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Presidential Documents

Title 3—

The President

Proclamation 9210 of November 14, 2014

American Education Week, 2014

By the President of the United States of America

A Proclamation

In the United States, every young person deserves access to a world-class education. In classrooms, lecture halls, and laboratories across America, high-quality education helps unlock the limitless potential of our Nation's students and creates pathways for their success. It prepares them for the jobs of tomorrow and the responsibilities of citizenship. A strong school system bolsters our economy and strengthens our democracy, and it is at the core of the American belief that with hard work, anyone can get ahead. During American Education Week, we celebrate the devoted educators who instruct and inspire students of all ages, and we continue our work to provide every person with the best education possible.

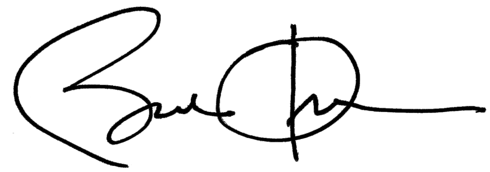
My Administration is committed to widening the circle of opportunity for more Americans and restoring middle-class security, and that starts by supporting education for all. We know early education is one of the best investments we can make in a child's life, and that is why we are striving to expand access to preschool to every girl and boy in America. To spur reform in our public schools and ensure students graduate from high school prepared for achievement, we have directed billions of dollars to States and school districts through the Race to the Top initiative. My Administration is also dedicated to reestablishing America's place as the world leader in college completion. We have expanded grants, tax credits, and loans to help more families afford a college degree and invested in programs that help students manage and reduce the burdens of debt after they graduate.

With grit and passion, America's teachers give life to education's promise. Our education-support professionals help ensure the health, well-being, and success of our children. And in small towns and large cities, principals and district administrators cultivate communities that value learning and share a common vision of academic excellence. Together, these leaders encourage our students to reach higher and inspire them to achieve their dreams. Great educators and administrators deserve all the tools and resources they need to do their job, including chances for professional development and pay that reflects the contributions they make to our country. They are the most critical ingredients in any school, and my Administration is working hard to support them as they empower our Nation's youth.

In a complex world, we must meet new and profound challenges. As a Nation, we must prepare the next generation to face these issues and the problems of their own time. An education equips the leaders of tomorrow with the knowledge and vision they need to discover the solutions of the future and build a better society for their children and grandchildren. This week, we honor the teachers, mentors, and professionals who guide our kids as they explore the world. Let us recommit to supporting a first-class education for all students, from the day they start preschool to the day they start their career.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 16 through November 22, 2014, as American Education Week. I call upon all Americans to observe this week by supporting their local schools through appropriate activities, events, and programs designed to help create opportunities for every school and student in America.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of November, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



[FR Doc. 2014–27480
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Billing code 3295–F5

Presidential Documents

Proclamation 9211 of November 14, 2014

America Recycles Day, 2014

By the President of the United States of America

A Proclamation

As a Nation, we must do all we can to leave the next generation a cleaner, safer, and more stable world. America's young people are tomorrow's environmental stewards, and it is our responsibility to instill in them a conservation ethic. Recycling reduces our country's energy consumption, decreases our greenhouse gas emissions, and conserves our natural resources, and it is one of the first steps we can teach our children and grandchildren to take as part of their everyday lives. It also creates green jobs in America and provides essential resources to our growing manufacturing sector. Today, we recognize the environmental and economic benefits that recycling produces, and we celebrate all those who do their part to build a more prosperous and sustainable future.

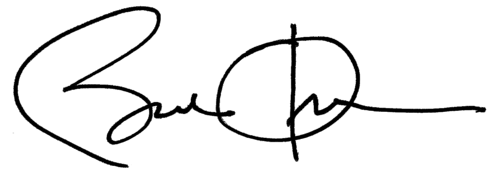
Americans generate approximately 250 million tons of municipal solid waste every year. But more of this trash—from our homes, workplaces, and classrooms—could be recycled or reused. Individuals can compost their food waste and donate items that are no longer needed. The choices we make as we shop can also help reduce waste. Families and individuals can buy products that use less packaging, purchase goods made with recycled resources, and avoid disposable materials whenever possible. To discover additional ways to shrink your environmental footprint and to learn how and where to properly recycle common and uncommon household goods, visit *www.EPA.gov/recycle.*

Every American, every business, and every community can play a role in increasing the rate of recycling. In small towns and big cities, recycling programs are making a difference, and State and local governments can continue to do their part by promoting these programs, making them convenient, and continuing to invest in their recycling infrastructure. The Federal Government is leading by example, working to reduce our environmental impact. And as American businesses continue to innovate, they too can find new ways to reflect their commitment to recycling in their bottom line.

The actions we take today will determine what kind of world we will pass on to our Nation's young people. On America Recycles Day, we embrace our role not only as custodians of the present, but also as caretakers of tomorrow. Let us resolve to act boldly in the face of great challenge and encourage our friends, neighbors, and colleagues to join in the work of protecting our planet.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 15, 2014, as America Recycles Day. I call upon the people of the United States to observe this day with appropriate programs and activities, and I encourage all Americans to continue their reducing, reusing, and recycling efforts throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of November, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AJ42

[NRC–2014–0120]

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM Underground Maximum Capacity Canister Storage System, Certificate of Compliance No. 1040

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have added the Holtec International HI–STORM Underground Maximum Capacity (UMAX) Canister Storage System, Certificate of Compliance (CoC) No. 1040, to the ''List of approved spent fuel storage casks.'' The NRC is taking this action because it has received at least one significant adverse comment in response to a companion proposed rule that was concurrently published with the direct final rule.

DATES: Effective November 19, 2014, the NRC withdraws the direct final rule published at 79 FR 53281 on September 9, 2014.

ADDRESSES: Please refer to Docket ID NRC–2014–0120 when contacting the NRC about the availability of information for this action. You may access publicly-available information related to this action by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0120. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may 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.*
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Gregory R. Trussell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6445, email: *Gregory.Trussell@nrc.gov.*

SUPPLEMENTARY INFORMATION: On September 9, 2014 (79 FR 53281), the NRC published in the **Federal Register** a direct final rule amending its regulations in part 72 of Title 10 of the *Code of Federal Regulations* to add the Holtec International HI–STORM UMAX Canister Storage System, CoC No. 1040, to the ''List of approved spent fuel storage casks.'' The direct final rule was to become effective on November 24, 2014. The NRC also concurrently published a companion proposed rule on September 9, 2014 (79 FR 53352).

In the September 9, 2014, proposed rule, the NRC stated that if any significant adverse comments were received, then the NRC would withdraw the direct final rule by publishing a notice in the **Federal Register**. As a result, the direct final rule would not take effect. The NRC received 10 comments from private citizens which raised issues including inspections; seismic concerns; stress corrosion cracking; and aging management, among others. The comments are available at *www.regulations.gov* by searching on Docket ID NRC–2014–0120. The NRC determined that at least one of the comments is significant and adverse as defined in Section I, ''Procedural Background,'' of the direct final rule, because the comment raises an issue serious enough to warrant a substantive response to clarify or complete the record. Therefore, the NRC is withdrawing the direct final rule.

As stated in the September 9, 2014, proposed rule, the NRC will address the comments in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Dated at Rockville, Maryland, this 13 day of November, 2014.

For the U.S. Nuclear Regulatory Commission.

Mark A. Satorius,

Executive Director for Operations.

[FR Doc. 2014–27398 Filed 11–18–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9704]

RIN 1545–BK65

Failure To File Gain Recognition Agreements or Satisfy Other Reporting Obligations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations, temporary regulations, and removal of temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the consequences to U.S. and foreign persons for failing to file gain recognition agreements (GRAs) or related documents, or to satisfy other reporting obligations, associated with certain transfers of property to foreign corporations in nonrecognition exchanges. The regulations are necessary to update and clarify the rules that apply when a U.S. or foreign person fails to file a GRA or related documents or to satisfy other reporting obligations. These regulations affect U.S. and foreign persons that transfer property to foreign corporations in nonrecognition exchanges.

DATES: These regulations are effective on November 19, 2014.

Applicability Dates: For dates of applicability, see §§ 1.367(a)–2(f)(4), 1.367(a)–3(g)(1)(x), 1.367(a)–3T(g)(1)(ix), 1.367(a)–7(j), 1.367(a)–8(r)(1)(i) and (r)(3), 1.367(e)–2(g), and 1.6038B–1(g)(6).

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

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in the regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1487.

The collections of information are in §§ 1.367(a)–2(f)(2), 1.367(a)–3(f)(2), 1.367(a)–7(e)(2), 1.367(a)–8(p)(2), 1.367(e)–2(f)(2), 1.6038B–1(c)(4)(ii), and 1.6038B–1(e)(4). The collections of information are mandatory. The likely respondents are domestic corporations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

Books and records relating to a collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to 26 CFR part 1. On January 31, 2013, the IRS and the Department of the Treasury (Treasury Department) published a notice of proposed rulemaking (REG–140649–11) in the **Federal Register** (78 FR 6772–01) under sections 367 and 6038B of the Internal Revenue Code (Code) (proposed regulations) relating to the consequences to U.S. and foreign persons for failing to file GRAs or related documents, or to satisfy other reporting obligations, associated with certain transfers of property to foreign corporations in nonrecognition exchanges. No public hearing was requested or held. The IRS and the Treasury Department received written comments on the proposed regulations, which are available at www.regulations.gov. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision. In addition, this Treasury decision amends and removes a portion of the temporary §§ 1.367(a)–3 and 1.367(a)–7 regulations that were published on March 19, 2013 (T.D. 9615, 2013–1 C.B. 1026). The comments and revisions are discussed in this preamble.

Summary of Comments and Explanation of Revisions

1. Satisfaction of Section 6038B Reporting if a GRA Is Filed

The proposed regulations under section 6038B require a U.S. person that transfers property (U.S. transferor) to file a Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation, with respect to a transfer of stock or securities in all cases in which a GRA is filed in order to avoid penalties under section 6038B. However, the proposed regulations do not require the U.S. transferor to report on the Form 926 any specific information regarding the transferred stock or securities. The IRS and the Treasury Department have determined that, similar to the information that must be provided for other types of transferred property, the U.S. transferor should report on the Form 926 the fair market value, adjusted tax basis, and gain recognized with respect to the transferred stock or securities, as well as any other information that Form 926, its accompanying instructions, or other applicable guidance require to be submitted with respect to the transfer of the stock or securities. Section 1.6038B–1(b)(2)(iv) of these final regulations is thus modified accordingly.

2. Application to Previously Filed Requests

The proposed regulations under § 1.367(a)–8(p) only apply to requests for relief submitted on or after the date the proposed regulations are adopted as final regulations. One comment requested that these final regulations permit U.S. transferors to request relief under § 1.367(a)–8(p) of the proposed regulations for certain failures to file a GRA document or comply with the GRA provisions that are the subject of requests for relief submitted before the date the proposed regulations are finalized. According to the commentator, not permitting U.S. transferors to do so could result in disparate treatment for similarly situated U.S. transferors.

The IRS and the Treasury Department have determined that it is appropriate to provide relief for certain failures to file or to comply that were not willful and that were the subject of requests for relief submitted under § 1.367(a)–8(p) of the existing final regulations (or submitted under § 1.367(a)–8T(e)(10), as contained in 26 CFR part 1 revised as of April 1, 2008, or § 1.367(a)–8(c)(2), as contained in 26 CFR part 1 revised as of April 1, 2006) before November 19, 2014 (previously filed requests). Accordingly, § 1.367(a)–8(r)(3) of these final regulations provides a procedure under which U.S. transferors may resubmit certain previously filed requests (including requests that were denied). By submitting a previously filed request under this procedure, a U.S. transferor agrees that these final regulations under § 1.6038B–1 will apply to any transfer that is the subject of the request. This is intended to provide parity between similarly situated U.S. transferors and promote the policies underlying the proposed regulations by ensuring that a U.S. transferor that establishes its failure was not willful under § 1.367(a)–8(p) is still subject to penalties under section 6038B if its failure was not due to reasonable cause.

3. Promptly Filing an Amended Return as a Requirement to Seeking Relief

One comment was received regarding the procedures described in § 1.367(a)–8(p)(2) of the proposed regulations for establishing that failures to file GRA documents, or failures to comply, were not willful. The comment requested that these final regulations excuse Coordinated Industry Case (CIC) taxpayers from the requirement under § 1.367(a)–8(p)(2) of filing an amended return promptly after discovering a failure to file or a failure to comply. Instead, the commentator suggested that these final regulations allow CIC taxpayers to submit the materials required under § 1.367(a)–8(p)(2) when the taxpayers effect a ''qualified amended return'' under Rev. Proc. 94–69, 1994–2 CB 804 (generally providing special procedures for certain taxpayers to show additional tax due or make adequate disclosure with respect to an item or position on a tax return prior to an audit).

According to the commentator, it is possible that an amended return filed to correct the failure to file or failure to comply will differ from the return that is ultimately audited when the taxpayer effects a qualified amended return under Rev. Proc. 94–69. The commentator stated that this could result in an inefficient use of resources in situations in which a CIC taxpayer, when preparing the amended return, includes not only adjustments related to the failure to file or failure to comply, but also all other adjustments as to which the taxpayer is aware.

The IRS and the Treasury Department decline to adopt this comment. The commentator's concerns exist in other international contexts (for example, § 1.1503(d)–1(c)(2)), and it would be inappropriate to create differing procedures for requesting relief under different provisions. However, the IRS and the Treasury Department intend to study the issue.

4. Modifying the Reported Fair Market Value of Transferred Stock

One comment requested that these final regulations provide a mechanism under which taxpayers may modify the fair market value of transferred stock or securities reported on a previously filed GRA. According to the commentator, taxpayers often determine the fair market value of stock or securities before the date that the stock or securities are transferred to a foreign corporation; these determinations are based on projected financial information that may, in some cases, deviate from the actual financial information on the date of the transfer.

The IRS and the Treasury Department decline to adopt the comment. The IRS and the Treasury Department have determined that the proposed regulations adequately address the commentator's concerns. First, because a GRA is filed when a taxpayer files its tax return (rather than at the time of an outbound transfer of stock or securities), a taxpayer has, not including extensions, at least two and a half months following a transfer to reconcile projected financial information with actual financial information. Furthermore, a taxpayer may file an extension if it needs additional time to comply with the requirements of § 1.367(a)–8. Finally, a taxpayer that fails to materially comply with the requirements of § 1.367(a)–8, including the requirement to include the fair market value of the transferred stock or securities in the GRA pursuant to § 1.367(a)–8(c)(3)(i)(B), may be eligible to correct the GRA by seeking relief based on a claim that the failure was not willful.

5. Extension of Relief for Failures That Are Not Willful to Other Section 367(a) Reporting Obligations

The IRS and the Treasury Department have determined that it is appropriate to extend the relief for failures that are not willful to certain other reporting obligations under section 367(a) that were not covered by the proposed regulations. This Treasury decision therefore revises § 1.367(a)–2 (providing an exception to gain recognition under section 367(a)(1) for assets transferred outbound for use in the active conduct of a trade or business outside of the United States) and § 1.367(a)–7 (regarding application of section 367(a) to an outbound transfer of assets by a domestic target corporation in an exchange described in section 361) so that a taxpayer may, solely for purposes of section 367(a), be deemed not to have failed to comply with reporting obligations under §§ 1.367(a)–2 and 1.367(a)–7 by demonstrating that the failure was not willful. The temporary § 1.367(a)–7 regulations regarding reasonable cause relief are therefore removed. Because the cases in which relief is sought under § 1.367(a)–2 and many of the cases in which relief is sought under § 1.367(a)–7 are also subject to reporting under section 6038B and the regulations thereunder, the penalty imposed under section 6038B for failure to satisfy a reporting obligation should generally be sufficient to encourage proper reporting and compliance.

6. Withdrawal of GRA Directive

On July 26, 2010, the Deputy Commissioner International (LMSB) issued directive LMSB–4–0510–017 (Directive). The Directive permits taxpayers to remedy, without having to demonstrate reasonable cause, unfiled or deficient GRA documents associated with a timely filed initial GRA or a timely filed document purporting to be an initial GRA. The Directive explained that the means to best ensure compliance with the GRA provisions was under study and that, pending the study, the Directive would be effective ''until further notice.'' Because this Treasury decision provides comprehensive guidance that is designed to ensure compliance with the GRA provisions, the Deputy Commissioner (International), Large Business & International will revoke the Directive effective on November 19, 2014.

7. Including an Original Form 8838 With a Request for Relief

Under § 1.367(a)–8(p)(2)(i) of the proposed regulations, a U.S. transferor who seeks relief for a failure to file or failure to comply with the GRA rules must, among other requirements, file an original Form 8838, Consent to Extend the Time to Assess Tax Under Section 367—Gain Recognition Agreement, with an amended return. The Form 8838 must, with respect to the gain realized but not recognized on the initial transfer, extend the period of limitations on the assessment of tax to the period specified in § 1.367(a)–8(p)(2)(i) of the proposed regulations. The IRS and the Treasury Department recognize that in certain cases (for example, certain cases in which a U.S. transferor seeks relief for an unfiled annual certification), the U.S. transferor will already have filed an original Form 8838 that extends the period of limitations through the required time period. These final regulations therefore provide that, in these cases, a U.S. transferor need not file another Form 8838 with the amended return; rather, the U.S. transferor must attach a copy of the previously filed Form 8838 to the amended return. A similar modification is made to these final regulations under § 1.367(e)–2 concerning outbound liquidations and certain foreign-to-foreign liquidations described in section 332.

8. Failure To Comply and Extension of Period of Limitations

Section 1.367(a)–8(j)(8) of the existing regulations provides that a failure to comply with the GRA provisions will extend the period of limitations on assessment of tax until the close of the third full taxable year ending after the date on which the Director of Field Operations or Area Director receives actual notice of the failure to comply from the U.S. transferor. The same provision is included in the proposed regulations. Section 1.367(e)–2(e)(4)(ii)(B) of the proposed regulations provides a similar rule with respect to a liquidation document.

The IRS and the Treasury Department have determined that the running of the extended period of limitations arising under §§ 1.367(a)–8(j)(8) and 1.367(e)–2(e)(4)(ii)(B) should be based on when the taxpayer furnishes to the Director of Field Operations International, Large Business & International (or any successor to the roles and responsibilities of such person) the information that should have been provided under the §§ 1.367(a)–8 or 1.367(e)–2 regulations, as applicable. Thus, in these final regulations, §§ 1.367(a)–8(j)(8) and 1.367(e)–2(e)(4)(ii)(B) are modified accordingly.

In addition, §§ 1.367(a)&8(c)(2)(iii), 1.367(e)–2(b)(2)(i)(C)(*1*), and 1.367(e)–2(b)(2)(iii)(D) of these final regulations are revised to clarify that when a taxpayer files a GRA under § 1.367(a)–8 or a liquidation document under § 1.367(e)–2, the taxpayer agrees to extend the period of limitations on assessment of tax, in the circumstances provided in §§ 1.367(a)–8(j)(8) and 1.367(e)–2(e)(4)(ii)(B), as applicable. This agreement is deemed consented to and signed by the Secretary for purposes of section 6501(c)(4).

9. Reporting Requirement in § 1.367(a)–3(c)(6)(i)(F)(3)

Section 1.367(a)–3(a) of the existing final regulations provides the general rule that a U.S. person must recognize gain on certain transfers of stock or securities to a foreign corporation. In relevant part, § 1.367(a)–3(c) of the existing final regulations contains an exception for certain transfers of stock or securities of a domestic corporation. Specifically, § 1.367(a)–3(c)(1) provides that, except as provided in § 1.367(a)–3(e) (providing rules for transfers of stock or securities by a domestic corporation to a foreign corporation pursuant to an exchange described in section 361), a transfer of stock or securities of a domestic corporation by a U.S. person to a foreign corporation that would otherwise be subject to gain recognition under section 367(a)(1) pursuant to § 1.367(a)–3(a) will not be subject to section 367(a)(1) if certain requirements are satisfied. In particular, the domestic corporation the stock or securities of which are transferred (referred to as the U.S. target company) must comply with each of the reporting requirements in § 1.367(a)–3(c)(6) and each of the four conditions set forth in § 1.367(a)–3(c)(1)(i) through (iv) must be satisfied. The condition set forth in § 1.367(a)–3(c)(1)(iv) requires that the active trade or business test (as defined in § 1.367(a)–3(c)(3)) be satisfied. To satisfy the active trade or business test, the substantiality test (as defined in § 1.367(a)–3(c)(3)(iii)) must be satisfied (among other requirements). The substantiality test is satisfied if, at the time of the transfer, the fair market value of the transferee foreign corporation is at least equal to the fair market value of the U.S. target company.

