speed for icing conditions, computed in accordance with paragraph (d)(1)(iii) of this section, does not exceed that for non-icing conditions by more than the greater of 3 knots CAS or 3 percent.

■ 7. Amend § 25.123 by revising paragraph (b)(2) introductory text to read as follows:

**§ 25.123 En route flight paths.**

* * * * *

(b) * * *

(2) In icing conditions with the most critical of the en route ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), if:

* * * * *

■ 8. Amend § 25.125 by revising paragraphs (a)(2), (b)(2)(ii)(B), and (b)(2)(ii)(C) to read as follows:

**§ 25.125 Landing.**

(a) * * *

(2) In icing conditions with the most critical of the landing ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), if $V_{REF}$ for icing conditions exceeds $V_{REF}$ for non-icing conditions by more than 5 knots CAS at the maximum landing weight.

(b) * * *

(2) * * *

(ii) * * *

(B) 1.23 $V_{SR0}$ with the most critical of the landing ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), if that speed exceeds $V_{REF}$ selected for non-icing conditions by more than 5 knots CAS; and

(C) A speed that provides the maneuvering capability specified in § 25.143(h) with the most critical of the landing ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g).

* * * * *

■ 9. Amend § 25.143 by revising paragraphs (c) introductory text, (i)(1), and (j) introductory text to read as follows:

**§ 25.143 General.**

* * * * *

(c) The airplane must be shown to be safely controllable and maneuverable with the most critical of the ice accretion(s) appropriate to the phase of flight as defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), and with the critical engine inoperative and its propeller (if applicable) in the minimum drag position:

* * * * *

(i) * * *

(1) Controllability must be demonstrated with the most critical of the ice accretion(s) for the particular flight phase as defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g);

* * * * *

(j) For flight in icing conditions before the ice protection system has been activated and is performing its intended function, it must be demonstrated in flight with the most critical of the ice accretion(s) defined in Appendix C, part

II, paragraph (e) of this part and Appendix O, part II, paragraph (d) of this part, as applicable, in accordance with § 25.21(g), that:

* * * * *

■ 10. Amend § 25.207 by revising paragraphs (b), (e)(1), (e)(2), (e)(3), (e)(4), (e)(5), and (h) introductory text as follows:

**§ 25.207 Stall warning.**

* * * * *

(b) The warning must be furnished either through the inherent aerodynamic qualities of the airplane or by a device that will give clearly distinguishable indications under expected conditions of flight. However, a visual stall warning device that requires the attention of the crew within the cockpit is not acceptable by itself. If a warning device is used, it must provide a warning in each of the airplane configurations prescribed in paragraph (a) of this section at the speed prescribed in paragraphs (c) and (d) of this section. Except for the stall warning prescribed in paragraph (h)(3)(ii) of this section, the stall warning for flight in icing conditions must be provided by the same means as the stall warning for flight in non-icing conditions.

* * * * *

(e) * * *

(1) The most critical of the takeoff ice and final takeoff ice accretions defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), for each configuration used in the takeoff phase of flight;

(2) The most critical of the en route ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), for the en route configuration;

(3) The most critical of the holding ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), for the holding configuration(s);

(4) The most critical of the approach ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), for the approach configuration(s); and

(5) The most critical of the landing ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), for the landing and go-around configuration(s).

* * * * *

(h) The following stall warning margin is required for flight in icing conditions before the ice protection system has been activated and is performing its intended function. Compliance must be shown using the most critical of the ice accretion(s) defined in Appendix C, part II, paragraph (e) of this part and Appendix O, part II, paragraph (d) of this part, as applicable, in accordance with § 25.21(g). The stall warning margin in straight and turning flight must be sufficient to allow the pilot to prevent stalling without encountering any adverse flight characteristics when:

* * * * *

■ 11. Amend § 25.237 by revising paragraph (a)(3)(ii) to read as follows:

**§ 25.237 Wind velocities.**

(a) * * *

(3) * * *

(ii) Icing conditions with the most critical of the landing ice accretion(s) defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g).

* * * * *

■ 12. Amend § 25.253 by revising paragraph (c) introductory text to read as follows:

**§ 25.253 High-speed characteristics.**

* * * * *

(c) *Maximum speed for stability characteristics in icing conditions.* The maximum speed for stability characteristics with the most critical of the ice accretions defined in Appendices C and O of this part, as applicable, in accordance with § 25.21(g), at which the requirements of §§ 25.143(g), 25.147(f), 25.175(b)(1), 25.177(a) through (c), and 25.181 must be met, is the lower of:

* * * * *

■ 13. Amend § 25.773 by revising paragraph (b)(1)(ii) to read as follows:

**§ 25.773 Pilot compartment view.**

* * * * *

(b) * * *

(1) * * *

(ii) The icing conditions specified in Appendix C of this part and the following icing conditions specified in Appendix O of this part, if certification for flight in icing conditions is sought:

(A) For airplanes certificated in accordance with § 25.1420(a)(1), the icing conditions that the airplane is certified to safely exit following detection.

(B) For airplanes certificated in accordance with § 25.1420(a)(2), the icing conditions that the airplane is certified to safely operate in and the icing conditions that the airplane is certified to safely exit following detection.

(C) For airplanes certificated in accordance with § 25.1420(a)(3) and for airplanes not subject to § 25.1420, all icing conditions.

* * * * *

■ 14. Amend § 25.903 by adding a new paragraph (a)(3) to read as follows:

**§ 25.903 Engines.**

(a) * * *

(3) Each turbine engine must comply with one of the following paragraphs:

(i) Section 33.68 of this chapter in effect on January 5, 2015, or as subsequently amended; or

(ii) Section 33.68 of this chapter in effect on February 23, 1984, or as subsequently amended before January 5, 2015, unless that engine's ice accumulation service history has resulted in an unsafe condition; or

(iii) Section 33.68 of this chapter in effect on October 1, 1974, or as subsequently amended prior to February 23, 1984, unless that engine's ice accumulation service history has resulted in an unsafe condition; or

(iv) Be shown to have an ice accumulation service history in similar installation locations which has not resulted in any unsafe conditions.

* * * * *

■ 15. Amend § 25.929 by revising paragraph (a) to read as follows:

**§ 25.929 Propeller deicing.**

(a) If certification for flight in icing is sought there must be a means to prevent or remove hazardous ice accumulations that could form in the icing conditions defined in Appendix C of this part and in the portions of Appendix O of this part for which the airplane is approved for flight on propellers or on accessories where ice accumulation would jeopardize engine performance.

* * * * *

■ 16. Amend § 25.1093 by revising paragraph (b) to read as follows:

**§ 25.1093 Induction system icing protection.**

* * * * *

(b) *Turbine engines.* Except as provided in paragraph (b)(3) of this section, each engine, with all icing protection systems operating, must:

(1) Operate throughout its flight power range, including the minimum descent idling speeds, in the icing conditions defined in Appendices C and O of this part, and Appendix D of part 33 of this chapter, and in falling and blowing snow within the limitations established for the airplane for such operation, without the accumulation of ice on the engine, inlet system components, or airframe components that would do any of the following:

(i) Adversely affect installed engine operation or cause a sustained loss of power or thrust; or an unacceptable increase in gas path operating

temperature; or an airframe/engine incompatibility; or

(ii) Result in unacceptable temporary power loss or engine damage; or

(iii) Cause a stall, surge, or flameout or loss of engine controllability (for example, rollback).

(2) Operate at ground idle speed for a minimum of 30 minutes on the ground in the following icing conditions shown in Table 1 of this section, unless replaced by similar test conditions that are more critical. These conditions must be demonstrated with the available air bleed for icing protection at its critical condition, without adverse effect, followed by an acceleration to takeoff power or thrust in accordance with the procedures defined in the airplane flight manual. During the idle operation, the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator. Analysis may be used to show ambient temperatures below the tested temperature are less critical. The applicant must document the engine run-up procedure (including the maximum time interval between run-ups from idle, run-up power setting, and duration at power), the associated minimum ambient temperature, and the maximum time interval. These conditions must be used in the analysis that establishes the airplane operating limitations in accordance with § 25.1521.

(3) For the purposes of this section, the icing conditions defined in appendix O of this part, including the conditions specified in Condition 3 of Table 1 of this section, are not applicable to airplanes with a maximum takeoff weight equal to or greater than 60,000 pounds.