Pursuant to the reporting requirement contained in § 1.367(a)–3(c)(6)(i)(F)(*3*), the U.S. target company must submit a statement demonstrating that the value of the transferee foreign corporation *exceeds* the value of the U.S. target company on the acquisition date. The standard that applies for purposes of the reporting requirement of § 1.367(a)–3(c)(6)(i)(F)(*3*) is intended to be the same as the standard that applies for purposes of the substantiality test. Accordingly, this Treasury decision revises § 1.367(a)–3(c)(6)(i)(F)(*3*) so that the U.S. target company must submit a statement demonstrating that the value of the transferee foreign corporation equals or exceeds the value of the U.S. target company on the acquisition date.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that these regulations will not have a significant impact on a substantial number of small entities. This certification is based on the fact that these regulations merely provide for a change in the standard, or clarify or provide the standard, that will be used to determine whether a taxpayer that has failed to file a GRA or satisfy other reporting obligations under section 367 will be entitled to avoid full gain recognition under section 367(a)(1) or 367(e)(2), as applicable. Accordingly a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is Shane M. McCarrick of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.367(a)–2 is amended by adding new paragraph (f) to read as follows:

§ 1.367(a)–2 Exception for transfers of property for use in the active conduct of a trade or business.

* * * * *

(f) *Failure to comply with reporting requirements of section 6038B*—(1) *Failure to comply.* For purposes of the exception to the application of section 367(a)(1) provided in paragraph (a) of § 1.367(a)–2T, a failure to comply with the reporting requirements of section 6038B and the regulations thereunder (failure to comply) has the meaning set forth in § 1.6038B–1(f)(2).

(2) *Relief for certain failures to comply that are not willful*—(i) *In general.* A failure to comply described in paragraph (f)(1) of this section will be deemed not to have occurred for purposes of satisfying the requirements of this section if the taxpayer demonstrates that the failure was not willful using the procedure set forth in this paragraph (f)(2). For this purpose, willful is to be interpreted consistent with the meaning of that term in the context of other civil penalties, which would include a failure due to gross negligence, reckless disregard, or willful neglect. Whether a failure to comply was a willful failure will be determined by the Director of Field Operations International, Large Business & International (or any successor to the roles and responsibilities of such position, as appropriate) (Director) based on all the facts and circumstances. The taxpayer must submit a request for relief and an explanation as provided in paragraph (f)(2)(ii)(A) of this section. Although a taxpayer whose failure to comply is determined not to be willful will not be subject to gain recognition under this section, the taxpayer will be subject to a penalty under section 6038B if the taxpayer fails to demonstrate that the failure was due to reasonable cause and not willful neglect. See § 1.6038B–1(b)(1) and (f). The determination of whether the failure to comply was willful under this section has no effect on any request for relief made under § 1.6038B–1(f).

(ii) *Procedures for establishing that a failure to comply was not willful*—(A) *Time and manner of submission.* A taxpayer's statement that the failure to comply was not willful will be considered only if, promptly after the taxpayer becomes aware of the failure, an amended return is filed for the taxable year to which the failure relates that includes the information that should have been included with the original return for such taxable year or that otherwise complies with the rules of this section, and that includes a written statement explaining the reasons for the failure to comply. The amended return must be filed with the Internal Revenue Service at the location where the taxpayer filed its original return. The taxpayer may submit a request for relief from the penalty under section 6038B as part of the same submission. See § 1.6038B–1(f).

(B) *Notice requirement.* In addition to the requirements of paragraph (f)(2)(ii)(A) of this section, the taxpayer must comply with the notice requirements of this paragraph (f)(2)(ii)(B). If any taxable year of the taxpayer is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Internal Revenue Service personnel conducting the examination. If no taxable year of the taxpayer is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Director.

(3) For illustrations of the application of the willfulness standard of this paragraph (f), see the examples in § 1.367(a)–8(p)(3).

(4) Paragraph (f) applies to requests for relief submitted on or after November 19, 2014.

■ **Par. 3.** Section 1.367(a)–3 is amended:

■ 1. In paragraphs (c)(6)(i)(F)(*3*)(*i*) and (c)(6)(i)(F)(*3*)(*ii*), by adding the language ''equals or'' before the word ''exceeds.''

■ 2. By revising paragraph (c)(6)(ii).

■ 3. By adding paragraph (f).

■ 4. By adding paragraph (g)(1)(x).

The additions and revisions read as follows:

§ 1.367(a)–3 Treatment of transfers of stock or securities to foreign corporations.

* * * * *

(c) * * *

(6) * * *

(ii) Except as provided in paragraph (f) of this section, for purposes of this paragraph (c)(6), a U.S. income tax return will be considered timely filed if it is filed on or before the last date prescribed for filing (taking into account any extensions of time therefor) for the taxable year in which the transfer occurs.

* * * * *

(f) *Failure to file statements*—(1) *Failure to file.* For purposes of the exceptions to the application of section 367(a)(1) provided in paragraphs (c) and (d)(2)(vi)(B) of this section, there is a failure to file a statement described in paragraph (c)(6), (c)(7), or (d)(2)(vi)(C) of this section (failure to file) if the statement is not filed with a timely filed U.S. income tax return or is not completed in all material respects.

(2) *Relief for certain failures to file that are not willful*—(i) *In general.* A failure to file described in paragraph (f)(1) of this section will be deemed not to have occurred for purposes of satisfying the requirements of the applicable regulation if the taxpayer demonstrates that the failure was not willful using the procedure set forth in this paragraph (f)(2). For this purpose, willful is to be interpreted consistent with the meaning of that term in the context of other civil penalties, which would include a failure due to gross negligence, reckless disregard, or willful neglect. Whether a failure to file was a willful failure will be determined by the Director of Field Operations International, Large Business & International (or any successor to the roles and responsibilities of such position, as appropriate) (Director) based on all the facts and circumstances. The taxpayer must submit a request for relief and an explanation as provided in paragraph (f)(2)(ii)(A) of this section. Although a taxpayer whose failure to file is determined not to be willful will not be subject to gain recognition under this section, the taxpayer will be subject to a penalty under section 6038B if the taxpayer fails to satisfy the reporting requirements, if any, under that section and does not demonstrate that the failure was due to reasonable cause and not willful neglect. See § 1.6038B–1(b) and (f). The determination of whether the failure to file was willful under this section has no effect on any request for relief made under § 1.6038B–1(f).

(ii) *Procedures for establishing that a failure to file was not willful*—(A) *Time and manner of submission.* A taxpayer's statement that the failure to file was not willful will be considered only if, promptly after the taxpayer becomes aware of the failure, an amended return is filed for the taxable year to which the failure relates that includes the information that should have been included with the original return for such taxable year or that otherwise complies with the rules of this section, and that includes a written statement explaining the reasons for the failure to file. The amended return must be filed with the Internal Revenue Service at the location where the taxpayer filed its original return. The taxpayer may submit a request for relief from the penalty under section 6038B as part of the same submission. See § 1.6038B–1(f).

(B) *Notice requirement.* In addition to the requirements of paragraph (f)(2)(ii)(A) of this section, the taxpayer must comply with the notice requirements of this paragraph (f)(2)(ii)(B). If any taxable year of the taxpayer is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Internal Revenue Service personnel conducting the examination. If no taxable year of the taxpayer is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Director.

(3) For illustrations of the application of the willfulness standard of this paragraph (f), see the examples in § 1.367(a)–8(p)(3).

(g) * * *

(1) * * *

(x) Paragraphs (c)(6)(ii) and (f) of this section apply to statements that are required to be filed on or after November 19, 2014, as well as to requests for relief submitted on or after November 19, 2014.

* * * * *

■ **Par. 4.** Section 1.367(a)–3T is amended:

■ 1. In paragraph (d)(2)(vi)(B)(*1*)(*ii*), by removing the language ''its U.S. income tax return'' and adding the language ''its timely filed U.S. income tax return'' in its place.

■ 2. In the first and second sentences of paragraph (g)(1)(ix), by removing the language ''(d)(2)(vi)(B)'' and adding the language ''(d)(2)(vi)(B)(*1*)(*i*), (d)(2)(vi)(B)(*1*)(*iii*), and (d)(2)(vi)(B)(*2*),'' in its place.

■ 3. By adding two new sentences at the end of paragraph (g)(1)(ix).

The additions read as follows:

§ 1.367(a)–3T Treatment of transfers of stock or securities to foreign corporations (temporary).

* * * * *

(g) * * *

(1) * * *

(ix) * * * Paragraph (d)(2)(vi)(B)(*1*)(*ii*) of this section applies to statements that are required to be filed on or after November 19, 2014. See paragraph (d)(2)(vi)(B)(*1*)(*ii*) of this section, as contained in 26 CFR part 1 revised as of April 1, 2014, for statements required to be filed on or after March 18, 2013, and before November 19, 2014.

* * * * *

■ **Par. 5.** Section 1.367(a)–7 is amended:

■ 1. In paragraph (a), by removing the language ''reasonable cause'' and adding the language ''not willful'' in its place.

■ 2. By revising paragraph (e)(2).

■ 3. By revising paragraph (j).

The revisions read as follows:

§ 1.367(a)–7 Outbound transfers of property described in section 361(a) or (b).

* * * * *

(e) * * *

(2) *Relief for certain failures to comply that are not willful*—(i) *In general.* A control group member or U.S. transferor's failure to comply with any requirement of this section will be deemed not to have occurred for purposes of satisfying the requirements of this section if the control group member or U.S. transferor (or the foreign acquiring corporation on behalf of the U.S. transferor), as applicable,

demonstrates that the failure was not willful using the procedure set forth in paragraph (e)(2)(ii) of this section. For this purpose, willful is to be interpreted consistent with the meaning of that term in the context of other civil penalties, which would include a failure due to gross negligence, reckless disregard, or willful neglect. Whether the failure to comply was a willful failure will be determined by the Director of Field Operations International, Large Business & International (or any successor to the roles and responsibilities of such person) (Director) based on all the facts and circumstances. The control group member or U.S. transferor (or the foreign acquiring corporation on behalf of the U.S. transferor), as applicable, must submit a request for relief and an explanation as provided in paragraph (e)(2)(ii) of this section. Although a U.S transferor whose failure to comply is determined not to be willful will not be subject to gain recognition under this section, the U.S. transferor will be subject to a penalty under section 6038B if the U.S. transferor fails to demonstrate that the failure was due to reasonable cause and not willful neglect. See § 1.6038B–1(b) and (f). The determination of whether the failure to comply was willful under this section has no effect on any request for relief made under § 1.6038B–1(f).

(ii) *Procedures for establishing that a failure to comply was not willful*—(A) *Time and manner of submission.* A control group member or U.S. transferor's statement that the failure to comply was not willful will be considered only if, promptly after the control group member or U.S. transferor, as applicable, becomes aware of the failure, an amended return is filed for the taxable year to which the failure relates that includes the information that should have been included with the original return for such taxable year or that otherwise complies with the rules of this section, and that includes a written statement explaining the reasons for the failure to comply. The amended return must be filed with the Internal Revenue Service at the location where the taxpayer filed its original return. The U.S. transferor may submit a request for relief from the penalty under section 6038B as part of the same submission. See § 1.6038B–1(f).

(B) *Notice requirement.* In addition to the requirements of paragraph (e)(2)(ii)(A) of this section, a control group member or U.S. transferor, as applicable, must comply with the notice requirements of this paragraph (e)(2)(ii)(B). If any taxable year of the control group member or U.S. transferor, as applicable, is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Internal Revenue Service personnel conducting the examination. If no taxable year of the control group member or U.S transferor, as applicable, is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Director.

(iii) For illustrations of the application of the willfulness standard of this paragraph (e)(2), see the examples in § 1.367(a)–8(p)(3).

* * * * *

(j) *Effective/applicability dates.* Except for paragraph (e)(2) of this section, this section applies to transfers occurring on or after April 18, 2013. Paragraph (e)(2) applies to requests for relief submitted on or after November 19, 2014. Paragraph (e)(2) of this section also applies to requests for relief submitted before November 19, 2014 if the statute of limitations on the assessment of tax has not expired for any year to which the request relates and the control group member or U.S. transferor, as applicable, resubmits the request under paragraph (e)(2) of this section and notes, on the request, that the request is being submitted pursuant to the third sentence of this paragraph (j). See paragraph (e)(2) of this section, as contained in 26 CFR part 1 revised as of April 1, 2014, for requests for relief submitted after April 17, 2013, and before November 19, 2014, that are not resubmitted under paragraph (e)(2) of this section.

§ 1.367(a)–7T [Removed]

■ **Par. 6.** Section 1.367(a)–7T is removed.

■ **Par. 7.** Section 1.367(a)–8 is amended:

■ 1. By revising the eleventh sentence of paragraph (a).

■ 2. By redesignating paragraphs (b)(1)(v) through (xv) as (b)(1)(vii) through (xvii), respectively.

■ 3. By redesignating paragraph (b)(1)(iv) as paragraph (b)(1)(v).

■ 4. By adding new paragraphs (b)(1)(iv) and (vi).

■ 5. By revising redesignated paragraphs (b)(1)(xiii), (xiv), and (xv).

■ 6. By revising paragraph (c)(2)(iii).

■ 7. By revising paragraph (d)(1).

■ 8. By revising paragraph (j)(8).

■ 9. By revising paragraph (p).

■ 10. By adding a sentence at the end of paragraph (r)(1)(i).

■ 11. By adding paragraph (r)(3).

The revisions and additions read as follows:

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

(a) *Scope.* * * * Paragraph (p) of this section provides relief for certain failures to file an initial gain recognition agreement (as defined in paragraph (b)(1)(vi) of this section) or to comply with the requirements of this section with respect to a gain recognition agreement (as described in paragraph (c) of this section). * * *

(b) * * *

(1) * * *

(iv) A *gain recognition agreement document* means any agreement, statement, schedule, or form required to be filed under this section, including an initial gain recognition agreement (as defined in paragraph (b)(1)(vi) of this section), a new gain recognition agreement described in paragraph (c)(5) of this section, a Form 8838 extending the period of limitations on assessment of tax described in paragraph (f) of this section, and an annual certification described in paragraph (g) of this section.

* * * * *

(vi) An *initial gain recognition agreement* means the gain recognition agreement entered into under paragraph (c) of this section with respect to the initial transfer.

* * * * *

(xiii) A *timely filed return* means a Federal income tax return filed on or before the last date prescribed for filing (taking into account any extensions of time therefor) such return.

(xiv) *Transferee foreign corporation.* Except as provided in this paragraph (b)(1)(xiv), the *transferee foreign corporation* is the foreign corporation to which the transferred stock or securities are transferred in an initial transfer. In the case of an indirect stock transfer, the transferee foreign corporation has the meaning set forth in § 1.367(a)–3(d)(2)(i). The transferee foreign corporation also includes a corporation designated as the transferee foreign corporation in the case of a new gain recognition agreement entered into under this section.

(xv) *Transferred corporation.* Except as provided in this paragraph (b)(1)(xv), the *transferred corporation* is the corporation the stock or securities of which are transferred in the initial transfer. In the case of an indirect stock transfer, the transferred corporation has the meaning set forth in § 1.367(a)–3(d)(2)(ii). The transferred corporation also includes a corporation designated as the transferred corporation in the case of a new gain recognition agreement entered into under this section.

* * * * *

(c) * * *

(2) * * *

(iii) A statement that the U.S. transferor agrees to comply with all the conditions and requirements of this section, including to recognize gain under the gain recognition agreement in accordance with paragraph (c)(1)(i) of this section, to extend the period of limitations on assessment of tax as provided in paragraph (f) of this section, to file the certification described in paragraph (g) of this section, and, as provided in paragraph (j)(8) of this section, to treat a failure to comply (as described in paragraph (j)(8) of this section) as extending the period of limitations on assessment of tax for the taxable year in which gain is required to be reported.

* * * * *

(d) *Filing requirements*—(1) *General rule.* An initial gain recognition agreement must be timely filed in order for the U.S. transferor to avoid recognizing gain under section 367(a)(1) with respect to the transferred stock or securities by reason of the applicable exceptions provided under § 1.367(a)–3. Except as provided in paragraph (p) of this section, an initial gain recognition agreement is timely filed only if—

(i) The initial gain recognition agreement and any other gain recognition agreement document required to be filed with the initial gain recognition agreement are included with a timely filed return of the U.S. transferor for the taxable year during which the initial transfer occurs; and

(ii) Each gain recognition agreement document identified in paragraph (d)(1)(i) of this section is completed in all material respects.

* * * * *

(j) * * *

(8) *Failure to comply.* A U.S. transferor fails to comply in any material respect with any requirement of this section, or the terms of the gain recognition agreement as described in paragraph (c)(1) of this section. A failure to comply under this paragraph (j)(8) will extend the period of limitations on assessment of tax for the taxable year in which gain is required to be reported until the close of the third full taxable year ending after the date on which the U.S. transferor furnishes to the Director of Field Operations International, Large Business & International (or any successor to the roles and responsibilities of such person) (Director) the information that should have been provided under this section. Except as provided in paragraph (p) of this section, for purposes of this paragraph (j)(8), a failure to comply includes—

(i) If there is a gain recognition event in a taxable year, a failure to report gain or pay any additional tax or interest due under the terms of the gain recognition agreement; and

(ii) A failure to file a gain recognition agreement document, other than an initial gain recognition agreement or a document required to be filed with the initial gain recognition agreement. For this purpose, there is a failure to file a gain recognition agreement document if—

(A) The gain recognition agreement document is not timely filed as required under this section, or

(B) The gain recognition agreement document is not completed in all material respects.

* * * * *

(p) *Relief for certain failures to file or failures to comply that are not willful*—(1) *In general.* This paragraph (p) provides relief if there is a failure to file an initial gain recognition agreement as required under paragraph (d)(1) of this section (failure to file), or a failure to comply that is a triggering event under paragraph (j)(8) of this section (failure to comply). A failure to file or failure to comply will be deemed not to have occurred for purposes of paragraph (d)(1) of this section or paragraph (j)(8) of this section if the U.S. transferor demonstrates that the failure was not willful using the procedure set forth in this paragraph (p). For this purpose, willful is to be interpreted consistent with the meaning of that term in the context of other civil penalties, which would include a failure due to gross negligence, reckless disregard, or willful neglect. Whether a failure to file or failure to comply was willful will be determined by the Director (as described in paragraph (j)(8) of this section) based on all the facts and circumstances. The U.S. transferor must submit a request for relief and an explanation as provided in paragraph (p)(2)(i) of this section. Although a U.S. transferor whose failure to file or failure to comply is determined not to be willful will not be subject to gain recognition under paragraph (b), (c), or (e) of § 1.367(a)–3 or paragraph (c)(1) of this section, as applicable, the U.S. transferor will be subject to a penalty under section 6038B if the U.S. transferor fails to satisfy the reporting requirements under that section and does not demonstrate that the failure was due to reasonable cause and not willful neglect. See § 1.6038B–1(b)(2) and (f). The determination of whether the failure to file or failure to comply was willful under this section has no effect on any request for relief made under § 1.6038B–1(f).

(2) *Procedures for establishing that a failure to file or failure to comply was not willful*—(i) *Time and manner of submission.* A U.S. transferor's statement that a failure to file or failure to comply was not willful will be considered only if, promptly after the U.S. transferor becomes aware of the failure, an amended return is filed for the taxable year to which the failure relates that includes the information that should have been included with the original return for such taxable year or that otherwise complies with the rules of this section, and that includes a written statement explaining the reasons for the failure to file or failure to comply. The U.S. transferor must file, with the amended return, a Form 8838 extending the period of limitations on assessment of tax with respect to the gain realized but not recognized on the initial transfer to the later of: The close of the eighth full taxable year following the taxable year during which the initial transfer occurred (date one); or the close of the third full taxable year ending after the date on which the required information is provided to the Director (date two). However, the U.S. transferor is not required to file a Form 8838 with the amended return if both date one is later than date two and a Form 8838 was previously filed extending the period of limitations on assessment of tax with respect to the gain realized but not recognized on the initial transfer to date one. If a Form 8838 is not required to be filed with the amended return pursuant to the previous sentence, a copy of the previously filed Form 8838 must be filed with the amended return. The amended return and either a Form 8838 or a copy of the previously filed Form 8838, as the case may be, must be filed with the Internal Revenue Service at the location where the U.S. transferor filed its original return. The U.S. transferor may submit a request for relief from the penalty under section 6038B as part of the same submission. See § 1.6038B–1(f).

(ii) *Notice requirement.* In addition to the requirements of paragraph (p)(2)(i) of this section, the U.S. transferor must comply with the notice requirements of this paragraph (p)(2)(ii). If any taxable year of the U.S. transferor is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Internal Revenue Service personnel conducting the examination. If no taxable year of the

U.S. transferor is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Director.