TABLE 1—ICING CONDITIONS FOR GROUND TESTS

| Condition | Total air temperature | Water concentration (minimum) | Mean effective particle diameter | Demonstration |
|---|---|---|---|---|
| 1. Rime ice condition | 0 to 15 °F (18 to −9 °C) | Liquid—0.3 g/m³ | 15–25 microns | By test, analysis or combination of the two. |
| 2. Glaze ice condition | 20 to 30 °F (−7 to −1 °C). | Liquid—0.3 g/m³ | 15–25 microns | By test, analysis or combination of the two. |
| 3. Large drop condition | 15 to 30 °F (−9 to −1 °C). | Liquid—0.3 g/m³ | 100 microns (minimum) | By test, analysis or combination of the two. |

* * * * *

■ 17. Amend § 25.1323 by revising paragraph (i) to read as follows:

**§ 25.1323 Airspeed indicating system.**

* * * * *

(i) Each system must have a heated pitot tube or an equivalent means of preventing malfunction in the heavy rain conditions defined in Table 1 of this section; mixed phase and ice crystal conditions as defined in part 33, Appendix D, of this chapter; the icing conditions defined in Appendix C of this part; and the following icing conditions specified in Appendix O of this part:

(1) For airplanes certificated in accordance with § 25.1420(a)(1), the icing conditions that the airplane is certified to safely exit following detection.

(2) For airplanes certificated in accordance with § 25.1420(a)(2), the icing conditions that the airplane is certified to safely operate in and the icing conditions that the airplane is certified to safely exit following detection.

(3) For airplanes certificated in accordance with § 25.1420(a)(3) and for airplanes not subject to § 25.1420, all icing conditions.

TABLE 1—HEAVY RAIN CONDITIONS FOR AIRSPEED INDICATING SYSTEM TESTS

| Altitude range | | Liquid water content | Horizontal extent | | Droplet MVD |
|---|---|---|---|---|---|
| (ft) | (m) | (g/m3) | (km) | (nmiles) | (μm) |
| 0 to 10 000 | 0 to 3000 | 1 | 100 | 50 | 1000 |
| | | 6 | 5 | 3 | 2000 |
| | | 15 | 1 | 0.5 | 2000 |

* * * * *

■ 18. Amend part 25 by adding a new section § 25.1324 to read as follows:

**§ 25.1324 Angle of attack system.**

Each angle of attack system sensor must be heated or have an equivalent means of preventing malfunction in the heavy rain conditions defined in Table 1 of § 25.1323, the mixed phase and ice crystal conditions as defined in part 33, Appendix D, of this chapter, the icing conditions defined in Appendix C of this part, and the following icing conditions specified in Appendix O of this part:

(a) For airplanes certificated in accordance with § 25.1420(a)(1), the icing conditions that the airplane is certified to safely exit following detection.

(b) For airplanes certificated in accordance with § 25.1420(a)(2), the icing conditions that the airplane is certified to safely operate in and the icing conditions that the airplane is certified to safely exit following detection.

(c) For airplanes certificated in accordance with § 25.1420(a)(3) and for airplanes not subject to § 25.1420, all icing conditions.

■ 19. Amend § 25.1325 by revising paragraph (b) to read as follows:

**§ 25.1325 Static pressure systems.**

* * * * *

(b) Each static port must be designed and located so that:

(1) The static pressure system performance is least affected by airflow variation, or by moisture or other foreign matter; and

(2) The correlation between air pressure in the static pressure system and true ambient atmospheric static pressure is not changed when the airplane is exposed to the icing conditions defined in Appendix C of

this part, and the following icing conditions specified in Appendix O of this part:

(i) For airplanes certificated in accordance with § 25.1420(a)(1), the icing conditions that the airplane is certified to safely exit following detection.

(ii) For airplanes certificated in accordance with § 25.1420(a)(2), the icing conditions that the airplane is certified to safely operate in and the icing conditions that the airplane is certified to safely exit following detection.

(iii) For airplanes certificated in accordance with § 25.1420(a)(3) and for airplanes not subject to § 25.1420, all icing conditions.

* * * * *

■ 20. Amend part 25 by adding a new § 25.1420 to read as follows:

**§ 25.1420 Supercooled large drop icing conditions.**

(a) If certification for flight in icing conditions is sought, in addition to the requirements of § 25.1419, an airplane with a maximum takeoff weight less than 60,000 pounds or with reversible flight controls must be capable of operating in accordance with paragraphs (a)(1), (2), or (3), of this section.

(1) Operating safely after encountering the icing conditions defined in Appendix O of this part:

(i) The airplane must have a means to detect that it is operating in Appendix O icing conditions; and

(ii) Following detection of Appendix O icing conditions, the airplane must be capable of operating safely while exiting all icing conditions.

(2) Operating safely in a portion of the icing conditions defined in Appendix O of this part as selected by the applicant:

(i) The airplane must have a means to detect that it is operating in conditions that exceed the selected portion of Appendix O icing conditions; and

(ii) Following detection, the airplane must be capable of operating safely while exiting all icing conditions.

(3) Operating safely in the icing conditions defined in Appendix O of this part.

(b) To establish that the airplane can operate safely as required in paragraph (a) of this section, an applicant must show through analysis that the ice protection for the various components of the airplane is adequate, taking into account the various airplane operational configurations. To verify the analysis, one, or more as found necessary, of the following methods must be used:

(1) Laboratory dry air or simulated icing tests, or a combination of both, of the components or models of the components.

(2) Laboratory dry air or simulated icing tests, or a combination of both, of models of the airplane.

(3) Flight tests of the airplane or its components in simulated icing conditions, measured as necessary to support the analysis.

(4) Flight tests of the airplane with simulated ice shapes.

(5) Flight tests of the airplane in natural icing conditions, measured as necessary to support the analysis.

(c) For an airplane certified in accordance with paragraph (a)(2) or (3) of this section, the requirements of § 25.1419(e), (f), (g), and (h) must be met for the icing conditions defined in Appendix O of this part in which the airplane is certified to operate.

(d) For the purposes of this section, the following definitions apply:

(1) *Reversible Flight Controls.* Flight controls in the normal operating configuration that have force or motion originating at the airplane's control surface (for example, through aerodynamic loads, static imbalance, or trim or servo tab inputs) that is transmitted back to flight deck controls. This term refers to flight deck controls connected to the pitch, roll, or yaw control surfaces by direct mechanical linkages, cables, or push-pull rods in such a way that pilot effort produces motion or force about the hinge line.

(2) *Simulated Icing Test.* Testing conducted in simulated icing conditions, such as in an icing tunnel or behind an icing tanker.

(3) *Simulated Ice Shape.* Ice shape fabricated from wood, epoxy, or other materials by any construction technique.

■ 21. Amend § 25.1521 by redesignating paragraph (c)(3) as paragraph (c)(4), revising newly redesignated paragraph (c)(4), and adding new paragraph (c)(3) to read as follows:

**§ 25.1521 Powerplant limitations.**

* * * * *

(c) * * *

(3) Maximum time interval between engine run-ups from idle, run-up power setting and duration at power for ground operation in icing conditions, as defined in § 25.1093(b)(2).

(4) Any other parameter for which a limitation has been established as part of the engine type certificate except that a limitation need not be established for a parameter that cannot be exceeded during normal operation due to the design of the installation or to another established limitation.

* * * * *

■ 22. Amend § 25.1533 by adding a new paragraph (c) to read as follows:

**§ 25.1533 Additional operating limitations.**

* * * * *

(c) For airplanes certified in accordance with § 25.1420(a)(1) or (2), an operating limitation must be established to:

(1) Prohibit intentional flight, including takeoff and landing, into icing conditions defined in Appendix O of this part for which the airplane has not been certified to safely operate; and

(2) Require exiting all icing conditions if icing conditions defined in Appendix O of this part are encountered for which the airplane has not been certified to safely operate.

■ 23. Amend Appendix C to part 25, in part II, by revising paragraph (a)(1), the second sentence of paragraph (a)(2), and paragraph (d)(2) to read as follows:

## Appendix C to Part 25

* * * * *

**PART II—AIRFRAME ICE ACCRETIONS FOR SHOWING COMPLIANCE WITH SUBPART B**

(a) * * *

(1) *Takeoff ice* is the most critical ice accretion on unprotected surfaces and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, occurring between the end of the takeoff distance and 400 feet above the takeoff surface, assuming accretion starts at the end of the takeoff distance in the takeoff maximum icing conditions defined in part I of this Appendix.

(2) * * * Ice accretion is assumed to start at the end of the takeoff distance in the takeoff maximum icing conditions of part I, paragraph (c) of this Appendix.

* * * * *

(d) * * *

(2) The ice accretion starts at the end of the takeoff distance.

* * * * *

■ 24. Amend part 25 by adding new Appendix O to read as follows:

## Appendix O to Part 25—Supercooled Large Drop Icing Conditions

This Appendix consists of two parts. Part I defines this Appendix as a description of supercooled large drop icing conditions in which the drop median volume diameter (MVD) is less than or greater than 40 μm, the maximum mean effective drop diameter (MED) of Appendix C of this part continuous maximum (stratiform clouds) icing conditions. For this Appendix, supercooled large drop icing conditions consist of freezing drizzle and freezing rain occurring in and/or below stratiform clouds. Part II defines ice accretions used to show compliance with the airplane performance and handling qualities requirements of subpart B of this part.