(3) *Examples.* The following examples illustrate the application of this paragraph (p). All of the examples are based solely on the following facts and any additional facts stated in the particular example. DC, a domestic corporation, wholly owns FS and FA, each a foreign corporation. In Year 1, pursuant to a transaction qualifying both as an exchange under section 351 and a reorganization under section 368(a)(1)(B), DC transferred all the FS stock to FA solely in exchange for voting stock of FA (FS Transfer). The fair market value of the FS stock exceeded DC's tax basis in the stock at the time of the FS transfer. Absent the application of section 367 to the transaction, DC's exchange of the FS stock for the stock of FA qualified as a tax-free exchange under sections 351(a) and section 354. Immediately after the transaction, both FA and FS were controlled foreign corporations (as defined in section 957). Furthermore, DC was a section 1248 shareholder (as defined in § 1.367(b)–2(b)) with respect to FA and FS, and a 5-percent shareholder with respect to FA for purposes of § 1.367(a)–3(b)(ii). Thus, DC was required to recognize gain under section 367(a)(1) by reason of the FS Transfer unless DC timely filed an initial gain recognition agreement (GRA) as required by paragraph (d)(1) of this section and complies in all material respects with the requirements of this section throughout the term of the GRA. The application of section 6038B is not addressed in these examples. DC may be subject to a penalty under section 6038B even if DC demonstrates under this section that a failure to file or failure to comply was not willful. See § 1.6038B–1(b) and (f) for the application of section 6038B.

Example 1. Taxpayer failed to file a GRA due to accidental oversight. (i) *Facts.* DC filed its tax return for the year of the FS Transfer, reporting no gain with respect to the exchange of the FS stock. DC, through its tax department, was aware of the requirement to file a GRA in order for DC to avoid recognizing gain with respect to the FS Transfer under section 367(a)(1), and had the experience and competency to properly prepare the GRA. DC had filed many GRAs over the years and had never failed to timely file a GRA. However, although DC prepared the GRA with respect to the FS Transfer, it was not filed with DC's tax return for the year of the FS Transfer due to an accidental oversight. During the preparation of the following year's tax return, DC discovered that the GRA was not filed. DC filed an amended return to file the GRA and complied with the procedures set forth under paragraph (p)(2) of this section promptly after it became aware of the failure.

(ii) *Result.* Because DC failed to file a GRA with its timely filed tax return for the year of the FS Transfer, there is a failure to timely file the GRA as required by paragraph (d)(1) of this section. However, based on the facts of this *Example 1,* including that the failure to timely file the GRA was an isolated and accidental oversight, the failure to timely file is not a willful failure to file. Accordingly, the timely filed requirement of paragraph (d)(1) of this section is considered to be satisfied, and DC is not required to recognize the gain realized on the FS Transfer under section 367(a)(1).

Example 2. Taxpayer's course of conduct is taken into account in determination. (i) *Facts.* DC filed its tax return for the year of the FS Transfer, reporting no gain with respect to the exchange of the FS stock, but failed to file a GRA. DC, through its tax department, was aware of the requirement to file a GRA in order for DC to avoid recognizing gain with respect to the FS Transfer under section 367(a)(1). DC had not consistently and in a timely manner filed GRAs in the past, and also had an established history of failing to timely file other tax and information returns for which it was subject to penalties. In a year subsequent to Year 1, DC transferred stock of another foreign subsidiary with respect to which DC had a built-in gain (FS2) to FA in a transaction that qualified as both a reorganization under section 368(a)(1)(B) and an exchange described under section 351 (FS2 Transfer). DC was required to recognize gain on the FS2 Transfer under section 367(a)(1) unless DC timely filed a GRA as required by paragraph (d)(1) of this section and complied with the requirements of this section during the term of the GRA. DC reported no gain on the FS2 Transfer on its tax return, but failed to file a GRA. At the time of the FS2 Transfer, DC was already aware of its failure to file the GRA required for the prior FS Transfer, but had not implemented any safeguards to ensure that it would timely file GRAs for future transactions. DC filed an amended return to file the GRA for the FS2 Transfer and complied with the procedures set forth under paragraph (p)(2) of this section promptly after it became aware of the failure. DC asserts that its failure to timely file a GRA with respect to the FS2 Transfer was due to an isolated oversight similar to the one that occurred with respect to the FS Transfer. At issue is DC's failure to timely file a GRA for the FS2 Transfer.

(ii) *Result.* Because DC failed to file a GRA with its timely filed tax return for the year of the FS2 Transfer, there is a failure to timely file the GRA as required by paragraph (d)(1) of this section. DC's course of conduct is taken into account in determining whether its failure to timely file a GRA for the FS2 Transfer was willful. Based on the facts of this *Example 2,* including DC's history of failing to file required tax and information returns in general and GRAs in particular, and its failure to implement safeguards to ensure that it would timely file GRAs, the failure to timely file a GRA with respect to the FS2 Transfer rises to the level of a willful failure to timely file. Accordingly, DC is ineligible for relief under paragraph (p) of this section, the GRA is not considered timely filed for purposes of paragraph (d)(1) of this section, and DC must recognize the full amount of the gain realized on the FS2 Transfer.

Example 3. GRA not completed in all material respects. (i) *Facts.* DC timely filed its tax return for the year of the FS Transfer, reporting no gain with respect to the exchange of the FS stock. DC was aware of the requirement to file a GRA to avoid recognizing gain under section 367(a)(1), including the requirement to provide the basis and fair market value of the transferred stock. However, DC filed a purported GRA that did not contain the fair market value of the FS stock. Instead, the GRA was filed with the statement that the fair market value information was ''available upon request.'' Other than the omission of the fair market value of the FS stock, the GRA contained all other information required by this section.

(ii) *Result.* Because DC omitted the fair market value of the FS stock from the GRA, the GRA was not completed in all material respects. Accordingly, there is a failure to timely file the GRA. Furthermore, because DC knowingly omitted such information, DC's omission is a willful failure to timely file a GRA. Accordingly, DC is ineligible for relief under paragraph (p) of this section, the GRA is not considered timely filed for purposes of paragraph (d)(1) of this section, and DC must recognize the full amount of the gain realized on the FS Transfer. The same result would arise if DC had included the fair market value of the FS stock, but knowingly omitted its tax basis from the GRA.

Example 4. Taxpayer knew of GRA filing requirement, but intentionally chose not to file. (i) *Facts.* When DC filed its tax return for the tax year of the FS Transfer, it was aware of the requirement to file a GRA to avoid recognizing gain under section 367(a)(1). However, because DC anticipated selling Business A in the following tax year, which was expected to produce a capital loss that could be carried back to fully offset the gain recognized on the FS Transfer, DC intentionally chose not to file a GRA. DC recognized the gain from the FS Transfer under section 367(a)(1) and reported the gain on its timely filed tax return. At the end of the following year, a large class action lawsuit was filed against Business A and, consequently, DC was unable to sell the business. As a result, DC did not realize the expected capital loss, and it was not able to offset the gain from the FS Transfer. DC now seeks to file a GRA for the FS Transfer.

(ii) *Result.* Because DC failed to file a GRA with its timely filed tax return for the year of the FS Transfer, there is a failure to timely file the GRA as required by paragraph (d)(1) of this section. Furthermore, because DC intentionally chose not to file a GRA for the FS Transfer, its actions constitute a willful failure to timely file a GRA. Accordingly, DC is ineligible for relief under paragraph (p) of this section, the GRA is not considered timely filed for purposes of paragraph (d)(1) of this section, and DC must recognize the full amount of the gain realized on the FS Transfer in Year 1.

* * * * *

(r) *Effective/applicability dates*—(1) * * * (i) * * * The eleventh sentence of paragraph (a) and paragraphs (b)(1)(iv), (b)(1)(vi), (b)(1)(xiii), (d)(1), (j)(8), and (p) of this section will apply to gain recognition agreement documents that are required to be filed on or after November 19, 2014, as well as to requests for relief submitted on or after November 19, 2014.

* * * * *

(3) *Applicability to requests for relief submitted before* November 19, 2014. The eleventh sentence of paragraph (a) and paragraphs (b)(1)(iv), (b)(1)(vi), (b)(1)(xiii), (d)(1), (j)(8), and (p) of this section will apply to requests for relief submitted before November 19, 2014 if—

(i) The statute of limitations on the assessment of tax has not expired for any year to which the request relates; and

(ii) The U.S. transferor resubmits the request under paragraph (p) of this section, notes on the request that the request is being submitted pursuant to this paragraph (r)(3), and acknowledges on the request that the last sentence of § 1.6038B–1(g)(6) provides a special rule regarding the application of § 1.6038B–1 to any transfer that is the subject of the request.

■ **Par. 8.** Section 1.367(e)–2 is amended:

■ 1. By revising the ninth sentence and adding two new sentences before the last sentence of paragraph (a).

■ 2. By revising paragraph (b)(1)(i).

■ 3. In paragraph (b)(2)(i)(A)(*2*), by removing the language ''its U.S. income tax returns'' and adding the language ''its timely filed U.S. income tax returns'' in its place.

■ 4. In paragraph (b)(2)(i)(A)(*3*), by removing the language ''its U.S. income tax return'' and adding the language ''its timely filed U.S. income tax return'' in its place.

■ 5. By revising paragraph (b)(2)(i)(C)(*1*).

■ 6. In the first sentence of paragraph (b)(2)(i)(E)(*3*), by removing the language ''its U.S. income tax return'' and adding the language ''its timely filed U.S. income tax return'' in its place.

■ 7. In paragraph (b)(2)(i)(E)(*4*)(*ii*), by removing the language ''its U.S. income tax return'' and adding the language ''its timely filed U.S. income tax return'' in its place.

■ 8. In paragraph (b)(2)(i)(E)(*5*)(*ii*), by removing the language ''its U.S. income tax return'' and adding the language ''its timely filed U.S. income tax return'' in its place.

■ 9. In the first sentence of paragraph (b)(2)(iii)(A), by removing the language ''its U.S. income tax return'' and adding the language ''its timely filed U.S. income tax return'' in its place.

■ 10. By adding a sentence at the end of paragraph (b)(2)(iii)(D).

■ 11. In paragraph (c)(2)(i)(B)(*3*), by removing the language ''their U.S. income tax returns'' and adding the language ''their timely filed U.S. income tax returns'' in its place.

■ 12. By revising paragraph (e).

■ 13. By adding paragraphs (f) and (g).

The revisions and additions read as follows:

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

(a) *Purpose and scope*—(1) *In general.* * * * Paragraph (e) of this section provides rules regarding failures to file statements or other documents required under this section or failures to comply with the requirements of this section. Paragraph (f) of this section provides relief for certain failures to file or comply. Finally, paragraph (g) of this section specifies the effective/applicability dates for the rules of this section. * * *

* * * * *

(b) *Distribution by a domestic corporation*—(1) *General rule*—(i) *Recognition of gain and loss.* If a domestic corporation (domestic liquidating corporation) makes a distribution of property in complete liquidation under section 332 to a foreign corporation (foreign distributee corporation) that meets the stock ownership requirements of section 332(b) with respect to stock in the domestic liquidating corporation, then—

(A) Section 337(a) and (b)(1) will not apply; and

(B) The domestic liquidating corporation will recognize gain or loss on the distribution of property to the foreign distributee corporation, except as provided in paragraph (b)(2) of this section.

* * * * *

(2) * * *

(i) * * *

(C) * * *

(*1*) A declaration that the distribution to the foreign distributee corporation is one to which the rules of this paragraph (b)(2)(i) apply and a certification that the domestic liquidating corporation and the foreign distributee corporation agree to comply with all the conditions and requirements of this section, including, as provided in paragraph (e)(4)(ii)(B) of this section, to treat a failure to comply (as described in paragraph (e)(4)(i) of this section) as extending the period of limitations on assessment of tax for the taxable year in which gain is required to be reported.

* * * * *

(iii) * * *

(D) * * * The required statement shall also state that the domestic liquidating corporation agrees, as provided in paragraph (e)(4)(ii)(B) of this section, to treat a failure to comply (as described in paragraph (e)(4)(i) of this section) as extending the period of limitations on assessment of tax for the taxable year in which gain is required to be reported.

* * * * *

(e) *Failures to file or failures to comply*—(1) *Scope.* This paragraph (e) provides rules regarding a failure to file an initial liquidation document with respect to one or more liquidating distributions by a domestic liquidating corporation that, absent such failure, would qualify for nonrecognition treatment under paragraph (b)(2)(i) or (iii) of this section, or with respect to one or more liquidating distributions by a foreign liquidating corporation that, absent such failure, would qualify for nonrecognition treatment under paragraph (c)(2)(i)(B) of this section (failure to file). This paragraph (e) also provides rules regarding failures to comply in all material respects with the terms of this section with respect to one or more liquidating distributions for which nonrecognition treatment was initially claimed under paragraph (b)(2)(i), (b)(2)(iii), or (c)(2)(i)(B) of this section, as applicable (failure to comply).

(2) *Definitions.* The following definitions apply for purposes of this section.

(i) An *initial liquidation document* means any statement, schedule, or form required to be filed under this section in order for the domestic liquidating corporation or foreign liquidating corporation, as applicable, to initially qualify to claim nonrecognition treatment with respect to one or more liquidating distributions described in this section, including—

(A) The statement and attachments described in paragraph (b)(2)(i)(C) of this section;

(B) The statement described in paragraph (b)(2)(iii)(D) of this section; and

(C) The statement and attachments described in paragraph (c)(2)(i)(C) of this section.

(ii) A *subsequent liquidation document* means any statement, schedule, or form (other than an initial liquidation document) required to be filed under this section in order for the domestic liquidating corporation or foreign liquidating corporation, as applicable, to continue to qualify for nonrecognition treatment with respect to one or more liquidating distributions described in this section, including—

(A) The schedule described in paragraph (b)(2)(i)(E)(*3*) of this section;

(B) The schedule described in paragraph (b)(2)(i)(E)(*4*)(*ii*) of this section; and

(C) The statement and attachments described in paragraph (b)(2)(i)(E)(*5*) of this section.

(iii) A *timely filed U.S. income tax return* means a Federal income tax return filed on or before the last date prescribed for filing (taking into account any extensions of time therefor) such return.

(3) *Failure to file*—(i) *General rule.* For purposes of this section and except as provided in paragraph (b)(2)(i)(D) or (f) of this section, there is a failure to file an initial liquidation document if—

(A) An initial liquidation document is not filed with the timely filed U.S. income tax return specified under this section, or

(B) An initial liquidation document is not completed in all material respects.

(ii) *Consequences of a failure to file.* If there is a failure to file an initial liquidation document, then nonrecognition treatment under paragraph (b)(2)(i), (b)(2)(iii), or (c)(2)(i)(B) of this section (as appropriate) will not apply.

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

(A) A failure to report gain, or pay any additional tax or interest due, in accordance with the requirements under this section; and

(B) A failure to file a subsequent liquidation document, as determined by applying paragraph (e)(3)(i) of this section, but replacing the term ''initial liquidation document'' with the term ''subsequent liquidation document.''

(ii) *Consequences of a failure to comply.* If there is a failure to comply in any material respect with the terms of paragraph (b)(2)(i), (b)(2)(iii), or (c)(2)(i) of this section, as applicable, then—

(A) Any gain (but not loss) that was not previously recognized by the domestic liquidating corporation or foreign liquidating corporation, as applicable, under paragraph (b)(2)(i), (b)(2)(iii), or (c)(2)(i)(B) of this section must be recognized; and

(B) The period of limitations on assessment of tax for the taxable year in which gain is required to be reported will be extended until the close of the third full taxable year ending after the date on which the domestic liquidating corporation, foreign distributee corporation, or foreign liquidating corporation, as applicable, furnishes to the Director of Field Operations International, Large Business & International (or any successor to the roles and responsibilities of such position, as appropriate) (Director) the information that should have been provided under this section.

(f) *Relief for certain failures to file or failures to comply that are not willful*—(1) *In general.* This paragraph (f) provides relief if there is a failure to file an initial liquidation document as described in paragraph (e)(3)(i) of this section (failure to file), or a failure to comply in any material respect with the terms of this section as described in paragraph (e)(4)(i) of this section (failure to comply). A failure to file or a failure to comply will be deemed not to have occurred for purposes of paragraph (e)(3)(ii) or (e)(4)(ii) of this section if the taxpayer demonstrates that the failure was not willful using the procedure set forth in this paragraph (f). For this purpose, willful is to be interpreted consistent with the meaning of that term in the context of other civil penalties, which would include a failure due to gross negligence, reckless disregard, or willful neglect. Whether a failure to file or failure to comply was willful will be determined by the Director (as described in paragraph (e)(4)(ii)(B) of this section) based on all the facts and circumstances. The taxpayer must submit a request for relief and an explanation as provided in paragraph (f)(2)(i) of this section. Although a taxpayer whose failure to file or failure to comply is determined not to be willful will not be subject to gain or loss recognition under this section, the taxpayer will be subject to a penalty under section 6038B if the taxpayer fails to satisfy the reporting requirements, if any, under that section and does not demonstrate that the failure was due to reasonable cause and not willful neglect. See § 1.6038B–1(e)(4) and (f). The determination of whether the failure to file or failure to comply was willful under this section has no effect on any request for relief made under § 1.6038B–1(f).

(2) *Procedures for establishing that a failure to file or failure to comply was not willful*—(i) *Time and manner of submission.* A taxpayer's statement that a failure to file or failure to comply was not willful will be considered only if, promptly after the taxpayer becomes aware of the failure, an amended return is filed for the taxable year to which the failure relates that includes the information that should have been included with the original return for such taxable year or that otherwise complies with the rules of this section, and that includes a written statement explaining the reasons for the failure. In the case of a liquidating distribution described in paragraph (b)(2)(iii) of this section, the taxpayer must file, with the amended return, a Form 8838 extending the period of limitations on assessment of tax with respect to the gain realized but not recognized with respect to the liquidating distribution to the close of the third full taxable year ending after the date on which the required information is provided to the Director. In the case of a liquidating distribution described in paragraph (b)(2)(i) or (c)(2)(i)(B) of this section, the taxpayer must file, with the amended return, a Form 8838 extending the period of limitations on the assessment of tax with respect to the gain realized but not recognized with respect to the liquidating distribution to the later of: the date provided in paragraph (b)(2)(i)(C)(*5*), taking into account paragraph (c)(2)(i)(C) and (D), as applicable (date one); or, the close of the third full taxable year ending after the date on which the required information is provided to the Director (date two). However, the taxpayer is not required to file a Form 8838 with the amended return if both date one is later than date two and a Form 8838 was previously filed extending the period of limitations on assessment of tax with respect to the gain realized but not recognized with respect to the liquidating distribution to date one. If a Form 8838 is not required to be filed pursuant to the previous sentence, a copy of the previously filed Form 8838 must be filed with the amended return. The amended return and either a Form 8838 or a copy of the previously filed Form 8838, as the case may be, must be filed with the Internal Revenue Service at the location where the taxpayer filed its original return. The taxpayer may submit a request for relief from the penalty under section 6038B as part of the same submission. See § 1.6038B–1(f).

(ii) *Notice requirement.* In addition to the requirements of paragraph (f)(2)(i) of this section, the taxpayer must comply with the notice requirements of this paragraph (f)(2)(ii). If any taxable year of the taxpayer is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Internal Revenue Service personnel conducting the examination. If no taxable year of the taxpayer is under examination when the amended return is filed, a copy of the amended return and any information required to be included with such return must be delivered to the Director.

(3) For illustrations of the application of the willfulness standard of this paragraph (f), see the examples in § 1.367(a)–8(p)(3).

(g) *Effective/applicability dates.* Except as otherwise provided, this section applies to distributions occurring on or after September 7, 1999 or, if the taxpayer so elects, to distributions in taxable years ending after August 8, 1999. The ninth, tenth, and eleventh sentences of paragraph (a) of this section, and paragraphs (b)(1)(i), (b)(2)(i)(A)(*2*), (b)(2)(i)(A)(*3*), (b)(2)(i)(E)(*3*), (b)(2)(i)(E)(*4*)(*ii*), (b)(2)(i)(E)(*5*)(*ii*), (b)(2)(iii)(A), (c)(2)(i)(B)(*3*), (e), and (f) of this section will apply to liquidation documents that are required to be filed on or after November 19, 2014, as well as to requests for relief submitted on or after November 19, 2014.

■ **Par. 9.** Section 1.6038B–1 is amended:

■ 1. By adding a sentence after the first sentence in paragraph (b)(1)(i).

■ 2. By revising paragraph (b)(2)(i)(B)(*1*).

■ 3. By adding paragraph (b)(2)(iii).

■ 4. By adding paragraph (b)(2)(iv).

■ 5. By revising paragraphs (c)(1) through (c)(5).

■ 6. By revising paragraph (e)(4).

■ 7. By removing paragraph (f)(1)(i).

■ 8. By redesignating paragraphs (f)(1)(ii) and (f)(1)(iii) as paragraphs (f)(1)(i) and (f)(1)(ii), respectively.

■ 9. By adding paragraph (f)(2)(iii).

■ 10. By adding paragraph (f)(2)(iv).

■ 11. In paragraph (g)(1), by removing the language ''(g)(5)'' and adding the language ''(g)(6)'' in its place.

■ 12. By adding paragraph (g)(6).