**PART I—METEOROLOGY**

In this Appendix icing conditions are defined by the parameters of altitude, vertical and horizontal extent, temperature, liquid water content, and water mass distribution as a function of drop diameter distribution.

(a) Freezing Drizzle (Conditions with spectra maximum drop diameters from 100μm to 500 μm):

(1) Pressure altitude range: 0 to 22,000 feet MSL.

(2) Maximum vertical extent: 12,000 feet.

(3) Horizontal extent: Standard distance of 17.4 nautical miles.

(4) Total liquid water content.

**Note:** Liquid water content (LWC) in grams per cubic meter (g/m³) based on horizontal extent standard distance of 17.4 nautical miles.

(5) Drop diameter distribution: Figure 2.

(6) Altitude and temperature envelope: Figure 3.

(b) Freezing Rain (Conditions with spectra maximum drop diameters greater than 500 μm):

(1) Pressure altitude range: 0 to 12,000 ft MSL.

(2) Maximum vertical extent: 7,000 ft.

(3) Horizontal extent: Standard distance of 17.4 nautical miles.

(4) Total liquid water content.

**Note:** LWC in grams per cubic meter (g/m³) based on horizontal extent standard distance of 17.4 nautical miles.

(5) Drop Diameter Distribution: Figure 5.

(6) Altitude and temperature envelope: Figure 6.

(c) Horizontal extent.

The liquid water content for freezing drizzle and freezing rain conditions for horizontal extents other than the standard 17.4 nautical miles can be determined by the value of the liquid water content determined from Figure 1 or Figure 4, multiplied by the factor provided in Figure 7, which is defined by the following equation:

$$S = 1.266 - 0.213 \log10(H)$$

Where:

S = Liquid Water Content Scale Factor (dimensionless) and

H = horizontal extent in nautical miles

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FIGURE 1 — Appendix O, Freezing Drizzle, Liquid Water Content

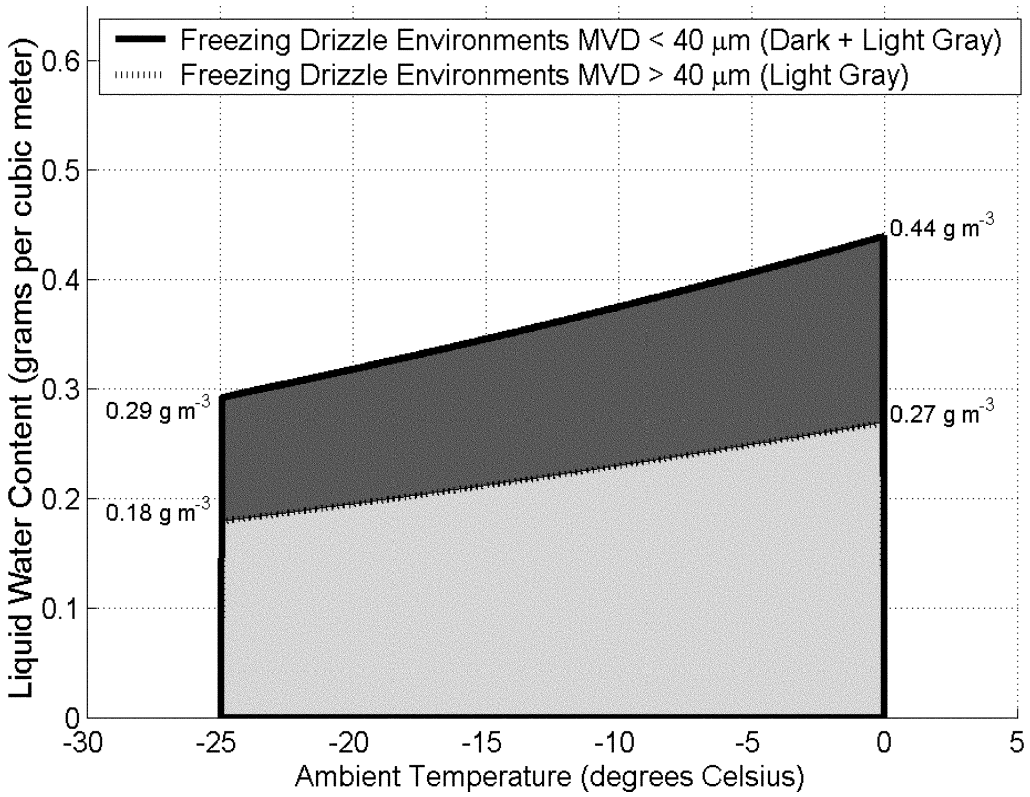


FIGURE 2 — Appendix O, Freezing Drizzle, Drop Diameter Distribution

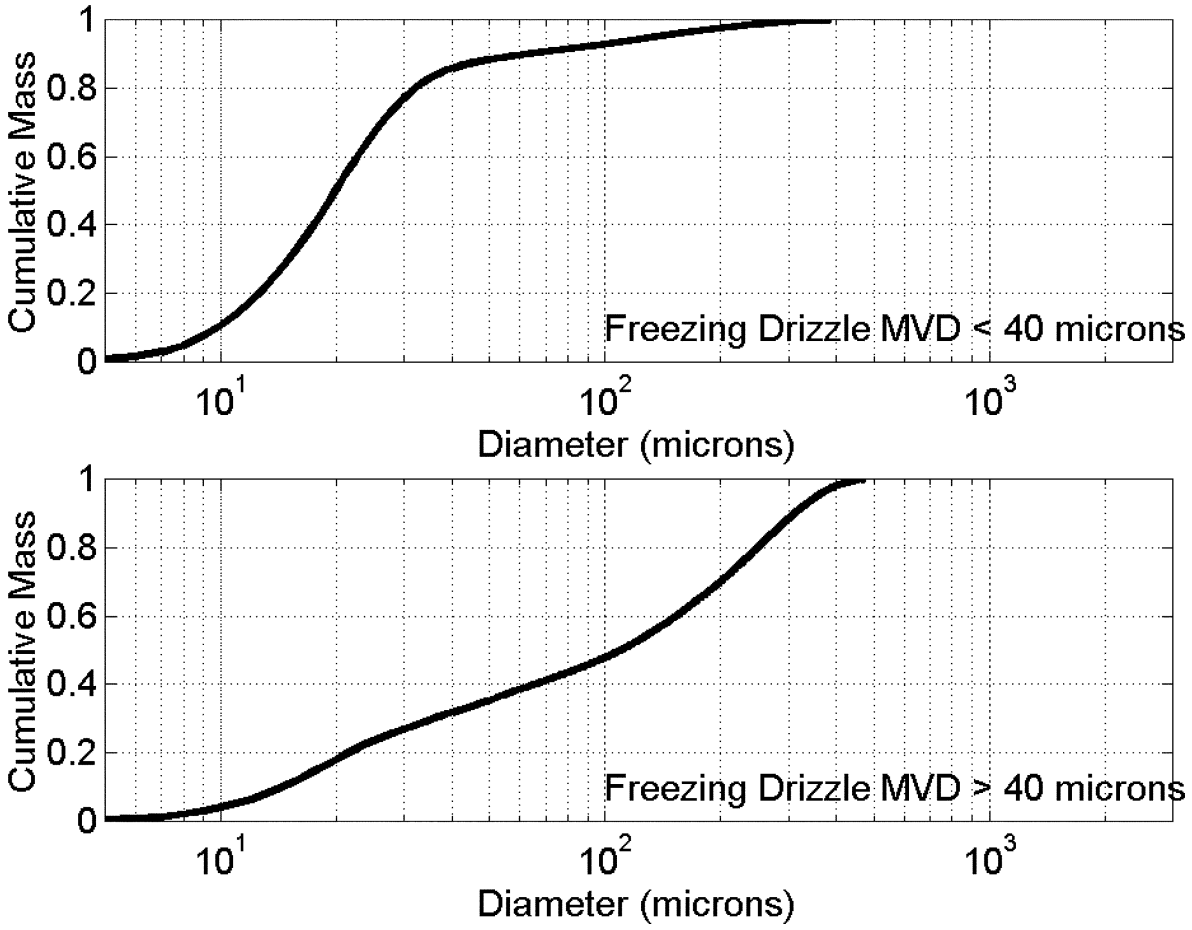


FIGURE 3 — Appendix O, Freezing Drizzle, Temperature and Altitude

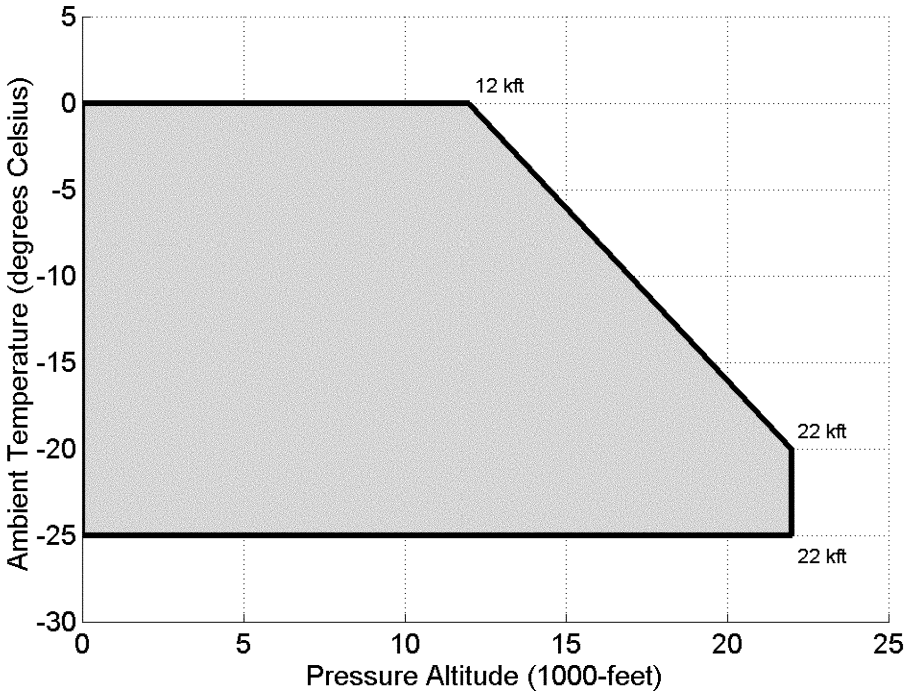



FIGURE 4 — Appendix O, Freezing Rain, Liquid Water Content

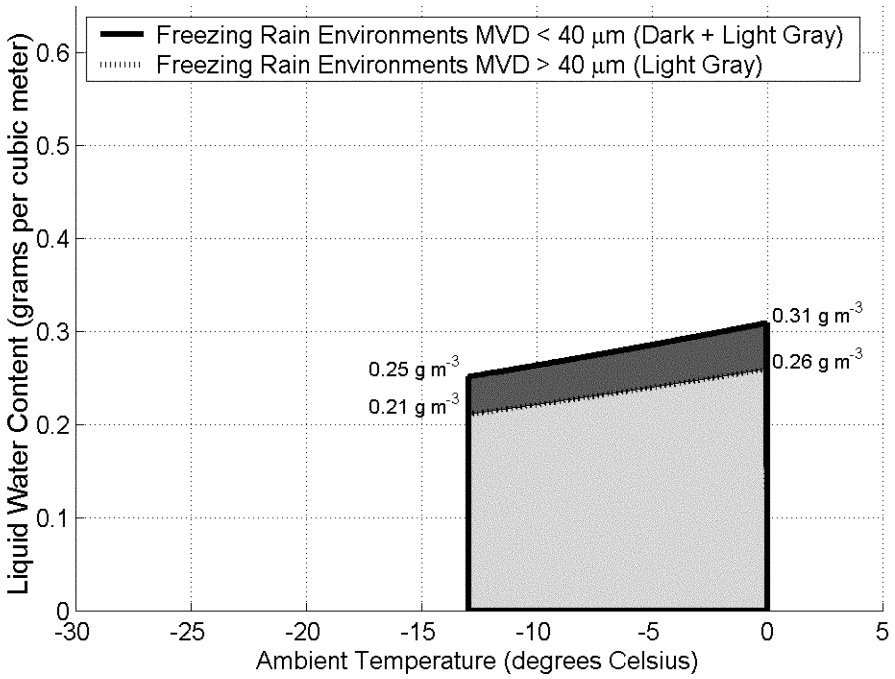


FIGURE 5 — Appendix O, Freezing Rain, Drop Diameter Distribution

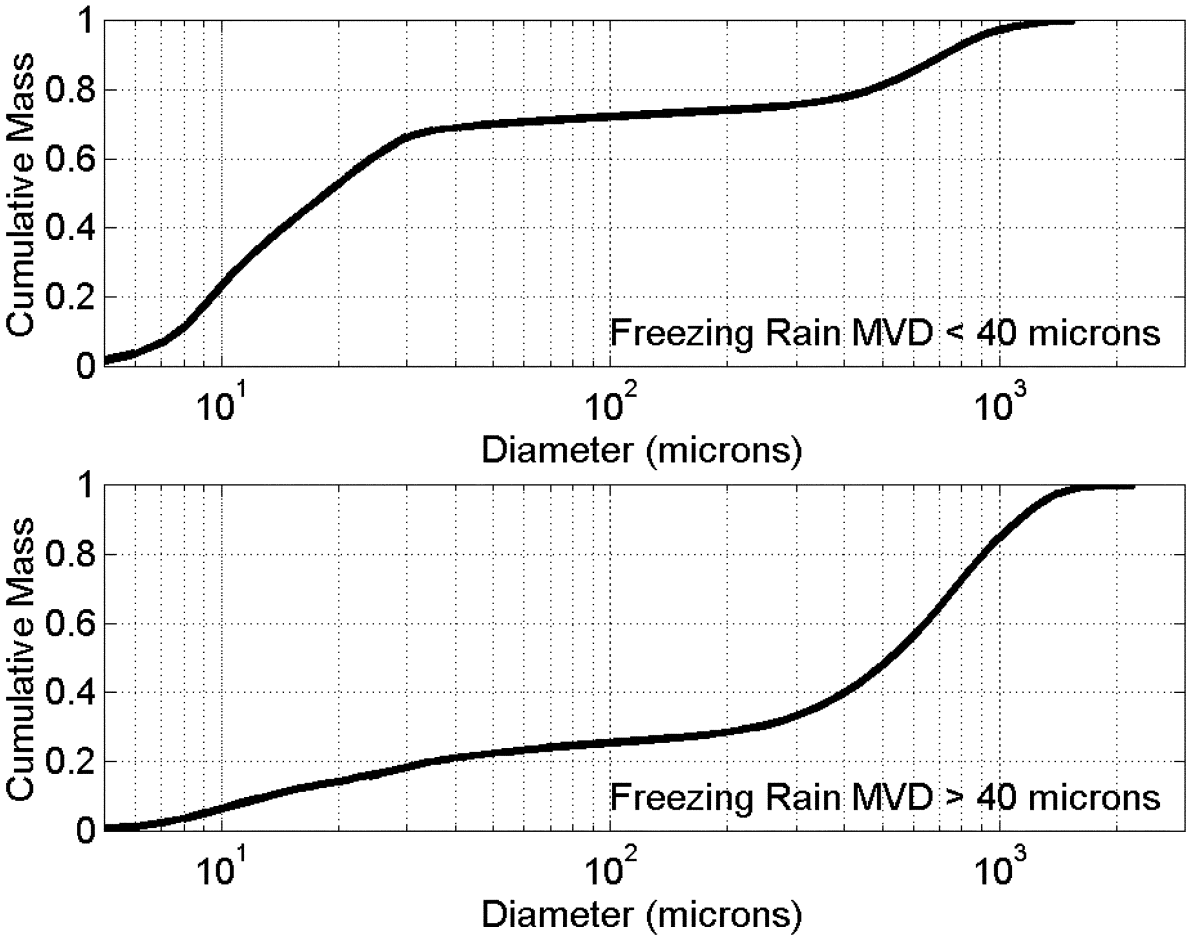


FIGURE 6 — Appendix O, Freezing Rain, Temperature and Altitude

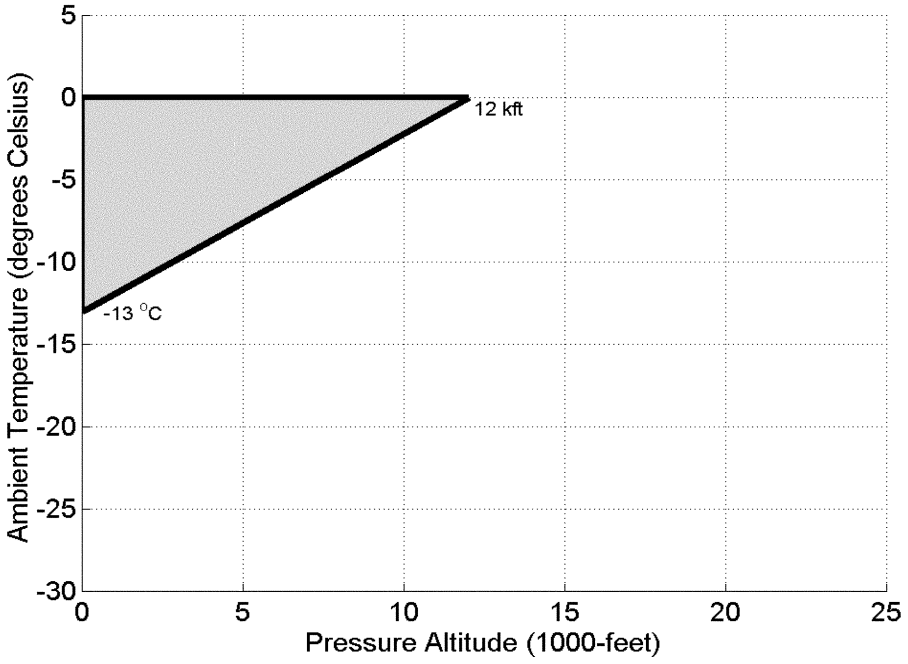
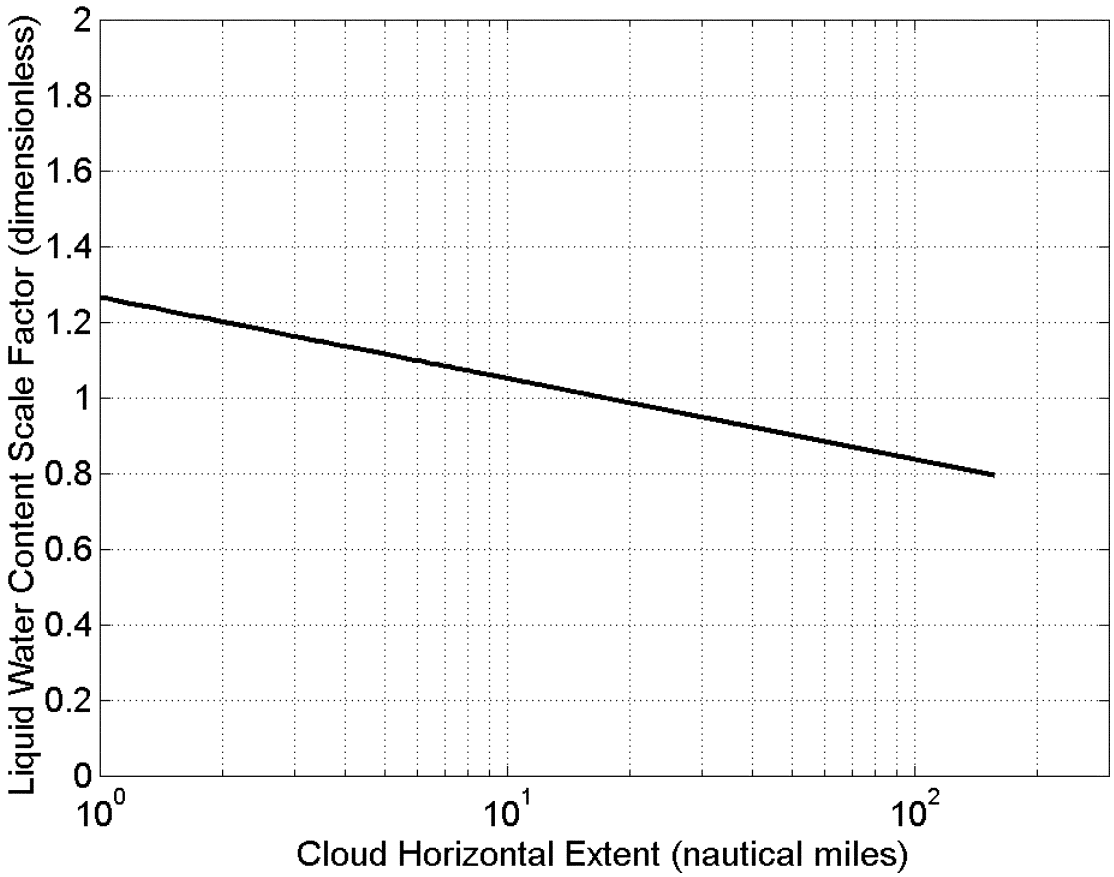


FIGURE 7 — Appendix O, Horizontal Extent, Freezing Drizzle and Freezing Rain

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**PART II—AIRFRAME ICE ACCRETIONS FOR SHOWING COMPLIANCE WITH SUBPART B OF THIS PART**

(a) *General.*

The most critical ice accretion in terms of airplane performance and handling qualities for each flight phase must be used to show compliance with the applicable airplane performance and handling qualities requirements for icing conditions contained in subpart B of this part. Applicants must demonstrate that the full range of atmospheric icing conditions specified in part I of this Appendix have been considered, including drop diameter distributions, liquid water content, and temperature appropriate to the flight conditions (for example, configuration, speed, angle of attack, and altitude).

(1) For an airplane certified in accordance with § 25.1420(a)(1), the ice accretions for each flight phase are defined in part II, paragraph (b) of this Appendix.

(2) For an airplane certified in accordance with § 25.1420(a)(2), the most critical ice accretion for each flight phase defined in part II, paragraphs (b) and (c) of this Appendix, must be used. For the ice accretions defined in part II, paragraph (c) of this Appendix, only the portion of part I of this Appendix in which the airplane is capable of operating safely must be considered.

(3) For an airplane certified in accordance with § 25.1420(a)(3), the ice accretions for each flight phase are defined in part II, paragraph (c) of this Appendix.

(b) Ice accretions for airplanes certified in accordance with § 25.1420(a)(1) or (2).

(1) *En route ice* is the en route ice as defined by part II, paragraph (c)(3), of this Appendix, for an airplane certified in accordance with § 25.1420(a)(2), or defined by part II, paragraph (a)(3), of Appendix C of this part, for an airplane certified in accordance with § 25.1420(a)(1), plus:

(i) Pre-detection ice as defined by part II, paragraph (b)(5), of this Appendix; and