The revisions and additions read as follows:

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

* * * * *

(b) * * * (1) * * * -(i) * * * In addition, if the U.S. person files a statement under § 1.367(a)–3(d)(2)(vi)(C), a gain recognition agreement under § 1.367(a)–8, or a liquidation document under § 1.367(e)–2(b), such person must comply in all material respects with the requirements of such section pursuant to the terms of the statement, gain recognition agreement, or liquidation document, as applicable, in order to satisfy a reporting obligation under section 6038B. * * *

* * * * *

(2) * * *

(i) * * *

(B) * * *

(*1*) Except as provided in paragraph (b)(2)(iii) of this section, the U.S. transferor (or one or more successors) filed an initial gain recognition agreement under § 1.367(a)–8, and filed Form 926 in accordance with paragraph (b)(2)(iv) of this section; or

* * * * *

(ii) * * *

(iii) *Timely filed initial gain recognition agreement.* Paragraph (b)(2)(i)(B)(*1*) of this section will not apply unless the initial gain recognition agreement is timely filed as determined under § 1.367(a)–8(d)(1), but for purposes of this section, determined without regard to § 1.367(a)–8(p). However, see paragraph (f)(3) of this section for certain relief that may be available.

(iv) *Satisfaction of section 6038B reporting if a gain recognition agreement is timely filed.* If the U.S. transferor is described in paragraph (b)(2)(i)(B)(*1*) of this section and is not otherwise required to file a Form 926 with respect to a transfer of assets other than the stock or securities to the transferee foreign corporation, the requirements of this section are satisfied with respect to the transfer of the stock or securities by completing Part I and Part II of Form 926, noting on the Form 926 that a gain recognition agreement is being filed pursuant to § 1.367(a)–8; reporting on the Form 926 the fair market value, adjusted tax basis, and gain recognized with respect to the transferred stock or securities; submitting on the Form 926 any other information that Form 926, its accompanying instructions, or other applicable guidance require to be submitted with respect to the transfer of the stock or securities; and attaching a signed copy of the Form 926 to its timely filed U.S. income tax return (including extensions) for the year of the transfer. If the U.S. transferor is required to file Form 926 with respect to a transfer of assets in addition to the stock or securities, the requirements of this section are satisfied with respect to the transfer of the stock or securities by noting on the Form 926 that a gain recognition agreement is being filed pursuant to § 1.367(a)–8; reporting on the Form 926 the fair market value, adjusted tax basis, and gain recognized with respect to the transferred stock or securities; and submitting on the Form 926 any other information that Form 926, its accompanying instructions, or other applicable guidance require to be submitted with respect to the transfer of the stock or securities.

* * * * *

(c) * * *

(1) through (4)(i) [Reserved]. For further guidance, see § 1.6038B–1T(c)(1) through (4)(i).

(ii) *Stock or securities.* Describe any stock or securities that are transferred, including the adjusted tax basis and fair market value of the stock or securities, the class or type, amount, and characteristics of the stock or securities, and the name, address, place of incorporation, and general description of the corporation issuing the stock or securities. In addition, if any provision of § 1.367(a)–3 or § 1.367(a)–3T applies to except the transfer of the stock or securities from section 367(a)(1), provide information supporting the claimed application of such provision. However, see paragraph (b)(2) of this section for certain exceptions and special rules for reporting transfers of stock or securities under section 367(a).

(iii) through (5) [Reserved]. For further guidance, see § 1.6038B–1T(c)(4)(iii) through (5).

* * * * *

(e) * * *

(4) *Reporting rules for section 367(e)(2) distributions by domestic liquidating corporations*—(i) *General rule.* Except as provided in paragraph (e)(4)(ii) of this section, if the distributing corporation makes a distribution of property in complete liquidation under section 332 to a foreign distributee corporation that meets the stock ownership requirements of section 332(b) with respect to the stock of the distributing corporation, then the distributing corporation must complete a Form 926 and attach a signed copy of such form to its timely filed U.S. income tax return (including extensions) for the taxable years that include one or more liquidating distributions. The property description contained in Part III of the Form 926 must contain a description, including the adjusted tax basis and fair market value, of all property distributed by the distributing corporation (regardless of whether the distribution of the property qualifies for nonrecognition treatment). The description must also identify the items of property for which nonrecognition treatment is claimed under § 1.367(e)–2(b)(2)(ii) or (iii), as applicable.

(ii) *Special rule.* Except as provided in paragraph (e)(4)(iii) of this section, if the distributing corporation distributes items of property that will be used by the foreign distributee corporation in the conduct of a trade or business in the United States and the distributing corporation does not recognize gain or loss on such distribution under

§ 1.367(e)–2(b)(2)(i) with respect to such property, then the distributing corporation may satisfy the requirements of this section by completing Part I and Part II of Form 926, noting in Part III that the information required by Form 926 is contained in a statement required by § 1.367(e)–2(b)(2)(i)(C)(*2*), and attaching a signed copy of Form 926 to its timely filed U.S. income tax return (including extensions) for each taxable year that includes one or more distributions in liquidation. In addition, if the distributing corporation distributes stock of a domestic subsidiary corporation and does not recognize gain or loss on such distribution under § 1.367(e)–2(b)(2)(iii) with respect to such stock, then the distributing corporation may satisfy the requirements of this section by completing Part I and Part II of Form 926, noting in Part III that the information required by Form 926 is contained in a statement required by § 1.367(e)–2(b)(2)(iii)(D), and attaching a signed copy of Form 926 to its timely filed U.S. income tax return (including extensions) for the taxable years that include one or more distributions of domestic subsidiary stock.

(iii) *Properly filed statement.* Paragraph (e)(4)(ii) will not apply if there is a failure to file an initial liquidation document as determined under § 1.367(e)–2(e)(3)(i), but for purposes of this section, determined without regard to § 1.367(e)–2(f). However, see paragraph (f)(3) of this section for certain relief that may be available.

(f) * * *

(2) * * *

(iii) With respect to an initial gain recognition agreement filed under § 1.367(a)–8, a failure to comply as determined under § 1.367(a)–8(j)(8), but for purposes of this section, determined without regard to the application of § 1.367(a)–8(p).

(iv) With respect to an initial liquidation document filed under § 1.367(e)–2(b)(2), a failure to comply as determined under § 1.367(e)–2(e)(4)(i), but for purposes of this section, determined without regard to the application of § 1.367(e)–2(f).

* * * * *

(g) * * *

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

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: October 31, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–27365 Filed 11–18–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0367]

RIN 1625–AA09

Drawbridge Operation Regulation; Darby Creek, Essington, PA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulation that governs the Conrail railroad bridge over Darby Creek at mile marker 0.25 in Essington, PA. The bridge owner, Conrail, is modifying the existing remote operating system which controls the bridge operations. Cameras will be installed and the remote operating site will move from its current location in Delair, NJ to Mt. Laurel, NJ. The train crew is no longer required to stop and check the waterway for approaching vessel traffic prior to initiating a bridge closure and mariners requesting an opening for the bridge will have to contact the new remote location.

DATES: This rule is effective December 19, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0367. 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 rule, call or email Mrs. Jessica Shea, Fifth Coast Guard District Bridge Administration Division, Coast Guard; telephone 757–398–6422, email *jessica.c.shea2@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
Conrail Consolidated Rail Corporation
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

A. Regulatory History and Information

On August 1, 2014, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Darby Creek, Essington, PA in the **Federal Register** (79 FR 44724). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The bridge owner, Conrail, requested a change to 33 CFR 117.903 because they modified the sensor and visual equipment on site at their bridge across Darby Creek. They also relocated the remote operation station to a new location. The regulation is changing two aspects of the bridge operation. Specifically, the location of the remote operator and the installation of cameras to verify whether any vessels are transiting the waterway before a bridge closure is initiated. This rule does not change the operating schedule of the bridge.

The scope of the waterway inspection is different between the current on-site train crewmember inspection process and the range of the proposed camera installation. There is also a difference in the time it takes between the inspection and the initiation of the bridge closure operations. Currently, the regulation requires an on-site train crewmember to conduct an inspection of the waterway for vessels by stopping the train approximately 200 feet north of the bridge site when approached from the north and 300 feet south of the bridge site when approached from the south. Once the train is stopped, the train crewmember walks to the bridge site and physically looks up and down the channel. The time it takes to stop the train, walk to the bridge, conduct the inspection, walk back to the train, and re-start the train takes 15–20 minutes. As changed, the regulation allows the remote operating station to inspect the waterway with cameras without first stopping the train which permits a more efficient operating system.

The closer the vessels are to the bridge, the more likely it is that the train crewmember will see them using the process required by the current regulation. Under the modified regulation, the camera inspection of the waterway has the capability to zoom up and down stream allowing for easier detection of a smaller vessel approaching the bridge. After inspection of the waterway, using the cameras, the bridge closing operations would then occur from a remote location at the Mt. Laurel remote operating station.

Currently, the bridge is in the open to navigation position between April 1 and October 31 and operated by the bridge controller at the remote operating station in Delair, NJ. The shift from the Delair, NJ to the Mt. Laurel, NJ operating station enables Conrail to consolidate its control of the train line and Darby Creek Bridge. By controlling the track as well as the bridge operating mechanism at the Mt. Laurel station, the remote operator has access to more information regarding the anticipated arrival time for when the trains will be at the bridge site. Information such as train speed and location directly contribute to when the bridge will need to be closed. The shift of the remote operating location to the Mt. Laurel location may shorten the duration of the bridge closures due to the higher accuracy of information on train speed and anticipated arrival time at the bridge site.

The average tidal range for Darby Creek is 5 feet. Currents run on average between 1–2 knots. The actual depth at the bridge ranges between 15 and 20 feet. Darby Creek is used by several recreational vessels during the summer boating season. There is no commercial vessel traffic on Darby Creek.

From April 1 to October 31, the bridge is left in the open to navigation position and will only be lowered for the passage of train and maintenance. Train activity in this location requires the bridge to close to navigation four times a day Monday thru Friday. On Saturday and Sunday, the bridge is used twice each day.

From November 1 through March 31, the bridge is in the closed to navigation position but will open if 24 hours notice is given.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a comment period of 45 days and no comments were received therefore no changes were made. However, the Coast Guard is making non-substantive changes in the Final Rule that were not identified in the NPRM.

The mile marker listed in 33 CFR § 117.903 (a) describes the bridge as being located at mile marker 0.3. Upon further review, the description of the geographic location for this bridge is being revised to reflect its actual location at mile marker 0.25. The regulatory text has been updated to clarify (1) how the lights on the drawbridge actually operate when the span is in motion and (2) change the terminology channel traffic lights to center span lights. Also, the paragraphs under 33 CFR 117.903(a) have been reorganized for efficiency. None of these changes affect the intent of the NPRM or the operation of the bridge.

The drawbridge operating schedule will not change under the Final Rule. From April 1 to October 31, the bridge will continue to be left in the open to navigation position and will only be lowered for the passage of train and maintenance. From November 1 through March 31, the bridge is in the closed to navigation position but will open if 24 hours notice is given.

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 or 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 Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. There are no changes to the drawbridge operating schedule only to the methods used to operate the drawbridge.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ‘‘small entities’’ comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. 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 action will not have a significant economic impact on a substantial number of small entities for the following reasons. There are no changes to the drawbridge operating schedule. Vessels that can safely transit under the bridge may do so at any time.

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 calls for no 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 have determined that it does not have implications for federalism. The Coast Guard did not receive any comments relating to federalism. Accordingly, there were no changes to the proposed regulatory text.

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 might 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 guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded 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 promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.903(a) to read as follows:

§ 117.903 Darby Creek.

(a) The draw of the Conrail automated railroad bridge, mile 0.25, at Essington, shall operate as follows:

(1) The bridge will be operated remotely by the South Jersey Train Dispatcher located in Mt. Laurel, NJ. Operational information will be provided 24 hours a day by telephone at (856) 231–2282.

(2) From April 1 through October 31, the draw shall be left in the open position and will only be lowered for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(3) From November 1 through March 31, the draw shall open on signal if at least 24 hours notice is given by telephone at (856) 231–2282. Operational information will be provided 24 hours a day by telephone at (856) 231–2282.

(4) The timeframe to initiate the bridge closure will be not more than 10 minutes before a train will arrive at the bridge location. If a train, moving toward the bridge has crossed the home signal for the bridge, the train may continue across the bridge and must clear the bridge prior to stopping for any reason. Trains shall be controlled so that any delay in opening of the draw shall not exceed fifteen minutes except as provided in § 117.31(b).

(5) The bridge will be equipped with cameras and channel sensors to visually and electronically ensure the waterway is clear before the bridge closes. The video and sensors are located and monitored at the remote operating location in Mt. Laurel, NJ. The channel sensors signal will be a direct input to the bridge control system. In the event of failure or obstruction of the infrared channel sensors, the bridge will automatically stop closing and the South Jersey Train Dispatcher will return the bridge to the open position. In the event of video failure the bridge will remain in the full open position.

(6) The Conrail Railroad center span light will change from fixed green to flashing red anytime the bridge is not in the full open position.

(7) Prior to downward movement of the span, the horn will sound two prolonged blasts, followed by a pause, and then two short blasts until the bridge is seated and locked down. At the time of movement, the center span light will change from fixed green to flashing red and remain flashing until the bridge has returned to its full open position.

(8) When the train controller at Mt. Laurel has verified that rail traffic has cleared, they will sound the horn five times to signal the draw is about to return to its full open position.

(9) During upward movement of the span, the horn will sound two prolonged blasts, followed by a pause, and then sound two short blasts until the bridge is in the full open position. The center span light will continue to flash red until the bridge is in the fully open position.

(10) When the draw cannot be operated from the remote site, a bridge tender must be called to operate the bridge in the traditional manner. Personnel shall be dispatched to arrive

at the bridge as soon as possible, but not more than one hour after malfunction or disability of the remote system.

* * * * *

Dated: October 30, 2014.

Stephen P. Metruck,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2014–27296 Filed 11–18–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2009–0234; EPA–HQ–OAR–2011–0044; FRL–9919–29–OAR]

RIN 2060–AS07

Reconsideration of Certain Startup/Shutdown Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency.

ACTION: Final rule; notice of final action on reconsideration.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on its reconsideration of the startup and shutdown provisions in the final rules titled, ''National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units.'' The national emission standards for hazardous air pollutants (NESHAP) issued pursuant to Clean Air Act (CAA) section 112 are referred to as the Mercury and Air Toxics Standards (MATS), and the new source performance standards (NSPS) issued pursuant to CAA section 111 are referred to as the Utility NSPS.

On November 30, 2012, the U.S. Environmental Protection Agency (EPA) granted reconsideration of, proposed, and requested comment on a limited set of issues in the February 16, 2012, final MATS and Utility NSPS, including certain issues related to the final work practice standards applicable during startup periods and shutdown periods. On June 25, 2013, the EPA reopened the public comment period for the reconsideration issues related to the startup and shutdown provisions of MATS and the startup and shutdown provisions related to the particulate matter (PM) standard in the Utility NSPS. The EPA is now taking final action on the standards applicable during startup periods and shutdown periods in MATS and on startup and shutdown provisions related to the PM standard in the Utility NSPS.

DATES: The effective date of the rule is November 19, 2014.

ADDRESSES: *Docket.* The EPA established two dockets for this action: Docket ID No. EPA–HQ–OAR–2011–0044 (NSPS action) and Docket ID No. EPA–HQ–OAR–2009–0234 (MATS NESHAP action). All documents in the dockets are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For the MATS NESHAP action: Mr. William Maxwell, Energy Strategies Group, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–5430; Fax number (919) 541–5450; Email address: *maxwell.bill@epa.gov.* For the NSPS action: Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–4003; Fax number (919) 541–5450; Email address: *fellner.christian@epa.gov.*

SUPPLEMENTARY INFORMATION:

Outline. The information presented in this preamble is organized as follows:

I. General Information
  A. Does this action apply to me?
  B. How do I obtain a copy of this document?
  C. Judicial Review
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III. Summary of This Action
IV. Summary of Final Action and Changes Since Proposal—MATS Startup/Shutdown Issues
V. Summary of Final Action and Changes Since Proposal—Utility NSPS
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  B. What are the air impacts?
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  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 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
  K. Congressional Review Act

I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this action include:

Category	NAICS Code [1]	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired electric utility steam generating units.
Federal government	[2] 221122	Fossil fuel-fired electric utility steam generating units owned by the federal government.
State/local/tribal government	[2] 221122	Fossil fuel-fired electric utility steam generating units owned by municipalities.

Category	NAICS Code [1]	Examples of potentially regulated entities
	921150	Fossil fuel-fired electric utility steam generating units in Indian country.

[1] North American Industry Classification System.
[2] Federal, state, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. To determine whether your facility, company, business, organization, etc., would be regulated by this action, you should examine the applicability criteria in 40 CFR 60.40, 60.40Da, or 60.40c or in 40 CFR 63.9982. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 60.4 or 40 CFR 63.13 (General Provisions).

B. How do I obtain a copy of this document?

In addition to being available in the docket, an electronic copy of this final rule will be available on the World Wide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of the action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/.* The TTN provides information and technology exchange in various areas of air pollution control. A copy of this action will also be available on: *www.epa.gov/mats/.*

C. Judicial Review

Under CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by January 20, 2015. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Note, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

II. Background

On February 16, 2012, the final MATS and the Utility NSPS rules were published in the **Federal Register**. 77 FR 9304. Following promulgation of the final rules, the Administrator received petitions for reconsideration of various provisions of both MATS and the Utility NSPS pursuant to CAA section 307(d)(7)(B), including requests to reconsider the work practice standards applicable during startup periods and shutdown periods that were included in the final rule. Copies of the MATS petitions are provided in Docket ID No. EPA–HQ–OAR–2009–0234. Copies of the Utility NSPS petitions are provided in Docket ID No. EPA–HQ–OAR–2011–0044. The EPA granted reconsideration of the startup and shutdown provisions because the agency proposed to require sources to comply with the numeric standards at all times and did not propose a work practice standard for startup periods and shutdown periods; thus, the public was not provided an opportunity to comment on the work practice requirements contained in the final rule.[1] On November 30, 2012, the EPA published a proposed rule reconsidering certain new source standards issued in MATS and the startup and shutdown provisions in MATS and the Utility NSPS, among other things. 77 FR 71323. The EPA proposed certain minor changes to the startup and shutdown provisions contained in the 2012 final rule based on information obtained in the petitions for reconsideration. On April 24, 2013 (78 FR 24073), the EPA took final action on the new source standards that were reconsidered and also the technical corrections contained in the November 30, 2012, proposed action. The EPA did not take final action on the startup and shutdown provisions, and, on June 25, 2013, the EPA added new information and analysis to the docket and reopened the public comment period for the proposed revisions to the startup and shutdown provisions in MATS and the startup and shutdown provisions related to the PM standard in the Utility NSPS.

[1] The EPA continues to believe that the final existing source standards contain sufficient variability to include startup periods and shutdown periods. Furthermore, in light of what we have learned concerning the performance of the best performing sources during startup and shutdown (e.g., clean fuel use and efficient engagement of air pollution control devices (APCDs)), we believe that the best performing electric utility steam generating units (EGUs) for startup periods and shutdown periods will have hazardous air pollutant (HAP) emissions that are lower than the numeric standards, when averaged over the startup and shutdown period as defined. However, as explained in the record, the lack of HAP data for these periods and the current technical challenges to accurately measure HAP emissions during startup and shutdown cause us to establish a work practice for such periods.

III. Summary of This Action

This final action includes final amendments to the startup and shutdown provisions of the final MATS and Utility NSPS issued by the EPA on February 16, 2012. This action does not alter or reopen any other MATS or Utility NSPS provisions, including those provisions recently upheld by the U.S. Court of Appeals for the District of Columbia Circuit (Court) in *White Stallion Energy Center* v. *EPA* on April 15, 2014. 784 F.3d 1222 (D.C. Cir. 2014). The February 2012 final rule is and remains in effect for all sources, and existing sources must comply with the final rule by April 16, 2015, or seek an extension of that compliance date from the appropriate title V permitting authority.

The November 30, 2012, proposed reconsideration rule reopened, among other things: (1) The requirements applicable during startup periods and shutdown periods in MATS, and (2) the startup and shutdown provisions related to the PM standard in the Utility NSPS. We are taking final action today on the requirements for startup periods and shutdown periods contained in 40 CFR Part 63, subpart UUUUU, and 40 CFR Part 60, subpart Da.

As noted above, in the proposed reconsideration rule, the EPA proposed revisions to, and took comment on, the definitions of ''startup'' and ''shutdown'' and the work practice requirements associated with those periods in the final MATS rule. The EPA also took comment on the startup and shutdown provisions relating to the PM standard in the Utility NSPS. The EPA received a number of comments regarding the proposed startup and shutdown provisions, including data and information relevant to the proposed work practice standard that applies during such periods, and the agency also reviewed EGU nitrogen oxides (NO_X) and sulfur dioxide (SO_2) emissions data generated during startup periods and shutdown periods and submitted to the EPA pursuant to title IV of the CAA (i.e. the Acid Rain Program). On June 25, 2013 (78 FR 38001), the EPA reopened the public comment period on the startup/shutdown provision and solicited comment on both the public comments provided in response to the November 30, 2012, proposal, as well as the startup and shutdown technical support document (TSD) that was based on the Acid Rain Program data that was made available in the docket.[2] The agency has reviewed all of the comments received on the startup and shutdown issues. As described below, the EPA is taking final action on the startup and shutdown provisions in MATS and the Utility NSPS.