(ii) The ice accumulated during the transit of one cloud with a horizontal extent of 17.4 nautical miles in the most critical of the icing conditions defined in part I of this Appendix and one cloud with a horizontal extent of 17.4 nautical miles in the continuous maximum icing conditions defined in Appendix C of this part.

(2) *Holding ice* is the holding ice defined by part II, paragraph (c)(4), of this Appendix, for an airplane certified in accordance with § 25.1420(a)(2), or defined by part II, paragraph (a)(4), of Appendix C of this part, for an airplane certified in accordance with § 25.1420(a)(1), plus:

(i) Pre-detection ice as defined by part II, paragraph (b)(5), of this Appendix; and

(ii) The ice accumulated during the transit of one cloud with a 17.4 nautical miles horizontal extent in the most critical of the icing conditions defined in part I of this Appendix and one cloud with a horizontal extent of 17.4 nautical miles in the continuous maximum icing conditions defined in Appendix C of this part.

(iii) Except the total exposure to holding ice conditions does not need to exceed 45 minutes.

(3) *Approach ice* is the more critical of the holding ice defined by part II, paragraph (b)(2), of this Appendix, or the ice calculated in the applicable paragraphs (b)(3)(i) or (ii) of part II, of this Appendix:

(i) For an airplane certified in accordance with § 25.1420(a)(2), the ice accumulated during descent from the maximum vertical extent of the icing conditions defined in part I of this Appendix to 2,000 feet above the landing surface in the cruise configuration, plus transition to the approach configuration, plus:

(A) Pre-detection ice, as defined by part II, paragraph (b)(5), of this Appendix; and

(B) The ice accumulated during the transit at 2,000 feet above the landing surface of one cloud with a horizontal extent of 17.4 nautical miles in the most critical of the icing conditions defined in part I of this Appendix and one cloud with a horizontal extent of 17.4 nautical miles in the continuous maximum icing conditions defined in Appendix C of this part.

(ii) For an airplane certified in accordance with § 25.1420(a)(1), the ice accumulated during descent from the maximum vertical extent of the maximum continuous icing conditions defined in part I of Appendix C to 2,000 feet above the landing surface in the cruise configuration, plus transition to the approach configuration, plus:

(A) Pre-detection ice, as defined by part II, paragraph (b)(5), of this Appendix; and

(B) The ice accumulated during the transit at 2,000 feet above the landing surface of one cloud with a horizontal extent of 17.4 nautical miles in the most critical of the icing conditions defined in part I of this Appendix and one cloud with a horizontal extent of 17.4 nautical miles in the continuous maximum icing conditions defined in Appendix C of this part.