Because this final rule is very similar to the February 2012 final rule, the impacts of these revisions on the costs and the benefits of the final rule are minor.

IV. Summary of Final Action and Changes Since Proposal—MATS Startup/Shutdown Issues

After consideration of the public comments received and other information, the EPA is finalizing the startup and shutdown provisions contained in the final MATS rule and we are also finalizing an alternative compliance option for startup periods and shutdown periods.[3] We address several significant comments in this preamble. For a complete summary of the comments received on the issues we are finalizing today and our responses thereto, please refer to the memorandum ''National Emission Standards For Hazardous Air Pollutants From Coal- And Oil-Fired Electric Utility Steam Generating Units—Reconsideration Of Certain Startup/Shutdown Issues; Summary Of Public Comments And Responses'' (RTC) in Docket ID No. EPA–HQ–OAR–2009–0234.

As discussed in more detail below, the alternative work practice standard for startup periods and shutdown periods requires coal- and oil-fired EGUs to initiate startup using only clean fuels and to continue combusting the maximum amount of clean fuels possible at the facility throughout the entire startup period. EGUs that chose to comply with the alternative work practice will be required to have sufficient clean fuel capacity to startup and warm the facility to the point where the primary PM controls (e.g., fabric filters (FFs) and electrostatic precipitators (ESPs)) can be brought on line at the same time as, or within 1 hour of, the addition of the primary fuel (i.e., coal, residual oil, or solid oil-derived fuel) to the EGU. If a facility does not have sufficient clean fuel capacity to enable initiation and operation of the PM controls within 1 hour of addition of primary fuel, then the source will have to increase its clean fuel capacity or take other action to comply with the work practice requirements in this final rule.[4] The alternate included in this final rule also requires EGUs to comply with the applicable numeric standards within 4 hours of the generation of electricity or thermal energy for use either on site or for sale over the grid (i.e., the end of startup) and to continue to maximize clean fuel use throughout that period.

The EPA has established these final alternative requirements after determining what the best performing EGUs do during startup periods and shutdown periods. The EPA used several different metrics to determine the best performing sources for various aspects of the work practice requirements and definitions. Specifically, concerning the use of clean fuels, the comments received and the Acid Rain data in the record indicate that most EGU operations start using clean fuels and that many of those EGUs generate electricity while using clean fuels and/or routinely engage their PM controls before or within 1 hour of beginning to combust coal, residual oil, or solid oil-derived fuel. The clean fuels identified by the commenters and included in the final rule are inherently cleaner from a HAP emissions perspective than coal, residual oil, or solid oil-derived fuel, and, for this reason, maximizing the use of clean fuels during startup will greatly limit the emissions of HAP while EGUs are warming up to temperatures sufficient to engage the air pollution control devices (APCDs). Thus, we considered those EGUs that use clean fuels for the longest period of time before the introduction of coal and the generation of electricity to be the best performing EGUs because they are likely to have the lowest amount of HAP emissions during the startup period. In addition, the best performing EGUs were also determined to be those with the ability to engage PM control devices at the time (i.e., within 1 hour) of introduction of primary fuel. Further, we believe all of the concerns raised by commenters about the ability to engage the PM controls can be safely resolved to allow compliance with the final work practice, as explained in the RTC.[5] We believe it is appropriate to use generation of electricity as an indicator of startup for two reasons. First, the information we have indicates that the only reason the owner/operator of an EGU chooses to fire fuel in a boiler is to generate electricity. Therefore, any event that starts with firing of fuel in a boiler that has been shut down will culminate in generation of electricity. Second, introduction of coal to the boiler is also always associated with generation of electricity. The TSD and other information confirm our understanding.

For determining the appropriate time after generation to define the end of startup (i.e., the time when the numerical standards apply), the EPA conducted an analysis of continuous emission monitor system (CEMS) data for NO_X and SO_2 from EGUs to determine the range of times after initial generation of electricity or thermal energy that EGUs typically take to engage and operate all of their APCDs. The EPA determined the best performing 12 percent of EGUs by identifying those EGUs that were able to engage their APCDs most quickly after the initial generation of electricity or thermal energy and averaged that time to determine the end of the startup period when the numeric standards would become applicable. Specifically, we evaluated the average startup period for the best performing 12 percent of EGUs for which the EPA has the relevant data (i.e., those with the relevant NO_X and/or SO_2 controls). We

[2] The EPA is still reviewing the other issues raised in the petitions for reconsideration and is not taking any action at this time with respect to those issues.

[3] This preamble does not discuss the startup and shutdown provisions provided in the February 2012 final MATS rule. (See 77 FR 9486, 9493–9494.) We are not altering those provisions in this final action. However, the critical control requirement (i.e., the requirement to use clean fuels to start and warm the EGU and relevant controls prior to coal, residual, or solid oil-derived fuel combustion, as well as recordkeeping and reporting procedures for those requirements) is the same for both. We are maintaining the final rule approach and will evaluate the continued need for the alternative definition during our ongoing 8-year reviews. We intend to use HAP and HAP surrogate data collected during periods of startup and periods of shutdown to evaluate the accuracy of CEMS from the start of electricity generation to the end of startup as defined under the alternative included in this final rule (i.e., 4 hours after electricity generation). We will use these data to help determine whether it is appropriate to make changes to the rule in the future.

[4] We note that the startup and shutdown provisions contained in the February 16, 2012, final MATS rule also required EGUs to maximize clean fuels during startup periods and shutdown periods, as sources are required to comply with all MATS and NSPS standards at the time of electricity generation. Therefore, EGUs complying with the work practice as finalized on February 16, 2012, will necessarily be required to warm their units on clean fuels alone for extended periods unless the operators determine that compliance over the 30-day averaging period can be achieved without certain HAP controls for a portion of time after the defined startup period. EGU operators may conclude compliance without controls for a short period after startup is possible for a number of reasons, including the variability included in the numeric standards and our understanding from regulating many HAP categories that sources generally over-control to ensure a compliance margin is maintained.

[5] See, e.g., EPA–HQ–OAR–2009–0234–20269, –20275, and –20303.

used 12 percent of the sources with the relevant controls because the metric upon which the end of startup is based depends on the presence of the relevant controls, not on the actual NO_X and SO_2 emissions. Thus, sources without the relevant controls cannot be compared against sources with the relevant controls for purposes of defining the end of startup in this final rule. CAA section 112(d)(3)(A) directs the EPA to establish MACT floor standards based on the performance on the best performing 12 percent of sources for which the Administrator has data, and, in this case, the agency does not have relevant data from all sources in the category. For this reason, it is reasonable to establish the work practice based on 12 percent of the sources with the relevant data (i.e., those EGUs with the relevant NO_X or SO_2 controls).

We used this approach to determine the end of startup because it is reasonable to expect the EGUs that are able to most quickly and efficiently engage their controls after the generation of electricity to be the best performing sources and to have the lowest HAP emissions during and directly after the startup period, and because we are confident that EGUs will be able to accurately measure HAP emissions with CEMS at this time. The requirement to maximize the use of clean fuels (with inherently low HAP emissions) during the startup period ensures that HAP emissions are minimized during that time. Because EGUs subject to Acid Rain Program requirements are required to submit continuous NO_X and SO_2 data to the EPA, the agency believes it has data on all startup events from those EGUs subject to that program, which comprise nearly all EGUs subject to this rule, for over a decade. Thus, we believe we have a full data set from which to determine the end of the startup period for the best performing 12 percent of sources for which we have the relevant data.[6] We maintain it is reasonable to use the CAA section 112(d)(3) metric for establishing MACT floors for existing sources as a starting point for determining the appropriate work practice when presented with such comprehensive data. *See* CAA 112(h)(1) (directing the agency to establish a work practice standard ''which in the Administrator's judgment is consistent with the provisions of subsection (d) or (f) of this section.'').

[6] We note that these data are not reliable for quantifying emissions for this analysis but, rather, the data allow us to evaluate when controls are turned on for the purpose of determining when startup ends.

For shutdown periods, the EPA determined that sources could cease adding coal or oil to the EGU prior to shutting down the APCDs. We determined that sources able to run their control devices even after coal or oil is added to the EGU for the last time before shutdown were the best performing sources because HAP emissions would be minimized as the EGU combusts the remaining coal or oil in the boiler.

The final work practice standard, when applied across the industry, will greatly reduce HAP emissions during startup periods and shutdown periods. The requirement to maximize clean fuel use throughout the startup period will significantly limit HAP emissions because of the inherently low HAP emissions associated with the clean fuels identified in 40 CFR 63.10042.[7] In addition, the requirement to engage and operate PM controls as expeditiously as possible and within 1 hour of coal, residual oil, or solid oil-derived fuel combustion will limit HAP emissions that are particulate in nature throughout the remainder of the startup period. We believe that application of this work practice will lead to HAP emissions during startup periods and shutdown periods that are comparable to, and potentially lower than, those levels authorized during normal operations when averaged over the entire startup and/or shutdown period. During the 8-year review required under CAA section 112(d)(6), the agency intends to further assess HAP emissions during startup and shutdown based on data collected from sources complying with the final rule, though we recognize that prospectively our ability to establish numerical standards during startup periods and shutdown periods will depend, at least in part, on the further development of testing methodologies that will allow the agency to accurately measure emissions during those periods with an acceptable level of certainty.

The specific provisions of the alternative startup and shutdown requirements and our rationales for those provisions are discussed in more detail below and in the RTC document in Docket ID No. EPA–HQ–OAR–2009–0234.

[7] Natural gas is one of the clean fuels identified in this final rule and the agency determined in 2000 that it was neither appropriate nor necessary to regulate natural gas-fired EGUs because the impacts from HAP emissions from such units are ''negligible.'' See ''Regulatory Finding on the Emissions of Hazardous Air Pollutants from Electric Utility Steam Generating Units,'' 65 FR 79825, 79831 (December 20, 2000).

1. Definitions

In the November 2012 reconsideration proposal, we proposed revisions to the definitions of startup and shutdown contained in the final MATS rule and set forth in 40 CFR 63.10042, after receiving petitions for reconsideration of the startup and shutdown provisions in the final MATS rule. Petitioners asserted, among other things, that the final rule's definitions of startup and shutdown were not sufficiently clear, should accommodate operation of cogeneration units, and did not accurately reflect startup conditions for all affected units. We received additional comments on these issues during the public comment periods. For more discussion of the petitions for reconsideration and the comments on the definitions in the final rule, see the RTC in Docket ID No. EPA–HQ–OAR–2009–0234.

As a result of comments received on the November 2012 proposal and the June 2013 reopening of the public comment period, we have further revised the proposed definitions as follows.

a. Startup. The definition of startup in the November 2012 reconsideration proposed rule was similar to the definition the EPA finalized in MATS in February 2012. In this final reconsideration rule, we have maintained the final MATS definition of startup and, in addition, are finalizing an alternative definition of startup based on the November 2012 proposal and the analysis in the startup and shutdown TSD. Sources may choose to use either definition of startup when complying with the startup and shutdown requirements. We are finalizing both definitions because we believe that they both meet the requirements of CAA section 112 to reduce HAP emissions during this time period and will provide operators with flexibility, even though we question the ability to accurately measure HAP emissions at the start of electricity generation. A discussion of the comments and analyses that led to inclusion of the alternative startup definition is provided below.

In the November 2012 reconsideration proposal, the EPA proposed that startup be defined as the period in which operation of an EGU is initiated for any purpose. The proposed definition indicated that startup begins with either the first-ever firing of fuel in an EGU for the purpose of producing electricity or useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes or the firing of fuel in an EGU for any purpose after a shutdown event. The proposed definition indicated that startup ended when the EGU generates electricity that is sold or used for any other purpose (including on site use), or the EGU makes useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes, whichever is earlier. The agency received comments stating that the general approach provided in the proposed definition of ''startup'' (particularly the end of startup) was directionally correct but did not allow sufficient time for the APCDs to become effective and, thus, the industry was concerned that some EGUs would not be able to achieve the MATS emission limits finalized in the February 2012 rule at the end of startup as defined in the final MATS rule. The comments further stated the opinion that startup did not end with first generation of electricity or production of steam as the EPA had proposed. Instead, some comments suggested that the defined end of startup should be changed to be 4 hours after 25-percent load is first reached or 12 hours after first electricity generation, whichever occurs first. Some comments stated that even longer time periods were necessary for certain types of EGUs, that different startup periods should be defined for different types of EGUs, and that additional consideration should be given to a wider variety of APCDs. Other comments maintained that the definition in the final MATS rule was appropriate and indicated that any extension of time during which the EGUs were not subject to the final rule's emission limits was not in accordance with CAA section 112.

The EPA disagrees with the commenters to the extent they maintain that a work practice is required after emissions can be accurately measured or that the agency is bound to the time contained in the final rule where, as here, we conclude that the HAP measurement methodologies are not capable of accurately measuring HAP emissions during the defined startup period. The EPA did, however, conduct an additional technical analysis after its initial review of the comments and in June 2013 published a document reopening the public comment period. The document specifically requested comment on the additional technical analysis the EPA had conducted in response to comments received concerning the end of startup. See ''Assessment of startup period at coal-fired electric generating units'' (Docket ID No. EPA–HQ–OAR–2009–0234–20378). In the analysis, the EPA examined several indicators that allowed the agency to assess the time required to engage APCDs at affected EGUs. Using these indicators, we found no significant difference in performance related to startup between the different groups or types of EGUs assessed in the analysis (e.g., circulating fluidized bed (CFB), stoker, subcritical, supercritical). We further indicated that the results of our analysis supported defining the end of startup at coal- and oil-fired EGUs as occurring at the time to achieve 25 percent of the EGU's nameplate generating capacity (megawatts, MW) plus 3 hours, or the start of electricity generation plus 6 hours, whichever comes first.

The EPA has reviewed all of the comments received on the proposed definition of startup in response to these two opportunities for public comment and has revised the June 2013 analysis. Based on this review, we are finalizing a revised definition of ''startup'' that uses the approach outlined in the June 2013 assessment with revisions as discussed below.

Defining the End of ''Startup''

The June 2013 analysis suggested a potential end time for startup of 6 hours after the start of electricity generation or 3 hours after a coal- or oil-fired EGU reaches 25 percent of nameplate capacity, whichever occurs first. In other words, 6 hours after the start of generation or 3 hours after reaching electricity generation equal to 25 percent of nameplate capacity, whichever comes first, an EGU would have to start monitoring and reporting its emissions for the purpose of complying with the numeric emissions standards contained in MATS.

The EPA took this approach because we determined that flue gas conditions will be adequate to accurately measure HAP emissions with CEMS 4 hours after the generation of electricity. The approach evaluated the time for all APCDs to be functioning because we determined that stack conditions will be stable at this point. The analysis was based on our review of hourly SO_2 and NO_X emissions from CEMS installations from nearly 9,500 distinct startup events at more than 400 coal-fired EGUs, including CFB boilers, and subcritical and supercritical pulverized coal boilers equipped with SO_2 APCDs (e.g., wet or dry flue gas desulfurization (FGD)) and/or NO_X APCDs (e.g., selective catalytic reduction (SCR)). The EPA analyzed hourly SO_2 and NO_X emissions primarily because changes in SO_2 and NO_X emissions are reasonable indicators of when APCDs are operational and stack conditions will be sufficiently stable to allow for accurate measurement of HAP emissions with CEMS. We also note that SO_2 emissions are a surrogate for acid gases (e.g., hydrogen chloride); SO_2 APCDs can be used for co-benefit mercury (Hg) control; and NO_X SCR APCDs may increase the oxidation of Hg, influencing the effectiveness of Hg controls.[8] The goal of the analysis was to identify the approximate time it took, on average, to initiate operation of SO_2 and NO_X APCDs because it was those controls (e.g., scrubbers and SCR) that industry commenters stated required additional time to engage after the start of generation of electricity or useful thermal energy. The goal in conducting the analysis was not to determine the time it took for APCDs at all EGUs to become fully operational, but instead to determine the average time for the engagement of APCD to determine a reasonable end of startup.

The EPA received detailed comments on the June 2013 analysis and the proposed rule. Although commenters' opinions varied, the EPA identified three distinct groups of comments. The first group agreed with the EPA's approach to define a time limit following the start of generation, but many commenters suggested that more time was necessary to safely and/or fully engage APCDs. The second group commented that CAA section 112 requires the EPA to establish standards based on the average of the best performing 12 percent of EGUs, not the average of the fleet. The third group disagreed with the EPA's approach, stating that many APCDs could not be fully functional within the time limits specified by the EPA, and citing the need for greater flexibility.

The EPA evaluated the information provided by commenters and considered the different approaches to define the end of startup.[9] After careful consideration and in light of issues raised in comments and data provided, the EPA has revised its initial approach for determining the end of startup in

[8] The EPA did not include hourly PM data in this analysis because PM CEMS data are not available and PM CEMS have not yet been certified to accurately measure during periods of startup and periods of shutdown as defined in this final rule.

[9] It is important to remember that the hour at which startup ends is the hour at which reporting for the purpose of determining compliance begins. Therefore, EGUs must collect and report emissions and heat input or generation data following the end of startup. These data are used in calculating whether an EGU is in compliance with the 30-day average emission limits. MATS does not mandate that all APCDs must be fully operational at the end of startup (nor does it mandate that emissions during any given hour during this period must be below the 30-day average emission limits); rather, MATS mandates only that sources comply with the MATS emission standards at that time.

several respects. First, in the June 2013 analysis, we did not attempt to identify the EGUs that were the best performing sources, but instead simply looked at a category-wide average time for engagement of APCDs. As certain commenters noted, the category-wide average may not satisfy the CAA section 112(h) requirement that the EPA establish work practice standards ''which in the Administrator's judgment [are] consistent with the provisions of subsections (d) or (f) of this section [112].'' To more appropriately track this statutory directive, the EPA revised the analysis and identified the EGUs that were able to most quickly engage their APCDs because we determined that the best performing EGUs for purposes of defining the end of startup are those that are able to most efficiently engage their controls after the start of electricity generation. The EPA then averaged the time it took for such EGUs to bring their APCDs on line to determine a reasonable time after generation of electricity to define the end of startup. The EPA chose this approach in the final rule because we believe it most closely follows the requirements of CAA section 112.

The EPA analysis of startup events at coal-fired EGUs indicates that the best performing EGUs can, on average, initiate operation of their SO_2 and NO_X APCDs within 4 hours following the start of generation (see Technical Support Document (TSD) titled ''Assessment of startup period at coal-fired electric generating units—Revised'' in Docket ID No. EPA–HQ–OAR–2009–0234). In addition, the Agency is confident that stack conditions at this time are conducive for accurate measurements of HAP emissions using CEMS. For these reason, and because SO_2 can be used as a surrogate for the control of acid gases and SO_2 and NO_X APCDs can impact the control of Hg emissions, and because we believe based on comments and other information that SO_2 and NO_X controls are generally the last APCDs to be engaged, the EPA has determined that the end of startup should be defined as the end of the 4th hour following the start of generation of electricity or useful thermal energy. The agency has also determined that it is not necessary to include any additional variability because the agency believes it has information on all of the startup events from the EGUs with the relevant data so startup time variability is fully represented in the available data.

b. Shutdown. The EPA is maintaining the definition of ''shutdown'' proposed in the November 2012 action, and further requiring that all APCDs must be operated as long as coal, residual oil, or solid oil-derived fuel is being fired in the EGU and as long thereafter as possible, considering safety and system integrity.

The RTC contains a summary of the comments received on this topic and the EPA's response to those comments.

2. Work Practice Standards and Clean Fuels

The final work practice for startup periods requires EGUs to initiate startup using clean fuels and to combust only clean fuels until primary fuel (e.g., coal, residual oil, or solid oil-derived fuel) is fed into the EGU, at which time the EGU must engage and operate its PM controls as soon as possible and no later than 1 hour thereafter. After engagement of PM controls, EGUs are required to maintain maximum clean fuel use until the end of startup (i.e., 4 hours after the start of generation of electricity or useful thermal energy). The maximization of clean fuel use after addition of primary fuel to the EGU assures that the least amount of HAP possible will be emitted from the units during the startup period. The final rule also includes more fuels on the list of clean fuels that may be combusted during startup periods and shutdown periods, as discussed below.