(4) *Landing ice* is the more critical of the holding ice as defined by part II, paragraph (b)(2), of this Appendix, or the ice calculated in the applicable paragraphs (b)(4)(i) or (ii) of part II of this Appendix:

(i) For an airplane certified in accordance with § 25.1420(a)(2), the ice accretion defined by part II, paragraph (c)(5)(i), of this Appendix, plus a descent from 2,000 feet above the landing surface to a height of 200 feet above the landing surface with a transition to the landing configuration in the icing conditions defined in part I of this Appendix, plus:

(A) Pre-detection ice, as defined in part II, paragraph (b)(5), of this Appendix; and

(B) The ice accumulated during an exit maneuver, beginning with the minimum climb gradient required by § 25.119, from a height of 200 feet above the landing surface through one cloud with a horizontal extent of 17.4 nautical miles in the most critical of the icing conditions defined in part I of this Appendix and one cloud with a horizontal extent of 17.4 nautical miles in the continuous maximum icing conditions defined in Appendix C of this part.

(ii) For an airplane certified in accordance with § 25.1420(a)(1), the ice accumulated in the maximum continuous icing conditions defined in Appendix C of this part, during a descent from the maximum vertical extent of the icing conditions defined in Appendix C of this part, to 2,000 feet above the landing surface in the cruise configuration, plus transition to the approach configuration and flying for 15 minutes at 2,000 feet above the landing surface, plus a descent from 2,000 feet above the landing surface to a height of 200 feet above the landing surface with a transition to the landing configuration, plus:

(A) Pre-detection ice, as described by part II, paragraph (b)(5), of this Appendix; and

(B) The ice accumulated during an exit maneuver, beginning with the minimum climb gradient required by § 25.119, from a height of 200 feet above the landing surface through one cloud with a horizontal extent of 17.4 nautical miles in the most critical of the icing conditions defined in part I of this Appendix and one cloud with a horizontal extent of 17.4 nautical miles in the continuous maximum icing conditions defined in Appendix C of this part.

(5) *Pre-detection ice* is the ice accretion before detection of flight conditions in this Appendix that require exiting per § 25.1420(a)(1) and (2). It is the pre-existing ice accretion that may exist from operating in icing conditions in which the airplane is approved to operate prior to encountering the icing conditions requiring an exit, plus the ice accumulated during the time needed to detect the icing conditions, followed by two minutes of further ice accumulation to take into account the time for the flightcrew to take action to exit the icing conditions, including coordination with air traffic control.

(i) For an airplane certified in accordance with § 25.1420(a)(1), the pre-existing ice accretion must be based on the icing conditions defined in Appendix C of this part.

(ii) For an airplane certified in accordance with § 25.1420(a)(2), the pre-existing ice accretion must be based on the more critical of the icing conditions defined in Appendix C of this part, or the icing conditions defined in part I of this Appendix in which the airplane is capable of safely operating.

(c) *Ice accretions for airplanes certified in accordance with §§ 25.1420(a)(2) or (3).* For an airplane certified in accordance with § 25.1420(a)(2), only the portion of the icing conditions of part I of this Appendix in which the airplane is capable of operating safely must be considered.

(1) *Takeoff ice* is the most critical ice accretion on unprotected surfaces, and any ice accretion on the protected surfaces, occurring between the end of the takeoff distance and 400 feet above the takeoff surface, assuming accretion starts at the end of the takeoff distance in the icing conditions defined in part I of this Appendix.

(2) *Final takeoff ice* is the most critical ice accretion on unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, between 400 feet and either 1,500 feet above the takeoff surface, or the height at which the transition from the takeoff to the en route configuration is completed and $V_{FTO}$ is reached, whichever is higher. Ice accretion is assumed to start at the end of the takeoff distance in the icing conditions defined in part I of this Appendix.

(3) *En route ice* is the most critical ice accretion on the unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, during the en route flight phase in the icing conditions defined in part I of this Appendix.

(4) *Holding ice* is the most critical ice accretion on the unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, resulting from 45 minutes of flight within a cloud with a 17.4 nautical miles horizontal extent in the icing conditions defined in part I of this Appendix, during the holding phase of flight.

(5) *Approach ice* is the ice accretion on the unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, resulting from the more critical of the:

(i) Ice accumulated in the icing conditions defined in part I of this Appendix during a descent from the maximum vertical extent of the icing conditions defined in part I of this Appendix, to 2,000 feet above the landing surface in the cruise configuration, plus transition to the approach configuration and flying for 15 minutes at 2,000 feet above the landing surface; or

(ii) Holding ice as defined by part II, paragraph (c)(4), of this Appendix.

(6) *Landing ice* is the ice accretion on the unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, resulting from the more critical of the:

(i) Ice accretion defined by part II, paragraph (c)(5)(i), of this Appendix, plus ice accumulated in the icing conditions defined in part I of this Appendix during a descent from 2,000 feet above the landing surface to a height of 200 feet above the landing surface with a transition to the landing configuration, followed by a go-around at the minimum climb gradient required by § 25.119, from a height of 200 feet above the landing surface to 2,000 feet above the landing surface, flying for 15 minutes at 2,000 feet above the landing surface in the approach configuration, and a descent to the landing surface (touchdown) in the landing configuration; or

(ii) Holding ice as defined by part II, paragraph (c)(4), of this Appendix.

(7) For both unprotected and protected parts, the ice accretion for the takeoff phase must be determined for the icing conditions defined in part I of this Appendix, using the following assumptions:

(i) The airfoils, control surfaces, and, if applicable, propellers are free from frost, snow, or ice at the start of takeoff;

(ii) The ice accretion starts at the end of the takeoff distance;

(iii) The critical ratio of thrust/power-to-weight;

(iv) Failure of the critical engine occurs at $V_{EF}$; and

(v) Crew activation of the ice protection system is in accordance with a normal operating procedure provided in the airplane flight manual, except that after beginning the takeoff roll, it must be assumed that the crew takes no action to activate the ice protection system until the airplane is at least 400 feet above the takeoff surface.

(d) The ice accretion before the ice protection system has been activated and is performing its intended function is the critical ice accretion formed on the unprotected and normally protected surfaces before activation and effective operation of the ice protection system in the icing conditions defined in part I of this Appendix. This ice accretion only applies in showing compliance to §§ 25.143(j) and 25.207(h).

(e) In order to reduce the number of ice accretions to be considered when demonstrating compliance with the requirements of § 25.21(g), any of the ice accretions defined in this Appendix may be used for any other flight phase if it is shown to be at least as critical as the specific ice accretion defined for that flight phase. Configuration differences and their effects on ice accretions must be taken into account.

(f) The ice accretion that has the most adverse effect on handling qualities may be used for airplane performance tests provided any difference in performance is conservatively taken into account.

## PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

■ 25. The authority citation for part 33 is revised to read as follows:

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

■ 26. Revise § 33.68 to read as follows:

### § 33.68 Induction system icing.

Each engine, with all icing protection systems operating, must:

(a) Operate throughout its flight power range, including the minimum descent idle rotor speeds achievable in flight, in the icing conditions defined for turbojet, turbofan, and turboprop engines in Appendices C and O of part 25 of this chapter, and Appendix D of this part, and for turboshaft engines in Appendix C of part 29 of this chapter, without the accumulation of ice on the engine components that:

(1) Adversely affects engine operation or that causes an unacceptable permanent loss of power or thrust or unacceptable increase in engine operating temperature; or

(2) Results in unacceptable temporary power loss or engine damage; or

(3) Causes a stall, surge, or flameout or loss of engine controllability. The applicant must account for in-flight ram effects in any critical point analysis or test demonstration of these flight conditions.

(b) Operate throughout its flight power range, including minimum descent idle rotor speeds achievable in flight, in the icing conditions defined for turbojet, turbofan, and turboprop engines in Appendices C and O of part 25 of this chapter, and for turboshaft engines in Appendix C of part 29 of this chapter. In addition:

(1) It must be shown through Critical Point Analysis (CPA) that the complete ice envelope has been analyzed, and that the most critical points must be demonstrated by engine test, analysis, or a combination of the two to operate acceptably. Extended flight in critical flight conditions such as hold, descent, approach, climb, and cruise, must be addressed, for the ice conditions defined in these appendices.

(2) It must be shown by engine test, analysis, or a combination of the two that the engine can operate acceptably for the following durations:

(i) At engine powers that can sustain level flight: A duration that achieves repetitive, stabilized operation for turbojet, turbofan, and turboprop engines in the icing conditions defined in Appendices C and O of part 25 of this chapter, and for turboshaft engines in the icing conditions defined in Appendix C of part 29 of this chapter.