The EPA is finalizing a requirement in the work practice that PM controls be engaged and operated within 1 hour of coal, residual oil, or solid oil-derived fuel being fired. In the November 2012 proposal, the EPA proposed to require that once an EGU starts firing coal, residual oil, or solid oil-derived fuel, all of the applicable control devices had to be engaged, with certain listed exceptions. PM-specific control devices were not included in that list of excepted controls because the EPA believed that PM controls on EGUs could be engaged (i.e., operational) at the best performing EGUs at the time the primary fuel (i.e., coal, residual oil, or solid oil-derived fuel) is fired. The EPA has reviewed both the record and the comments received, and we have determined that the EGUs that are able to engage PM controls (through either use of PM-specific controls (e.g., ESP, FF) or wet FGD scrubber system alone or in conjunction with PM controls) within 1 hour following the initiation of firing of coal, residual oil, or solid oil-derived fuel are the best performing sources for purposes of minimizing particulate HAP emissions during startup periods.[10] Therefore, we are finalizing a requirement that an owner/operator must engage and operate the PM controls within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel.

Moreover, in order to demonstrate an EGU's capacity to maximize the use of clean fuels during startup periods and its ability to bring PM control devices online in an expeditious manner following first firing of coal, residual oil, or solid oil-derived fuel, the rule now requires EGU owners or operators to determine and report each EGU's maximum storage capacity for clean fuels and maximum capacity for heat input while combusting clean fuels alone. The rule also requires EGU owners or operators to identify, record, and report semiannually each instance of startup or shutdown, specifying the dates and times that clean fuel use begins and ends; the dates and times that primary (i.e., coal or oil) fuel use starts or ends; and the hourly clean fuel usage, heat input, and electrical output.

In addition, for those non-liquid oil-fired EGUs not using PM CEMS, HAP metals CEMS, or PM continuous parameter monitoring system (CPMS) as a compliance determination method or not meeting low emitting EGU (LEE) status [11] for PM or non-mercury HAP metals emissions or those liquid oil-fired EGUs not using PM CEMS or PM CPMS as a compliance determination method or not meeting LEE status for PM or HAP metals emissions, parametric monitoring data will be required to help show PM control device effectiveness upon first use of coal, residual oil, or solid oil-derived fuel. This type of data is not required from EGUs using PM CEMS, HAP metals CEMS, or PM CPMS, as those instruments are already required to provide these data during startup periods; those data are suitable for assessing how soon and how well PM control devices are operating. Likewise, once EGUs meet the LEE status for PM or non-mercury HAP metals emissions for non-liquid oil-fired EGUs (or HAP metals emissions for liquid oil-fired EGUs), they will no longer need to supply additional information regarding PM control device operation during startup periods, for it is reasonable to expect their PM control devices to be properly sized and operated in order to demonstrate consistent operation at less than 50 percent of the emissions limit over a 3-year period. It is also reasonable to expect that the information recorded and calculated during startup periods and shutdown periods from LEE-eligible EGUs will show better emissions performance

[10] Docket ID Nos. EPA–HQ–OAR–2009–0234–20269, EPA–HQ–OAR–2009–0234–20275.

[11] See 40 CFR 63.10005(h).

when compared to similar information obtained from EGUs without LEE status.

Upon initiation of first use of coal, residual oil, or solid oil-derived fuel, EGUs not using PM CEMS or PM CPMS as a compliance determination method or not meeting LEE status for PM or non-mercury HAP metals emissions for non-liquid oil-fired EGUs (or HAP metals emissions for liquid oil-fired EGUs) are also required to record hourly and report semi-annually the pre- and post-PM control device flow rates and temperatures, as well as fan amps. Moreover, the PM control device-specific parameters are required to be recorded hourly and reported semi-annually. The EGUs with ESPs are required to record the number of fields in service and the secondary current and voltage for each hour of startup and shutdown. The EGUs with FFs are required to record the number of compartments in service and the differential pressure across the baghouse. Finally, the EGUs with wet scrubbers that are necessary for filterable PM emission control will record scrubber liquid-to-flue gas ratios and scrubber liquid differential pressure for each hour of startup and shutdown.

Given that we do not have much information concerning continuous PM emissions or PM emission control devices during periods of startup, the final rule requires owners or operators of EGUs that choose to use definition (2) of ''startup'' contained in 40 CFR 63.10042 to provide a report prepared by an independent professional engineer that describes the EGU, PM emissions, and PM emissions control devices both as designed and in their current form. This information will show how each EGU is able, or has been modified, to meet the requirements of this rule. In addition, the information will specify the time needed to engage PM emission control devices from initial fuel combustion in the EGU; the effectiveness of each PM emission control device, both upon control device startup and at normal operation; the PM emission rate; and the uncontrolled PM emissions rate. The report will be submitted as part of the EGU's Notification of Compliance Status, and the information contained in the report will aid us in determining whether or not additional work practice requirements may be needed during startup periods to minimize HAP emissions.

Finally, the EPA acknowledges the comments asserting safety issues that must be considered during startup of PM controls (e.g., carbon monoxide buildup, fabric blinding). We believe that almost all EGUs will be able to alter their source through any number of means, including increasing clean fuel capacity and modifying APCD operation, and comply with the final work practice requirements; however, we recognize that there may be rare occasions that preclude a viable compliance option consistent with the final rule. Therefore, we are finalizing that an owner/operator may submit to the Administrator a request for an EGU-specific case-by-case emission standard consistent with 40 CFR 63.6(g). Such a request requires notice-and-comment rulemaking. Approval or disapproval authority for this type of request is delegated to the Assistant Administrator of the Office of Air and Radiation, and, for purposes of this rule, will be delegated no further.[12] However, the EPA will only consider requests that provide evidence of a documented manufacturer-identified safety issue and can provide proof that the PM control device is adequately designed and sized to meet the final PM emission limit. As identified in 40 CFR 63.10011(g)(4), in its request for the case-by-case determination, the owner/operator must provide, among other materials, documentation that: (1) The EGU is using clean fuels to the maximum extent possible to bring the EGU and PM control device up to the temperature necessary to alleviate or prevent the identified safety issues prior to the combustion of primary fuel in the EGU, (2) the EGU has explicitly followed the manufacturer's procedures to alleviate or prevent the identified safety issue, (3) the source provides details of the manufacturer's statement of concern, and (4) the source provides evidence that the PM control device is adequately designed and sized to meet the final PM emission limit. In addition, the source will have to indicate the other measures it will take to limit HAP emissions during startup periods and shutdown periods to ensure a control level consistent with the final work practice requirements. In order to ensure compliance with the work practice standards during startup periods, EGU owners or operators who request an alternative non-opacity emission standard shall comply with definition (1) of startup contained in 40 CFR 63.10042 (i.e., the definition contained in the final rule promulgated on February 12, 2012)[13] until the final alternative non-opacity emission standard is promulgated in the **Federal Register**.

We also proposed several revisions to the work practice standards issued in the final MATS rule in response to petitions on the final rule. Petitioners asserted that the final rule's work practice standards should include additional fuels as ''clean fuels'' and recognize operating limitations of certain EGU types and APCDs. Specifically, petitioners contended that the list of clean fuels required for use during startup in order to minimize emissions should include, among others, synthetic natural gas, synthesis gas (syngas), biodiesel, and ultra-low sulfur diesel (ULSD). The EPA has also been informed that propane is used to startup some EGUs.

In this final action, we are adding certain synthetic natural gas (that meets the specification necessary for that gas to be transported on a Federal Energy Regulatory Commission (FERC) regulated pipeline), synthesis gas that has been processed through a gas clean-up train such that it is suitable for use in the system's combustion turbine, and ULSD to the list of clean fuels. In addition, the EPA does see merit, as suggested by some commenters, of further broadening the definition of ''clean fuels.'' After reviewing other rules that use or require clean fuels, we believe that inclusion of those fuels meeting the requirements of 40 CFR Part 80, subpart I (''Subpart I—Motor Vehicle Diesel Fuel; Nonroad, Locomotive, and Marine Diesel Fuel; and ECA Marine Fuel'') is appropriate. Specifically, the definitions and provisions of 40 CFR 80.2, 80.501, 80.510, and 80.520 address sulfur content restrictions relating to distillate, diesel (including ULSD), and biodiesel fuels. The EPA believes that requiring use of clean fuels, including those we are adding in this final rule, for EGUs will significantly limit the HAP emissions from these sources during startup periods and shutdown periods. For example, information provided to the EPA on another rulemaking (found in Docket ID No. EPA–HQ–OAR–2008–0708–1459)[14] showed that the use of ULSD will significantly reduce emissions of air toxics, including metallic HAP (e.g., nickel, zinc, lead (Pb)) compared to the use of ''regular'' diesel. The EPA also believes that combustion of the other 40 CFR Part 80, subpart I, fuels meeting the subject definitions will cause significantly lower HAP emissions than

[12] See Delegation 7–121 and *Delegation of Authority under the Clean Air Act to Approve Alternatives to Test Methods and Procedures in Parts 60, 61, 63, and 65,* from Gina McCarthy to Stephen Page, September 30, 2011, in docket ID EPA–HQ–OAR–2009–0234.

[13] See 77 FR 9303; February 16, 2012.

[14] Email and attachments from Paul Miller, NESCAUM, to Melanie King, EPA. NESCAUM's RICE NESHAP comments. October 11, 2012, also found in Docket ID No. EPA–HQ–OAR–2009–0234.

coal and residual oil, and, as stated above, EGUs must use clean fuels to the maximum extent possible during startup periods and shutdown periods.

We are maintaining the work practice requirement in the final MATS that requires EGU source owners and operators, when firing coal, residual oil, or solid oil-derived fuel in the EGU during startup or shutdown, to vent emissions to the main stack(s) and operate all control devices necessary to meet all operating and emissions standards that are applicable to the source pursuant to other CAA or state requirements. In addition, any partial (fractional) operating hour that may occur at the beginning of a startup period or at the end of a shutdown period is to be flagged in reports as an hour of startup or shutdown.

For more discussion of each of these issues, please refer to the RTC, the TSD, and the memo ''Startup and shutdown provisions'' (Docket ID No. EPA–HQ–OAR–2009–0234–20224) in Docket ID No. EPA–HQ–OAR–2009–0234.

3. Treatment of IGCC EGU Syngas

The EPA is finalizing both the use of flares and the use of duct burners for integrated gasification combined cycle (IGCC) units to handle syngas not combusted in the turbine during startup periods and shutdown periods.

An IGCC EGU includes both a gasification unit and a combustion unit and syngas is generated in the gasifier for the primary purpose of being combusted in the associated combustion turbine. The EPA understands that, in some cases, the gasified fuel can be used for other purposes such as the production of chemicals (e.g., fertilizers, methanol) if the facility has been designed to do so. During the startup periods and shutdown periods, some or all of the syngas produced for the purpose of power production may not be combusted in the turbine. We proposed two options for IGCC EGUs for handling syngas not fired in the combustion turbine: (1) Syngas must be flared, not vented, or (2) syngas must be routed to duct burners, which may need to be installed, and the flue gas from the duct burners must be routed to the heat recovery steam generator. We solicited comments on the need to flare the unfired syngas, if it is more appropriate to require routing of the unfired syngas back into the system for all IGCC EGUs, and on the costs of adding duct burners, should they be required.

Industry commenters stated that it is important that flaring remain an option for routine startups and shutdowns for safety reasons and as a viable option for non-routine events such as EGU ''trips'' when the combustion turbine cannot combust syngas. Commenters noted that the flaring option is especially critical as the re-routing option can only be used by IGCC EGUs under limited circumstances as the syngas may lack sufficient pressure for re-injection and gasifiers are often once-through systems that do not support re-routing of the syngas. Commenters indicated that the actual flaring step of an IGCC startup is relatively short and ordinarily lasts less than 2 hours and that only clean syngas is flared during a routine startup.

The EPA is finalizing both options, use of flaring or duct burners, for handling of syngas not combusted in the turbine during startup periods and shutdown periods.[15] The EPA believes that the controls are comparable and that allowing the option will provide flexibility to owners/operators of IGCC EGUs to choose either of the options subject to operational constraints at their IGCC EGUs. The EPA believes it appropriate to cover gasifier syngas during startup periods and shutdown periods of the combustion turbine portion of the IGCC because the units are inextricably linked and the unused gas would not be generated but for the startup of the combustion portion of the IGCC unit. The EPA is requiring the use of either flares or duct burners to combust unused syngas during startup periods and shutdown periods.

4. Common Stacks

The final MATS rule at 40 CFR 63.10010(a)(1), (2), and (3) required owners or operators of EGUs with common stacks to either monitor the EGUs separately or monitor the common stack and assign the same emissions value to each EGU. No specific requirements concerning monitoring during startup periods or shutdown periods were given because the EPA believed the provisions as finalized were sufficient. Consistent with the monitoring provisions in the final rule, owners or operators of EGUs with common stacks are required to monitor and report emissions for compliance purposes at all times when any EGU using a common stack is operating in a non-startup/shutdown mode, even if another EGU using that common stack is in startup/shutdown mode. 40 CFR 63.10005(a)(2)(iii) reinforces and clarifies this requirement. Also, consistent with the final rule, work practice standards, rather than numeric emissions limits, apply during startup periods or shutdown periods, but only to EGUs in startup or shutdown mode. Today's reconsidered rule maintains the approach of the final rule. Owners or operators of EGUs with common stacks may either monitor each EGU separately upstream of the common stack or from the common stack. Monitoring must be operational (except for periods of monitor malfunction and during required quality assurance (QA) and maintenance activities) at all times that any fuel is being combusted, and compliance with numeric emission limits is required except for periods when all EGUs sharing the common stack are in startup or shutdown mode. Should an owner or operator choose to monitor the common stack, then emissions obtained from the monitoring will be applied to each EGU that shares the stack. This approach remains consistent with the final rule, and is not expected to be problematic emissions-wise for any EGU using a common stack, because the EGUs in startup periods or shutdown periods are required to use clean fuels and comply with the other work practice requirements. In addition, the EGUs sharing the common stack and operating in a mode other than startup or shutdown are required to operate such that they meet their emissions limits. We believe, based on evaluation of source compliance for many years, that sources generally operate in a manner to ensure a compliance margin to avoid potential exceedances.[16] Thus, we maintain the monitoring options available in the final rule are sufficient to address concerns from commenters.

As discussed below, the EPA is also establishing a default electrical load of 5 percent of the maximum sustainable electrical load of the EGU. This default value will be allowed to be used during periods of startup or periods of shutdown when the electrical load is zero. For EGUs sharing a common stack with just one common monitoring system, this default value will be available only when the electrical load is zero for an EGU sharing the common stack that is in a period of startup or shutdown. As soon as a non-zero electrical load is produced, that non-zero load must be used in electrical output-based emission rate calculations for each EGU in a startup or shutdown period, even if the load is less than 5 percent of capacity. Note that the electrical load of all EGUs in operation and sharing a common stack with just

[15] IGCC units that are also designed to co-produce chemicals or other products using syngas may also choose to use the unburned syngas in that process.

[16] ''. . . (S)ources do not design to meet a standard, but rather to meet a level comfortably lower. They do so in order to provide a compliance margin on those days where emissions rise due to inherent and uncontrollable variability . . .'' See 77 FR 42386; July 18, 2012.

one common monitoring system are to be summed when electrical output-based emission rate calculations are made.

Section 1.2.5 of the RTC contains both a summary of comments received on this topic and the EPA's response to those comments.

5. Diluent Cap

Apart from allowing use of a diluent cap when calculating Hg emissions during startup periods or shutdown periods, the final rule contained no allowance for use of a diluent cap. The November 2012 proposal sought comment on the need for a diluent cap for other HAP emissions during startup periods and shutdown periods. Use of a diluent cap can be important during startup periods and shutdown periods because CEMS values can approach infinity because the denominator in the calculations for CEMS values can approach zero during those periods. Moreover, use of a diluent cap becomes a common stack issue when one or more of the EGUs is in a startup or shutdown mode and just one monitoring instrument is used in the stack.

The EPA considered each comment and decided to allow use of default carbon dioxide (CO_2) or oxygen (O_2) values as identified in Section 3.3.4.1 of Appendix F of 40 CFR part 75, but only for startup periods or shutdown periods when CO_2 values are below or O_2 values are above default values for use in all pollutant calculations. For non-IGCC EGUs, the default CO_2 value is 5 percent and the default O_2 value is 14 percent. This means that when CEMS CO_2 measurements are below 5 percent, EGU owners or operators are allowed to use 5 percent CO_2 in their calculations. Because the startup analysis showed that CEMS CO_2 measurements exceeded default values within 2 hours of generation, the EPA does not expect to find default values being used when startup periods end. Likewise, when CEMS O_2 measurements are larger than 14 percent, EGU owners or operators will be able to use 14-percent O_2 in their calculations. IGCC EGUs will be allowed to use 1 percent as a default CO_2 value or 19 percent as a default O_2 value. As mentioned earlier, default diluent gas values will be allowed for use in calculations for startup periods or shutdown periods when CO_2 CEMS values are below or O_2 CEMS values are above default values. The rule requires EGU owners or operators to use actual CO_2 or O_2 CEMS values for all other operating periods. Although the EPA has no specific data or information concerning emissions during transient events outside startup or shutdown periods, the EPA expects the short duration of these transient events outside startup or shutdown periods that could cause CO_2 or O_2 CEMS to be below (or above) default values to have little, if any, impact on the 30-boiler operating day rolling averages.

The rule retains the requirement for EGU owners or operators to report instrumental CEMS, PM CPMS, and sorbent trap information, as well as flow rate information during startup periods or shutdown periods. Such information may prove useful in assessing potential emissions or operational limits in future rulemaking activities. Finally, the rule requires EGU owners or operators to identify each hour of startup or shutdown in which a diluent cap value is used.

Section 5.1 of the RTC contains both a summary of comments received on this topic and the EPA's response.

6. Default Electrical Output

The final rule provided no allowance regarding default electrical output. The November 2012 proposal sought comment on the need for a default electrical output for those owners or operators who choose to comply with a mass per electrical output standard. Use of a default electrical output cap can be important during startup periods and shutdown periods because the calculated mass per electrical output values can approach infinity when the electrical output is zero during those periods.

Upon consideration of the comments, the rule will provide a default electrical load value that EGU owners or operators will be allowed to use during startup periods or shutdown periods to calculate emissions rates for an EGU, as long as the electrical load for the EGU is zero. Once the EGU begins generating electricity, the source must use the actual electrical output in compliance calculations, even if the output is below the 5 percent default value. Moreover, use of a default electrical load is not allowed during periods other than startup or shutdown. As suggested by one commenter, the default electrical load will be equivalent to 5 percent of the maximum sustainable electrical output in megawatts of an EGU, as defined in section 6.5.2.1(a)(1) of appendix A to part 75, and included in an EGU's Part 75 electronic monitoring plan. This maximum sustainable load is either the nameplate capacity of the EGU or the highest electrical load observed in at least four representative quarters of EGU operation. When used in a common stack application, the default electrical load is 5 percent of the combined maximum sustainable electrical load of the EGUs that are in startup or shutdown mode during an hour in which the electrical load is zero. The default electrical load is allowed to be used in electrical output-based emission rate calculations (either pounds per megawatt-hour (lb/MWh) or pounds per gigawatt-hour (lb/GWh)) for any hour in which the actual electrical load for a single EGU or for every EGU venting to a common stack is zero. The EPA considered, but decided against, requiring measurement of thermal heat output and conversion back into equivalent electrical output; instead, the EPA decided to use a simpler approach based on already-existing requirements of the Acid Rain Program that we believe are most appropriate considering CAA section 112 and in light of the available data. Finally, the rule requires EGU owners or operators to identify each hour of startup or shutdown in which a default electrical load value is used.

Section 5.2 of the RTC contains both a summary of comments received on this topic and the EPA's response to significant comments.

7. Use of Sorbent Traps

The final rule required continuous Hg data collection using sorbent traps or Hg CEMS under all process operating conditions, including, but not limited to, startup periods and shutdown periods, over the entire 30 boiler operating day LEE qualification testing period. For sorbent traps, the EPA allowed use of redundant backup sorbent trap monitoring systems during startup periods and shutdown periods; and required operation of sorbent trap monitoring systems and collection of Hg data at all times EGUs operate, but did not allow use of Hg data collected during startup or shutdown periods to be included in compliance calculations.

After consideration of comments received on Hg monitoring during startup or shutdown periods using sorbent trap monitoring systems, the EPA decided that the final reconsidered rule will contain three alternative approaches for measuring Hg emissions during startup periods or shutdown periods. In the first approach, EGU owners or operators will continue to be able to use Hg CEMS for measuring Hg emissions.