(ii) At engine power below that which can sustain level flight:

(A) Demonstration in altitude flight simulation test facility: A duration of 10 minutes consistent with a simulated flight descent of 10,000 ft (3 km) in altitude while operating in Continuous Maximum icing conditions defined in Appendix C of part 25 of this chapter for turbojet, turbofan, and turboprop engines, and for turboshaft engines in the icing conditions defined in Appendix C of part 29 of this chapter, plus 40 percent liquid water content margin, at the critical level of airspeed and air temperature; or

(B) Demonstration in ground test facility: A duration of 3 cycles of alternating icing exposure corresponding to the liquid water content levels and standard cloud lengths starting in Intermittent Maximum and then in Continuous Maximum icing conditions defined in Appendix C of part 25 of this chapter for turbojet, turbofan, and turboprop engines, and for turboshaft engines in the icing conditions defined in Appendix C of part 29 of this chapter, at the critical level of air temperature.

(c) In addition to complying with paragraph (b) of this section, the following conditions shown in Table 1 of this section unless replaced by similar CPA test conditions that are more critical or produce an equivalent level of severity, must be demonstrated by an engine test:

TABLE 1—CONDITIONS THAT MUST BE DEMONSTRATED BY AN ENGINE TEST

| Condition | Total air temperature | Supercooled water concentrations (minimum) | Median volume drop diameter | Duration |
|---|---|---|---|---|
| 1. Glaze ice conditions | 21 to 25 °F (-6 to -4 °C) | 2 g/m³ | 25 to 35 microns | (a) 10-minutes for power below sustainable level flight (idle descent).<br>(b) Must show repetitive, stabilized operation for higher powers (50%, 75%, 100%MC). |
| 2. Rime ice conditions | -10 to 0 °F (-23 to -18 °C) | 1 g/m³ | 15 to 25 microns | (a) 10-minutes for power below sustainable level flight (idle descent).<br>(b) Must show repetitive, stabilized operation for higher powers (50%, 75%, 100%MC). |
| 3. Glaze ice holding conditions.<br>(Turbojet, turbofan, and turboprop only). | Turbojet and Turbofan, only: 10 to 18 °F (-12 to -8 °C). | Alternating cycle: First 1.7 g/m³ (1 minute), Then 0.3 g/m³ (6 minute). | 20 to 30 microns | Must show repetitive, stabilized operation (or 45 minutes max). |
| | Turboprop, only: 2 to 10 °F (-17 to -12 °C). | | | |
| 4. Rime ice holding conditions.<br>(Turbojet, turbofan, and turboprop only). | Turbojet and Turbofan, only: -10 to 0 °F (-23 to -18 °C). | 0.25 g/m³ | 20 to 30 microns | Must show repetitive, stabilized operation (or 45 minutes max). |
| | Turboprop, only: 2 to 10 °F (-17 to -12 °C). | | | |

(d) Operate at ground idle speed for a minimum of 30 minutes at each of the following icing conditions shown in Table 2 of this section with the available air bleed for icing protection at its critical condition, without adverse effect, followed by acceleration to takeoff power or thrust. During the idle operation, the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator. Analysis may be used to show ambient temperatures below the tested temperature are less critical. The applicant must document any demonstrated run ups and minimum ambient temperature capability in the engine operating manual as mandatory in icing conditions. The applicant must demonstrate, with consideration of expected airport elevations, the following:

TABLE 2—DEMONSTRATION METHODS FOR SPECIFIC ICING CONDITIONS

| Condition | Total air temperature | Supercooled water concentrations (minimum) | Mean effective particle diameter | Demonstration |
|---|---|---|---|---|
| 1. Rime ice condition | 0 to 15 °F (-18 to -9 °C) | Liquid—0.3 g/m³ | 15–25 microns | By engine test. |
| 2. Glaze ice condition | 20 to 30 °F (-7 to -1 °C) | Liquid—0.3 g/m³ | 15–25 microns | By engine test. |
| 3. Snow ice condition | 26 to 32 °F (-3 to 0 °C) | Ice—0.9 g/m³ | 100 microns (minimum) | By test, analysis or combination of the two. |
| 4. Large drop glaze ice condition (Turbojet, turbofan, and turboprop only). | 15 to 30 °F (-9 to -1 °C) | Liquid—0.3 g/m³ | 100 microns (minimum). | By test, analysis or combination of the two. |

(e) Demonstrate by test, analysis, or combination of the two, acceptable operation for turbojet, turbofan, and turboprop engines in mixed phase and ice crystal icing conditions throughout Appendix D of this part, icing envelope throughout its flight power range, including minimum descent idling speeds.

■ 27. Amend § 33.77 by adding paragraph (a) and revising paragraphs (c) introductory text, (c)(1), (d), and (e) to read as follows:

**§ 33.77 Foreign object ingestion ice.**

(a) Compliance with the requirements of this section must be demonstrated by engine ice ingestion test or by validated analysis showing equivalence of other means for demonstrating soft body damage tolerance.

* * * * *

(c) Ingestion of ice under the conditions of this section may not—

(1) Cause an immediate or ultimate unacceptable sustained power or thrust loss; or

* * * * *

(d) For an engine that incorporates a protection device, compliance with this section need not be demonstrated with respect to ice formed forward of the protection device if it is shown that—

(1) Such ice is of a size that will not pass through the protective device;

(2) The protective device will withstand the impact of the ice; and

(3) The ice stopped by the protective device will not obstruct the flow of induction air into the engine with a resultant sustained reduction in power or thrust greater than those values defined by paragraph (c) of this section.

(e) Compliance with the requirements of this section must be demonstrated by engine ice ingestion test under the following ingestion conditions or by validated analysis showing equivalence of other means for demonstrating soft body damage tolerance.

(1) The minimum ice quantity and dimensions will be established by the engine size as defined in Table 1 of this section.

(2) The ingested ice dimensions are determined by linear interpolation between table values, and are based on the actual engine's inlet hilite area.

(3) The ingestion velocity will simulate ice from the inlet being sucked into the engine.

(4) Engine operation will be at the maximum cruise power or thrust unless lower power is more critical.

TABLE 1—MINIMUM ICE SLAB DIMENSIONS BASED ON ENGINE INLET SIZE

| Engine Inlet Hilite area (sq. inch) | Thickness (inch) | Width (inch) | Length (inch) |
|---|---|---|---|
| 0 | 0.25 | 0 | 3.6 |
| 80 | 0.25 | 6 | 3.6 |
| 300 | 0.25 | 12 | 3.6 |
| 700 | 0.25 | 12 | 4.8 |
| 2800 | 0.35 | 12 | 8.5 |
| 5000 | 0.43 | 12 | 11.0 |
| 7000 | 0.50 | 12 | 12.7 |
| 7900 | 0.50 | 12 | 13.4 |
| 9500 | 0.50 | 12 | 14.6 |
| 11300 | 0.50 | 12 | 15.9 |
| 13300 | 0.50 | 12 | 17.1 |
| 16500 | 0.5 | 12 | 18.9 |
| 20000 | 0.5 | 12 | 20.0 |

**Appendix C [Added and Reserved]**

■ 28. Amend part 33 by adding and reserving a new Appendix C.

■ 29. Amend part 33 by adding a new Appendix D to read as follows:

**Appendix D to Part 33—Mixed Phase and Ice Crystal Icing Envelope (Deep Convective Clouds)**

The ice crystal icing envelope is depicted in Figure D1 of this Appendix.