The second approach relies on at least two separate sorbent monitoring systems. Although the rule has no prohibition against an EGU owner or operator using one sorbent trap monitoring system for compliance purposes during periods other than startup or shutdown and one (or more) sorbent trap monitoring systems for startup periods or shutdown periods through the use of a non-redundant backup system (per section 2.2.2 of Appendix A to subpart UUUUU of Part 63), it will be clarified that two separate sorbent monitoring systems are allowed. Reliance on this second approach would address one commenter's concern that Hg compliance data could not be separated from Hg data collected during startup and/or shutdown periods when demonstrating compliance with numerical standards based on a sorbent trap system. When an EGU with at least two such systems (one for startup periods or shutdown periods and the other for all other periods) entered into a startup or shutdown period, the EGU owner or operator could switch monitoring systems either manually or automatically. As part of an EGU owner or operator's rubric for choosing which Hg measurement approach to use, the EGU owner or operator should take into account that any process operating hour for which quality assured Hg concentration data are not obtained is counted as an hour of monitoring system downtime, per section 1.4 of Appendix A to subpart UUUUU of Part 63. Therefore, if an EGU owner or operator believes change-out of sorbent monitoring traps may take too long, other approaches may be more suitable. An EGU owner or operator should carefully consider all costs—not only of sorbent tubes, analyses, and associated labor, but also of non-compliance due to data gaps, when determining whether this approach is appropriate.

The third approach, relying on just one sorbent trap monitoring system for all periods of operation (startup, shutdown, and normal), will be identified in the rule as a viable option for Hg monitoring, and, for EGU owners or operators who choose this option, the rule will allow data collected during startup or shutdown periods to be used for compliance purposes. The EPA expects little impact on Hg emissions during startup or shutdown periods, because, as explained above, we believe the rule contains sufficient variability to include startup and shutdown periods; clean fuels will be used during those periods; default diluent and electrical output values, which tend to constrain emissions, will be available for use; and emissions occurring during those periods will be included in a 30- (or 90-) boiler operating day rolling average. EGU owners or operators may find that this third approach would work well for those instances in which sudden and unpredictable shutdown events occur, for there would be no need to swap sorbent trap monitoring systems to capture shutdown emissions.

Finally, the EPA disagrees with commenters who claim that collecting data during startup and shutdown will serve no purpose relative to compliance with MATS and indicated that if the EPA needs to collect startup and shutdown data to better understand performance for a future rulemaking, that can be addressed through the information collection request (ICR) process where the EPA demonstrates the need and identifies a systematic plan to gather the data. As explained in the final rule preamble,[17] collection of startup and shutdown information will provide the EPA with information to more fully analyze the ability and appropriateness of establishing numeric emissions and operating limits during startup periods or shutdown periods so the issue can be addressed as part of the ongoing 8-year review of this rule. Collection of these data as part of the rule will also serve to reduce, if not eliminate, future ICR requests on this topic. The EPA also disagrees with commenters who wish to place all startup and shutdown information on those EGU owners or operators who choose to use Hg CEMS, for EPA remains interested in how well sorbent tube monitoring systems operate during startup periods or shutdown periods. Not collecting that information from those systems would leave a gap in the EPA's knowledge base.

Section 5.3 of the RTC contains both a summary of comments received on this topic and the EPA's response to significant comments.

V. Summary of Final Action and Changes Since Proposal—Utility NSPS

The current PM startup and shutdown requirements in the Utility NSPS are included in 40 CFR 60.42Da(e)(2) and require the owner/operator of an affected EGU to meet the work practice standards specified in Table 3 of 40 CFR Part 63, subpart UUUUU (i.e., the MATS rule). The Utility NSPS docket received a total of 23 public comments on the startup/shutdown reconsideration proposal. One of these comments was a duplicate. Of the remaining 22 comments, 15 were received in both dockets, and 7 were received in the Utility NSPS docket alone. Of the seven comments received in the Utility NSPS docket alone, four were said to be sent to the MATS docket, but no documents that matched the ones in the Utility NSPS docket were found in the MATS docket. However, the majority of the comments overlap with issues raised as part of the startup and shutdown provision included in MATS. The EPA responses to these issues are discussed in the MATS portion of the preamble and docket and have not been repeated here or in the Utility NSPS docket.

The sole NSPS-specific comment we received was that the Utility NSPS should include a definition of startup and shutdown that is consistent with the MATS definition and that the definitions of startup and shutdown in the Utility NSPS, MATS, and Industrial Boiler NESHAP (subpart DDDDD) rules should be consistent. There are situations where a facility is subject to the PM standard under 40 CFR Part 60, subpart Da, but is not subject to MATS (e.g., a biomass-fired EGU with natural gas burners >250 million British thermal units per hour). This facility would, therefore, be subject to the Industrial Boiler NESHAP. We have concluded that it is appropriate for industrial boilers and EGUs to have the same PM startup and shutdown work practice standards for both the NSPS and MATS. Therefore, we are amending 40 CFR 60.42Da(e)(2) so that owners or operators of facilities subject to 40 CFR Part 63, subpart UUUUU, shall meet the work practice standards specified in Table 3 to Subpart UUUUU of Part 63, and owners or operators of facilities subject to 40 CFR Part 63, subpart DDDDD, shall meet the work practice standards specified in Table 3 to Subpart DDDDD of Part 63.

We are also amending the regulatory text in the Utility NSPS to incorporate the relevant startup and shutdown definitions. We have concluded that the amended regulatory text is sufficient, and adding definitions of startup and shutdown are not necessary for the Utility NSPS. Using this approach is beneficial because any future amendments to the MATS startup and shutdown provisions will automatically be incorporated into the Utility NSPS.

VI. Impacts of This Final Rule

A. Summary of Emissions Impacts, Costs and Benefits

Because this final rule is no more stringent than the February 2012 final rule, we expect no additional costs or benefits associated with these revisions.

B. What are the air impacts?

This final rule is no more stringent than the February 2012 final rule. Accordingly, we believe that this final action will not result in significant changes in emissions of any of the regulated pollutants.

[17] See 77 FR 9382 (February 16, 2012).

C. What are the energy impacts?

This final action is not anticipated to have an effect on the supply, distribution, or use of energy. As previously stated, this final rule is no more stringent than the February 2012 final rule.

D. What are the compliance costs?

We believe there will be no significant change in compliance costs as a result of this final action because electric power companies would take the same or similar actions (e.g., operating control devices, recording clean fuel use, etc.) as they would have to comply with the previously finalized MATS standards. Moreover, we find no additional monitoring costs are necessary to comply with this final action because EGU owners or operators could continue to use the startup and shutdown provisions of the promulgated rule to demonstrate compliance; however, as in any other rule, EGU owners or operators may choose to conduct additional monitoring (and incur its expense) for their own purposes.

E. What are the economic and employment impacts?

Because we expect that electric power companies would take the same or similar actions to meet the requirements finalized in this action as they would have chosen to comply with the previously finalized MATS standards, we do not anticipate that this final action will result in significant changes in emissions, energy impacts, costs, benefits, or economic impacts. Likewise, we believe this action will not have any impacts on the price of electricity, employment or labor markets, or the U.S. economy.

F. What are the benefits of the final standards?

As previously stated, we do not anticipate any significant emission changes resulting from this action. Therefore, there are no direct monetized benefits or disbenefits associated with this action.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735; October 4, 1993) and is, therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821; January 21, 2011).

Because this final rule is no more stringent than the February 2012 final rule, we do not expect any additional costs, benefits, or economic impacts associated with these revisions. The EPA prepared an analysis of the potential costs and benefits associated with the 2012 final rule. This analysis is contained in the ''Economic Impact Analysis for the Final Reconsideration of the Mercury and Air Toxics Standards'' found in Docket ID No. EPA–HQ–OAR–2009–0234.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action clarifies but does not change the information collection requirements previously finalized and, as a result, does not impose any additional burden on industry. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (see 77 FR 9304) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0567. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 action on small entities, a small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less that 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. Categories and entities potentially regulated by the final rule with applicable NAICS codes are provided in section I.A of this preamble.

According to the SBA size standards for NAICS code 221122, Utilities—Fossil Fuel Electric Power Generation, a firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million MWh.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that none of the small entities will experience a significant impact because the action imposes no additional regulatory requirements on owners or operators of affected sources.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of UMRA sections 202 or 205.

This action is also not subject to the requirements of UMRA section 203 because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action contains no requirements that apply to such governments or impose obligations upon them.

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. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249; November 9, 2000). It will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. No affected facilities are owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885; April 23, 1997) because it is not economically significant as defined in Executive Order 12866. The EPA has evaluated the environmental health or safety effects of the final MATS on children. The results of the evaluation are discussed in that final rule (77 FR 9304; February 16, 2012) and are contained in Docket ID No. EPA–HQ–OAR–2009–0234.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355; May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA); Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA requires the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This action does not involve VCS. Therefore, the EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629; February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because it does not affect the level of protection provided to human health or the environment. The EPA has evaluated the environmental health or environmental effects of the final MATS on minority, low-income, or indigenous populations. The results of the evaluation are discussed in that final rule (77 FR 9304; February 16, 2012) and are contained in Docket ID No. EPA–HQ–OAR–2009–0234.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule will be effective on November 19, 2014.

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 7, 2014.

Gina McCarthy,

Administrator.

For the reasons discussed in the preamble, the EPA amends 40 CFR parts 60 and 63 to read as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for 40 CFR part 60 continues to read as follows:

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

■ 2. Section 60.42Da is amended by revising paragraph (e)(2) to read as follows:

§ 60.42Da Standards for particulate matter (PM).

* * * * *

(e) * * *

(2) During startup periods and shutdown periods, owners or operators of facilities subject to subpart UUUUU of part 63 of this chapter shall meet the work practice standards specified in Table 3 to subpart UUUUU of part 63 and use the relevant definitions in § 63.10042, and owners or operators of facilities subject to subpart DDDDD of part 63 shall meet the work practice standards specified in Table 3 to subpart DDDDD of part 63 and use the relevant definition used in § 63.7575.

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 3. The authority citation for 40 CFR part 63 continues to read as follows:

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

■ 4. Section 63.10000 is amended by revising paragraph (c)(1)(vi) and adding paragraph (l) to read as follows:

§ 63.10000 What are my general requirements for complying with this subpart?

* * * * *

(c)(1) * * *

(vi) If your coal-fired or solid oil-derived fuel-fired EGU does not qualify as a LEE for Hg, you must demonstrate initial and continuous compliance through use of a Hg CEMS or a sorbent trap monitoring system, in accordance with appendix A to this subpart.

(A) You may choose to use separate sorbent trap monitoring systems to comply with this subpart: One sorbent trap monitoring system to demonstrate compliance with the numeric mercury emissions limit during periods other than startup or shutdown and the other sorbent trap monitoring system to report average mercury concentration during startup periods or shutdown periods.

(B) You may choose to use one sorbent trap monitoring system to demonstrate compliance with the mercury emissions limit at all times (including startup periods and shutdown periods) and to report average mercury concentration. You must follow the startup or shutdown requirements that follow and as given in Table 3 to this subpart for each coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU.

* * * * *

(l) On or before the date an EGU is subject to this subpart, you must install, certify, operate, maintain, and quality assure each monitoring system necessary for demonstrating compliance with the work practice standards for PM or non-mercury HAP metals during startup periods and shutdown periods. You must collect, record, report, and maintain data obtained from these monitoring systems during startup periods and shutdown periods.

■ 5. Section 63.10005 is amended by revising paragraph (a)(2) to read as follows:

§ 63.10005 What are my initial compliance requirements and by what date must I conduct them?

(a) * * *

(2) To demonstrate initial compliance using either a CMS that measures HAP concentrations directly (*i.e.,* an Hg, HCl, or HF CEMS, or a sorbent trap monitoring system) or an SO_2 or PM CEMS, the initial performance test consists of 30- (or, if emissions averaging for Hg is used, 90-) boiler operating days of data collected by the initial compliance demonstration date specified in § 63.9984(f) with the certified monitoring system. Pollutant emission rates measured during startup periods and shutdown period (as defined in § 63.10042) are not to be included in the compliance demonstration, except as otherwise provided in § 63.10000(c)(1)(vi)(B) and paragraph (a)(2)(iii) of this section.

(i) The 30- (or, if applicable, 90-) boiler operating day CMS performance test must demonstrate compliance with the applicable Hg, HCl, HF, PM, or SO_2 emissions limit in Table 1 or 2 to this subpart.

(ii) You must collect hourly data from auxiliary monitoring systems (i.e., stack gas flow rate, CO_2, O_2, or moisture, as applicable) during the performance test period, in order to convert the pollutant concentrations to units of the standard. If you choose to comply with an electrical output-based emission limit, you must also collect hourly electrical load data during the performance test period.

(iii) For a group of affected units that are in the same subcategory, are subject to the same emission standards, and share a common stack, if you elect to demonstrate compliance by monitoring emissions at the common stack, startup and shutdown emissions (if any) that occur during the 30-(or, if applicable, 90-) boiler operating day performance test must either be excluded from or included in the compliance demonstration as follows:

(A) If one of the units that shares the stack either starts up or shuts down at a time when none of the other units is operating, you must exclude all pollutant emission rates measured during the startup or shutdown period, unless you are using a sorbent trap monitoring system to measure Hg emissions and have elected to include startup and shutdown emissions in the compliance demonstrations;

(B) If all units that are currently operating are in the startup or shutdown mode, you must exclude all pollutant emission rates measured during the startup or shutdown period, unless you are using a sorbent trap monitoring system to measure Hg emissions and have elected to include startup and shutdown emissions in the compliance demonstrations; or

(C) If any unit starts up or shuts down at a time when another unit is operating, and the other unit is not in the startup or shutdown mode, you must include all pollutant emission rates measured during the startup or shutdown period in the compliance demonstrations.

* * * * *

■ 6. Section 63.10007 is amended by revising paragraph (a)(1), redesignating paragraph (f) as paragraph (g), and adding a new paragraph (f) to read as follows:

§ 63.10007 What methods and other procedures must I use for the performance tests?

(a) * * *

(1) If you use CEMS (Hg, HCl, SO_2, or other) to determine compliance with a 30- (or, if applicable, 90-) boiler operating day rolling average emission limit, you must collect quality- assured CEMS data for all unit operating conditions, including startup and shutdown (see § 63.10011(g) and Table 3 to this subpart), except as otherwise provided in § 63.10020(b). Emission rates determined during startup periods and shutdown periods (as defined in § 63.10042) are not to be included in the compliance determinations, except as otherwise provided in §§ 63.10000(c)(1)(vi)(B) and 63.10005(a)(2)(iii).

* * * * *

(f) If you elect to (or are required to) use CEMS to continuously monitor Hg, HCl, HF, SO_2, or PM emissions (or, if applicable, sorbent trap monitoring systems to continuously collect Hg emissions data), the following default values are available for use in the emission rate calculations during startup periods or shutdown periods (as defined in § 63.10042). For the purposes of this subpart, these default values are not considered to be substitute data.

(1) *Diluent cap values.* If you use CEMS (or, if applicable, sorbent trap monitoring systems) to comply with a heat input-based emission rate limit, you may use the following diluent cap values for a startup or shutdown hour in which the measured CO_2 concentration is below the cap value or the measured O_2 concentration is above the cap value:

(i) For an IGCC EGU, you may use 1% for CO_2 or 19% for O_2.

(ii) For all other EGUs, you may use 5% for CO_2 or 14% for O_2.

(2) *Default electrical load.* If you use CEMS to continuously monitor Hg, HCl, HF, SO_2, or PM emissions (or, if applicable, sorbent trap monitoring systems to continuously collect Hg emissions data), the following default value is available for use in the emission rate calculations during startup periods or shutdown periods (as defined in § 63.10042). For the purposes of this subpart, this default value is not considered to be substitute data. For a startup or shutdown hour in which there is heat input to an affected EGU but zero electrical load, you must calculate the pollutant emission rate using a value equivalent to 5% of the maximum sustainable electrical output, expressed in megawatts, as defined in section 6.5.2.1(a)(1) of Appendix A to part 75 of this chapter. This default electrical load is either the nameplate capacity of the EGU or the highest electrical load observed in at least four representative quarters of EGU operation. For a monitored common stack, the default electrical load is used only when all EGUs are operating (i.e., combusting fuel) are in startup or shutdown mode, and have zero electrical generation. Under those conditions, a default electrical load equal to 5% of the combined maximum sustainable electrical load of the EGUs that are operating but have a total of zero electrical load must be used to calculate the hourly electrical output-based pollutant emissions rate.

* * * * *

■ 7. Section 63.10010 is amended by revising paragraph (f)(4) and adding paragraph (l) to read as follows:

§ 63.10010 What are my monitoring, installation, operation, and maintenance requirements?

* * * * *

(f) * * *

(4) Use only unadjusted, quality-assured SO_2 concentration values in the emissions calculations; do not apply bias adjustment factors to the part 75 SO_2 data and do not use part 75 substitute data values. For startup or shutdown hours (as defined in § 63.10042) the default electrical load and the diluent cap are available for use in the hourly SO_2 emission rate calculations, as described in § 63.10007(f). Use a flag to identify each startup or shutdown hour and report a special code if the diluent cap or default electrical load is used to calculate the SO_2 emission rate for any of these hours.

* * * * *

(l) You must install, certify, operate, maintain, and quality assure each monitoring system necessary for demonstrating compliance with the PM or non-mercury metals work practice standards for startup periods.

(1) You shall develop a site-specific monitoring plan for PM or non-mercury metals work practice monitoring during startup periods.

(2) You shall submit the site-specific monitoring plan upon request by the Administrator.

(3) The provisions of the monitoring plan must address the following items:

(i) Monitoring system installation;

(ii) Performance and equipment specifications;

(iii) Schedule for initial and periodic performance evaluations;

(iv) Performance evaluation procedures and acceptance criteria;

(v) On-going operation and maintenance procedures; and

(vi) On-going recordkeeping and reporting procedures.

(4) You may rely on monitoring system specifications or instructions to address paragraphs (l)(3)(i) through (vi) of this section.

(5) You must operate and maintain the monitoring system according to the site-specific monitoring plan.

■ 8. Section 63.10011 is amended by revising paragraph (g) to read as follows:

§ 63.10011 How do I demonstrate initial compliance with the emission limits and work practice standards?

* * * * *

(g) You must follow the startup or shutdown requirements as given in Table 3 to this subpart for each coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU.

(1) You may use the diluent cap and default electrical load values, as described in § 63.10007(f), during startup periods or shutdown periods.

(2) You must operate all CMS, collect data, calculate pollutant emission rates, and record data during startup periods or shutdown periods.

(3) You must report the information as required in § 63.10031.

(4) If you choose to use paragraph (2) of the definition of ''startup'' in § 63.10042 and you find that you are unable to safely engage and operate your particulate matter (PM) control(s) within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel, you may choose to rely on paragraph (1) of definition of ''startup'' in § 63.10042 or you may submit a request to use an alternative non-opacity emissions standard, as described below.

(i) As mentioned in § 63.6(g)(1), the request will be published in the **Federal Register** for notice and comment rulemaking. Until promulgation in the **Federal Register** of the final alternative non-opacity emission standard, you shall comply with paragraph (1) of the definition of ''startup'' in § 63.10042. You shall not implement the alternative non-opacity emissions standard until promulgation in the **Federal Register** of the final alternative non-opacity emission standard.

(ii) The request need not address the items contained in § 63.6(g)(2).

(iii) The request shall provide evidence of a documented manufacturer-identified safely issue.

(iv) The request shall provide information to document that the PM control device is adequately designed and sized to meet the PM emission limit applicable to the EGU.

(v) In addition, the request shall contain documentation that:

(A) The EGU is using clean fuels to the maximum extent possible to bring the EGU and PM control device up to the temperature necessary to alleviate or prevent the identified safety issues prior to the combustion of primary fuel in the EGU;

(B) The EGU has explicitly followed the manufacturer's procedures to alleviate or prevent the identified safety issue; and

(C) Identifies with specificity the details of the manufacturer's statement of concern.

(vi) The request shall specify the other work practice standards the EGU owner or operator will take to limit HAP emissions during startup periods and shutdown periods to ensure a control level consistent with the work practice standards of the final rule.

(vii) You must comply with all other work practice requirements, including but not limited to data collection, recordkeeping, and reporting requirements.

■ 9. Section 63.10020 is amended by revising paragraph (c) and adding paragraph (e) to read as follows:

§ 63.10020 How do I monitor and collect data to demonstrate continuous compliance?

* * * * *

(c) You may not use data recorded during EGU startup or shutdown in calculations used to report emissions, except as otherwise provided in §§ 63.10000(c)(1)(vi)(B) and 63.10005(a)(2)(iii). In addition, data recorded during monitoring system malfunctions or monitoring system out-of-control periods, repairs associated with monitoring system malfunctions or monitoring system out-of-control periods, or required monitoring system quality assurance or control activities may not be used in calculations used to report emissions or operating levels. You must use all of the quality-assured data collected during all other periods in assessing the operation of the control device and associated control system.

* * * * *

(e) Additional requirements during startup periods or shutdown periods.

(1) During each period of startup, you must record for each EGU:

(i) The date and time that clean fuels being combusted for the purpose of startup begins;

(ii) The quantity and heat input of clean fuel for each hour of startup;

(iii) The electrical load for each hour of startup;

(iv) The date and time that non-clean fuel combustion begins; and

(v) The date and time that clean fuels being combusted for the purpose of startup ends.