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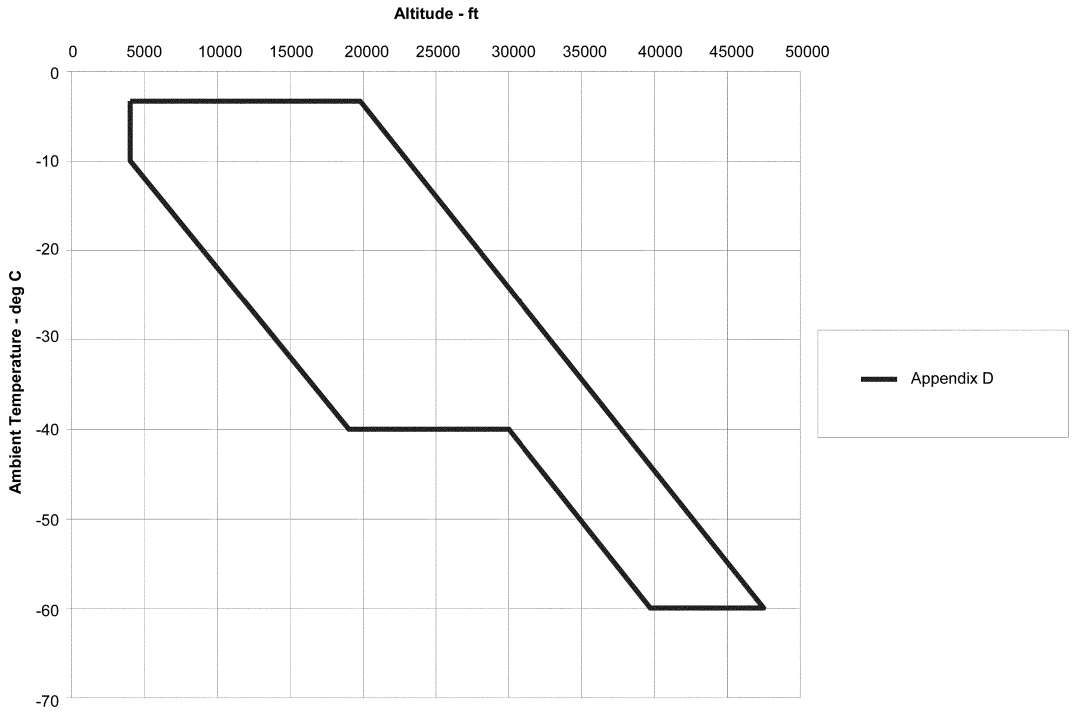
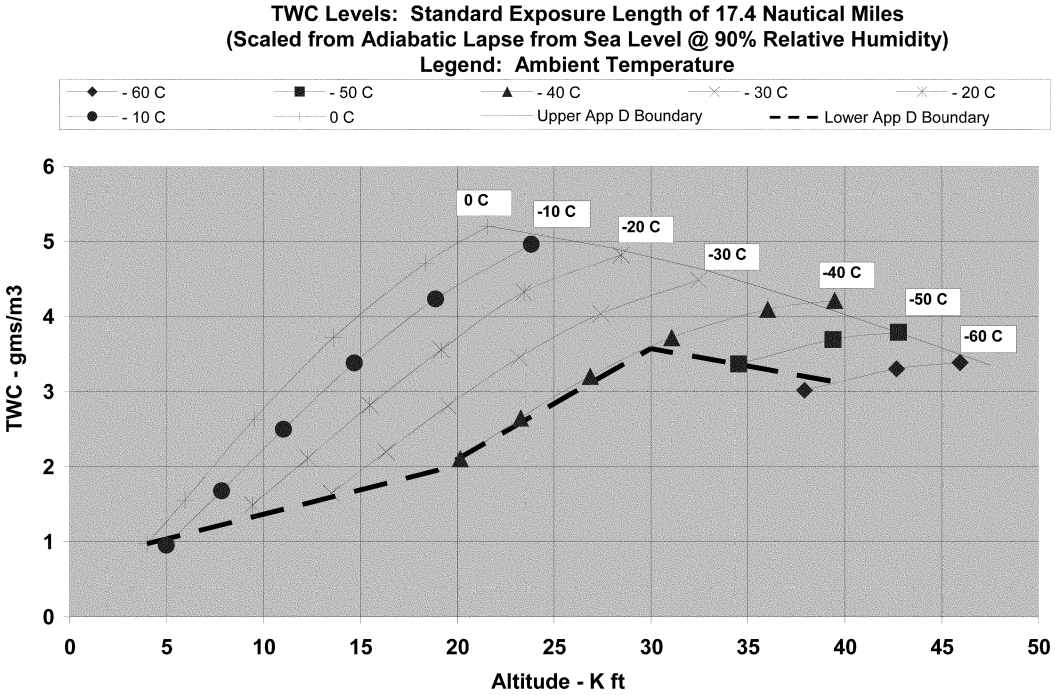
FIGURE D1 — Convective Cloud Ice Crystal Envelope




Within the envelope, total water content (TWC) in g/m$^3$ has been determined based upon the adiabatic lapse defined by the convective rise of 90% relative humidity air from sea level to higher altitudes and scaled by a factor of 0.65 to a standard cloud length of 17.4 nautical miles. Figure D2 of this Appendix displays TWC for this distance over a range of ambient temperature within the boundaries of the ice crystal envelope specified in Figure D1 of this Appendix.

FIGURE D2 — Total Water Content




Ice crystal size median mass dimension (MMD) range is 50–200 microns (equivalent spherical size) based upon measurements near convective storm cores.

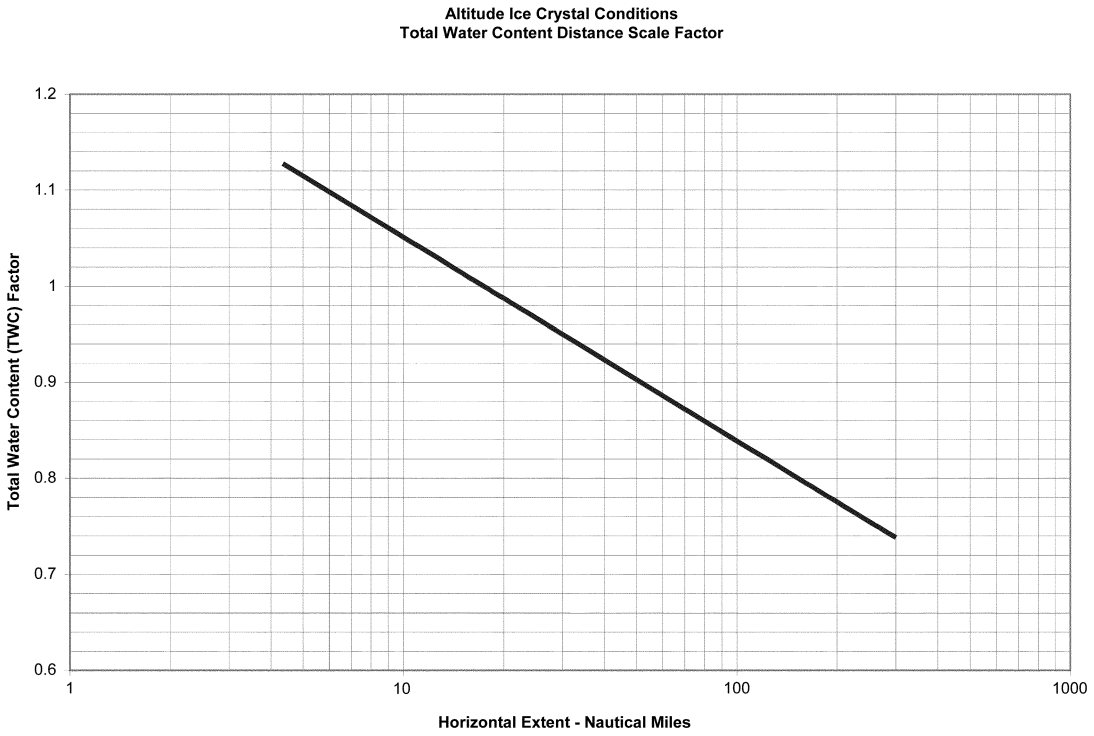
The TWC can be treated as completely glaciated (ice crystal) except as noted in the Table 1 of this Appendix.

TABLE 1—SUPERCOOLED LIQUID PORTION OF TWC

| Temperature range—deg C | Horizontal cloud length—nautical miles | LWC—g/m³ |
|---|---|---|
| 0 to –20 | ≤50 | ≤1.0 |
| 0 to –20 | Indefinite | ≤0.5 |
| < –20 | | 0 |

The TWC levels displayed in Figure D2 of this Appendix represent TWC values for a standard exposure distance (horizontal cloud length) of 17.4 nautical miles that must be adjusted with length of icing exposure.

FIGURE D3 — Exposure Length Influence on TWC

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**Michael P. Huerta,**

*Administrator.*

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Vol. 79, No. 213

Tuesday, November 4, 2014

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## FEDERAL REGISTER PAGES AND DATE, NOVEMBER

65139–65326 ..... 3
65327–65540 ..... 4

## CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**10 CFR**
429 ..... 65351
430 ..... 65351

**12 CFR**
1026 ..... 65300
**Proposed Rules:**
704 ..... 65353

**14 CFR**
25 ..... 65508
33 ..... 65508
135 ..... 65139
**Proposed Rules:**
121 ..... 65360
145 ..... 65360

**15 CFR**
902 ..... 65327

**24 CFR**
203 ..... 65140

**25 CFR**
**Proposed Rules:**
169 ..... 65360

**26 CFR**
1 ..... 65142
**Proposed Rules:**
1 ..... 65151

**33 CFR**
117 ..... 65142, 65339
165 ..... 65340
**Proposed Rules:**
110 ..... 65361

**39 CFR**
601 ..... 65342

**40 CFR**
52 ..... 65143, 65346
**Proposed Rules:**
52 ..... 65362, 65366
60 ..... 65482

**42 CFR**
**Proposed Rules:**
88 ..... 65369

**44 CFR**
64 ..... 65148

**47 CFR**
4 ..... 65348
74 ..... 65350
**Proposed Rules:**
0 ..... 65371
1 ..... 65371
2 ..... 65371
15 ..... 65371
27 ..... 65371
73 ..... 65371
74 ..... 65371

**50 CFR**
216 ..... 65327

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