(2) During each period of shutdown, you must record for each EGU:

(i) The date and time that clean fuels being combusted for the purpose of shutdown begins;

(ii) The quantity and heat input of clean fuel for each hour of shutdown;

(iii) The electrical load for each hour of shutdown;

(iv) The date and time that non-clean fuel combustion ends; and

(v) The date and time that clean fuels being combusted for the purpose of shutdown ends.

(3) For PM or non-mercury HAP metals work practice monitoring during startup periods, you must monitor and collect data according to this section and the site-specific monitoring plan required by § 63.10011(l).

(i) Except for an EGU that uses PM CEMS or PM CPMS to demonstrate compliance with the PM emissions limit or that has LEE status for filterable PM or total non-Hg HAP metals for non-liquid oil-fired EGUs (or HAP metals emissions for liquid oil-fired EGUs), or individual non-mercury metals CEMS you must:

(A) Record temperature and flow rate of post-combustion (exhaust) gas and amperage of forced draft fan(s) upstream of each filterable PM control device during each hour of startup.

(B) Record temperature and flow rate of exhaust gas and amperage of induced draft fan(s) downstream of each filterable control device during each hour of startup.

(C) For an EGU with an electrostatic precipitator, record the number of fields in service, as well as each field's secondary voltage and secondary current during each hour of startup.

(D) For an EGU with a fabric filter, record the number of compartments in service, as well as the differential pressure across the baghouse during each hour of startup.

(E) For an EGU with a wet scrubber needed for filterable PM control, record the scrubber liquid to fuel ratio and the differential pressure of the liquid during each hour of startup.

(ii) [Reserved]

■ 10. Section 63.10021 is amended by revising paragraph (h) to read as follows:

§ 63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(h) You must follow the startup or shutdown requirements as given in Table 3 to this subpart for each coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU.

(1) You may use the diluent cap and default electrical load values, as described in § 63.10007(f), during startup periods or shutdown periods.

(2) You must operate all CMS, collect data, calculate pollutant emission rates, and record data during startup periods or shutdown periods.

(3) You must report the information as required in § 63.10031.

(4) You may choose to submit an alternative non-opacity emission standard, in accordance with the requirements contained in § 63.10011(g)(4). Until promulgation in the **Federal Register** of the final alternative non-opacity emission standard, you shall comply with paragraph (1) of the definition of ''startup'' in § 63.10042.

* * * * *

■ 11. Section 63.10022 is amended by revising the introductory text of paragraph (a) and adding paragraph (a)(4) to read as follows:

§ 63.10022 How do I demonstrate continuous compliance under the emissions averaging provision?

(a) Following the compliance date, the owner or operator must demonstrate compliance with this subpart on a continuous basis by meeting the requirements of paragraphs (a)(1) through (4) of this section.

* * * * *

(4) For each existing EGU participating in the emissions averaging option, operate in accordance with the startup or shutdown work practice requirements given in Table 3 to this subpart.

* * * * *

■ 12. Section 63.10030 is amended by revising the introductory text of paragraph (e) and adding paragraph (e)(8) to read as follows:

§ 63.10030 What notifications must I submit and when?

* * * * *

(e) When you are required to conduct an initial compliance demonstration as specified in § 63.10011(a), you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). The Notification of Compliance Status report must contain all the information specified in paragraphs (e)(1) through (8) of this section, as applicable.

* * * * *

(8) Identification of whether you plan to rely on paragraph (1) or (2) of the definition of ''startup'' in § 63.10042.

(i) Should you choose to rely on paragraph (2) of the definition of ''startup'' in § 63.10042 for your EGU, you shall include a report that identifies:

(A) The original EGU installation date;

(B) The original EGU design characteristics, including, but not limited to, fuel and PM controls;

(C) Each design PM control device efficiency;

(D) The design PM emission rate from the EGU in terms of pounds PM per MMBtu and pounds PM per hour;

(E) The design time from start of fuel combustion to necessary conditions for each PM control device startup;

(F) Each design PM control device efficiency upon startup of the PM control device;

(G) The design EGU uncontrolled PM emission rate in terms of pounds PM per hour;

(H) Each change from the original design that did or could have changed PM emissions, including, but not limited to, each different fuel mix, each revision to each PM control device, and each EGU revision, along with the month and year that the change occurred;

(I) Current EGU PM producing characteristics, including, but not limited to, fuel mix and PM controls;

(J) Current PM emission rate from the EGU in terms of pounds PM per MMBtu and pounds per hour;

(K) Current PM control device efficiency from each PM control device;

(L) Current time from start of fuel combustion to conditions necessary for each PM control device startup;

(M) Current PM control device efficiency upon startup of each PM control device; and

(N) Current EGU uncontrolled PM emission rate in terms of pounds PM per hour.

(ii) The report shall be prepared, signed, and sealed by a professional engineer licensed in the state where your EGU is located. Apart from preparing, signing, and sealing this report, the professional engineer shall be independent and not otherwise employed by your company, any parent company of your company, or any subsidiary of your company.

■ 13. Section 63.10031 is amended by revising the introductory text of paragraph (c) and adding paragraph (c)(5) to read as follows:

§ 63.10031 What reports must I submit and when?

* * * * *

(c) The compliance report must contain the information required in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) For each instance of startup or shutdown:

(i) Include the maximum clean fuel storage capacity and the maximum hourly heat input that can be provided for each clean fuel determined according to the requirements of § 63.10032(f).

(ii) Include the information required to be monitored, collected, or recorded according to the requirements of § 63.10020(e).

(iii) If you choose to use CEMS for compliance purposes, include hourly average CEMS values and hourly average flow rates. Use units of milligrams per cubic meter for PM CEMS, micrograms per cubic meter for Hg CEMS, and ppmv for HCl, HF, or SO_2 CEMS. Use units of standard cubic meters per hour on a wet basis for flow rates.

(iv) If you choose to use a separate sorbent trap measurement system for startup or shutdown reporting periods, include hourly average mercury concentration in terms of micrograms per cubic meter.

(v) If you choose to use a PM CPMS, include hourly average operating parameter values in terms of the operating limit, as well as the operating parameter to PM correlation equation.

* * * * *

■ 14. Section 63.10032 is amended by revising paragraph (f) to read as follows:

§ 63.10032 What records must I keep?

* * * * *

(f) Regarding startup periods or shutdown periods:

(1) You must keep records of the occurrence and duration of each startup or shutdown;

(2) You must keep records of the determination of the maximum clean fuel capacity for each EGU;

(3) You must keep records of the determination of the maximum hourly clean fuel heat input and of the hourly clean fuel heat input for each EGU; and

(4) You must keep records of the information required in § 63.10020(e).

* * * * *

■ 15. In § 63.10042:

■ a. Revise the definitions for ''Boiler operating day,'' ''Shutdown'', and ''Startup''; and

■ b. Add in alphabetical order new definitions for ''Clean fuel,'' ''Default electrical load,'' and ''Diluent cap.''

The revisions and additions read as follows:

§ 63.10042 What definitions apply to this subpart?

* * * * *

Boiler operating day means a 24-hour period that begins at midnight and ends the following midnight during which any fuel is combusted at any time in the EGU, excluding startup periods or shutdown periods. It is not necessary for the fuel to be combusted the entire 24-hour period.

* * * * *

Clean fuel means natural gas, synthetic natural gas that meets the specification necessary for that gas to be transported on a Federal Energy Regulatory Commission (FERC) regulated pipeline, propane, distillate oil, synthesis gas that has been processed through a gas clean-up train such that it could be used in a system's combustion turbine, or ultra-low-sulfur diesel (ULSD) oil, including those fuels meeting the requirements of 40 CFR part 80, subpart I (''Subpart I—Motor Vehicle Diesel Fuel; Nonroad, Locomotive, and Marine Diesel Fuel; and ECA Marine Fuel'').

* * * * *

Default electrical load means an electrical load equal to 5 percent of the maximum sustainable electrical output (megawatts), as defined in section 6.5.2.1(a)(1) of Appendix A to part 75 of this chapter, of an affected EGU that is in startup or shutdown mode. For monitored common stack configurations, the default electrical load is 5 percent of the combined maximum sustainable electrical load of the EGUs that are in startup or shutdown mode during an hour in which the electrical load for all operating EGUs is zero. The default electrical load is used to calculate the electrical output-based emission rate (lb/MWh or lb/GWh, as applicable) for any startup or shutdown hour in which the actual electrical load is zero. The default electrical load is not used for EGUs required to make heat input-based emission rate (lb/MMBtu or lb/TBtu, as applicable) calculations. For the purposes of this subpart, the default electrical load is not considered to be a substitute data value.

* * * * *

Diluent cap means a default CO_2 or O_2 concentration that may be used to calculate the Hg, HCl, HF, or SO_2 emission rate (lb/MMBtu or lb/TBtu, as applicable) during a startup or shutdown hour in which the measured CO_2 concentration is below the cap value or the measured O_2 concentration is above the cap value. The appropriate diluent cap values for EGUs are presented in § 63.10007(f) and in section 6.2.1.2 of Appendix A to this subpart. For the purposes of this subpart, the diluent cap is not considered to be a substitute data value.

* * * * *

Shutdown means the period in which cessation of operation of an EGU is initiated for any purpose. Shutdown begins when the EGU no longer generates electricity or makes useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes or when no coal, liquid oil, syngas, or solid oil-derived fuel is being fired in the EGU, whichever is earlier. Shutdown ends when the EGU no longer generates electricity or makes useful thermal energy (such as steam or heat) for industrial, commercial, heating, or cooling purposes, and no fuel is being fired in the EGU. Any fraction of an hour in which shutdown occurs constitutes a full hour of shutdown.

Startup means:

(1) Either the first-ever firing of fuel in a boiler for the purpose of producing electricity, or the firing of fuel in a boiler after a shutdown event for any purpose. Startup ends when any of the steam from the boiler is used to generate electricity for sale over the grid or for any other purpose (including on-site use). Any fraction of an hour in which startup occurs constitutes a full hour of startup; or

(2) The period in which operation of an EGU is initiated for any purpose. Startup begins with either the firing of any fuel in an EGU for the purpose of producing electricity or useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes (other than the first-ever firing of fuel in a boiler following construction of the boiler) or for any other purpose after a shutdown event. Startup ends 4 hours after the EGU generates electricity that is sold or used for any other purpose (including on site use), or 4 hours after the EGU makes useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes (16 U.S.C. 796(18)(A) and 18 CFR 292.202(c)), whichever is earlier. Any fraction of an hour in which startup occurs constitutes a full hour of startup.

* * * * *

■ 16. Revise Table 3 to subpart UUUUU of part 63 to read as follows:

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS

[As stated in § 63.9991, you must comply with the following applicable work practice standards:]

If your EGU is . . .	You must meet the following . . .
1. An existing EGU	Conduct a tune-up of the EGU burner and combustion controls at least each 36 calendar months, or each 48 calendar months if neural network combustion optimization software is employed, as specified in § 63.10021(e).
2. A new or reconstructed EGU	Conduct a tune-up of the EGU burner and combustion controls at least each 36 calendar months, or each 48 calendar months if neural network combustion optimization software is employed, as specified in § 63.10021(e).

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS—Continued

[As stated in § 63.9991, you must comply with the following applicable work practice standards:]

If your EGU is . . .	You must meet the following . . .
3. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during startup.	You have the option of complying using either of the following work practice standards. (1) If you choose to comply using paragraph (1) of the definition of "startup" in § 63.10042, you must operate all CMS during startup. Startup means either the first-ever firing of fuel in a boiler for the purpose of producing electricity, or the firing of fuel in a boiler after a shutdown event for any purpose. Startup ends when any of the steam from the boiler is used to generate electricity for sale over the grid or for any other purpose (including on site use). For startup of a unit, you must use clean fuels as defined in § 63.10042 for ignition. Once you convert to firing coal, residual oil, or solid oil-derived fuel, you must engage all of the applicable control technologies except dry scrubber and SCR. You must start your dry scrubber and SCR systems, if present, appropriately to comply with relevant standards applicable during normal operation. You must comply with all applicable emissions limits at all times except for periods that meet the applicable definitions of startup and shutdown in this subpart. You must keep records during startup periods. You must provide reports concerning activities and startup periods, as specified in § 63.10011(g) and § 63.10021(h) and (i). (2) If you choose to comply using paragraph (2) of the definition of "startup" in § 63.10042, you must operate all CMS during startup. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of startup. For startup of an EGU, you must use one or a combination of the clean fuels defined in § 63.10042 to the maximum extent possible throughout the startup period. You must have sufficient clean fuel capacity to engage and operate your PM control device within one hour of adding coal, residual oil, or solid oil-derived fuel to the unit. You must meet the startup period work practice requirements as identified in § 63.10020(e). Once you start firing coal, residual oil, or solid oil-derived fuel, you must vent emissions to the main stack(s). You must comply with the applicable emission limits within 4 hours of start of electricity generation. You must engage and operate your particulate matter control(s) within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel. You must start all other applicable control devices as expeditiously as possible, considering safety and manufacturer/supplier recommendations, but, in any case, when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this Subpart that require operation of the control devices. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during startup, you must either: (1) flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. If you choose to use just one set of sorbent traps to demonstrate compliance with Hg emission limits, you must comply with all applicable Hg emission limits at all times; otherwise, you must comply with all applicable emission limits at all times except for startup or shutdown periods conforming to this practice. You must collect monitoring data during startup periods, as specified in § 63.10020(a) and (e). You must keep records during startup periods, as provided in §§ 63.10032 and 63.10021(h). Any fraction of an hour in which startup occurs constitutes a full hour of startup. You must provide reports concerning activities and startup periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031.
4. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during shutdown.	You must operate all CMS during shutdown. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of shutdown. While firing coal, residual oil, or solid oil-derived fuel during shutdown, you must vent emissions to the main stack(s) and operate all applicable control devices and continue to operate those control devices after the cessation of coal, residual oil, or solid oil-derived fuel being fed into the EGU and for as long as possible thereafter considering operational and safety concerns. In any case, you must operate your controls when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this Subpart and that require operation of the control devices. If, in addition to the fuel used prior to initiation of shutdown, another fuel must be used to support the shutdown process, that additional fuel must be one or a combination of the clean fuels defined in § 63.10042 and must be used to the maximum extent possible. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during shutdown, you must either: (1) flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. You must comply with all applicable emission limits at all times except during startup periods and shutdown periods at which time you must meet this work practice. You must collect monitoring data during shutdown periods, as specified in § 63.10020(a). You must keep records during shutdown periods, as provided in §§ 63.10032 and 63.10021(h). Any fraction of an hour in which shutdown occurs constitutes a full hour of shutdown. You must provide reports concerning activities and shutdown periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031.

■ 17. Revise Table 9 to subpart UUUUU of part 63 to read as follows:

TABLE 9 TO SUBPART UUUUU OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUUU

[As stated in § 63.10040, you must comply with the applicable General Provisions according to the following]

Citation	Subject	Applies to subpart UUUUU
§ 63.1	Applicability	Yes.
§ 63.2	Definitions	Yes. Additional terms defined in § 63.10042.
§ 63.3	Units and Abbreviations	Yes.
§ 63.4	Prohibited Activities and Circumvention	Yes.
§ 63.5	Preconstruction Review and Notification Requirements.	Yes.
§ 63.6(a), (b)(1)–(5), (b)(7), (c), (f)(2)–(3), (h)(2)–(9), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes.
§ 63.6(e)(1)(i)	General Duty to minimize emissions	No. See § 63.10000(b) for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to correct malfunctions ASAP.	No.
§ 63.6(e)(3)	SSM Plan requirements	No.
§ 63.6(f)(1)	SSM exemption	No.
§ 63.6(h)(1)	SSM exemption	No.
§ 63.6(g)	Compliance with Standards and Maintenance Requirements, Use of an alternative non-opacity emission standard.	Yes. See §§ 63.10011(g)(4) and 63.10021(h)(4) for additional requirements.
§ 63.7(e)(1)	Performance testing	No. See § 63.10007.
§ 63.8	Monitoring Requirements	Yes.
§ 63.8(c)(1)(i)	General duty to minimize emissions and CMS operation.	No. See § 63.10000(b) for general duty requirement.
§ 63.8(c)(1)(iii)	Requirement to develop SSM Plan for CMS.	No.
§ 63.8(d)(3)	Written procedures for CMS	Yes, except for last sentence, which refers to an SSM plan. SSM plans are not required.
§ 63.9	Notification Requirements	Yes.
§ 63.10(a), (b)(1), (c), (d)(1)–(2), (e), and (f).	Recordkeeping and Reporting Requirements.	Yes, except for the requirements to submit written reports under § 63.10(e)(3)(v).
§ 63.10(b)(2)(i)	Recordkeeping of occurrence and duration of startups and shutdowns.	No.
§ 63.10(b)(2)(ii)	Recordkeeping of malfunctions	No. See § 63.10001 for recordkeeping of (1) occurrence and duration and (2) actions taken during malfunction.
§ 63.10(b)(2)(iii)	Maintenance records	Yes.
§ 63.10(b)(2)(iv)	Actions taken to minimize emissions during SSM.	No.
§ 63.10(b)(2)(v)	Actions taken to minimize emissions during SSM.	No.
§ 63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions	Yes.
§ 63.10(b)(2)(vii)–(ix)	Other CMS requirements	Yes.
§ 63.10(b)(3), and (d)(3)–(5)		No.
§ 63.10(c)(7)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Yes.
§ 63.10(c)(8)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Yes.
§ 63.10(c)(10)	Recording nature and cause of malfunctions.	No. See § 63.10032(g) and (h) for malfunctions recordkeeping requirements.
§ 63.10(c)(11)	Recording corrective actions	No. See § 63.10032(g) and (h) for malfunctions recordkeeping requirements.
§ 63.10(c)(15)	Use of SSM Plan	No.
§ 63.10(d)(5)	SSM reports	No. See § 63.10021(h) and (i) for malfunction reporting requirements.
§ 63.11	Control Device Requirements	No.
§ 63.12	State Authority and Delegation	Yes.
§§ 63.13–63.16	Addresses, Incorporation by Reference, Availability of Information, Performance Track Provisions.	Yes.
§§ 63.1(a)(5), (a)(7)–(9), (b)(2), (c)(3)–(4), (d), 63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv), 63.8(a)(3), 63.9(b)(3), (h)(4), 63.10(c)(2)–(4), (c)(9).	Reserved	No.

■ 18. Appendix A to subpart UUUUU is amended by adding sections 7.1.2.5, 7.1.8.5, and 7.1.8.6, to read as follows:

Appendix A to Subpart UUUUU of Part 63—Hg Monitoring Provisions

* * * * *

7. Recordkeeping and Reporting

* * * * *

7.1.2 *Operating Parameter Records.* * * *

* * * * *

7.1.2.5 If applicable, a flag to indicate that the hour is a startup or shutdown hour (as defined in § 63.10042).

* * * * *

7.1.8 *Hg Emission Rate Records.* * * *

* * * * *

7.1.8.5 If applicable, a code to indicate that the default electrical load (as defined in § 63.10042) was used to calculate the Hg emission rate.

7.1.8.6 If applicable, a code to indicate that the diluent cap (as defined in § 63.10042) was used to calculate the Hg emission rate.

* * * * *

■ 19. Appendix B to subpart UUUUU is amended by revising section 9.3.1 and adding sections 10.1.2.5, 10.1.7.5, and 10.1.7.6 to read as follows:

Appendix B to Subpart UUUUU of Part 63—-HCl and HF Monitoring Provisions

* * * * *

9. Data Reduction and Calculations

* * * * *

9.3.1 For heat input-based emission rates, select an appropriate emission rate equation from among Equations 19–1 through 19–9 in EPA Method 19 in Appendix A–7 to part 60 of this chapter, to calculate the HCl or HF emission rate in lb/MMBtu. Multiply the HCl concentration value (ppm) by 9.43×10^{-8} to convert it to lb/scf, for use in the applicable Method 19 equation. For HF, the conversion constant from ppm to lb/scf is 5.18×10^{-8}. The appropriate diluent cap value from section 6.2.1.2 of Appendix A to this subpart may be used to calculate the HCl or HF emission rate (lb/MMBtu) during startup or shutdown hours.

* * * * *

10. Recordkeeping Requirements

* * * * *

10.1.2 *Operating Parameter Records.* * * *

* * * * *

10.1.2.5 If applicable, a flag to indicate that the hour is a startup or shutdown hour (as defined in § 63.10042).

* * * * *

10.1.7 *HCl and HF Emission Rate Records.* * * *

* * * * *

10.1.7.5 If applicable, a code to indicate that the default electrical load (as defined in § 63.10042) was used to calculate the HCl or HF emission rate.

10.1.7.6 If applicable, a code to indicate that the diluent cap (as defined in § 63.10042) was used to calculate the HCl or HF emission rate.

* * * * *

[FR Doc. 2014–27125 Filed 11–18–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2009–0234; FRL–9919–21–OAR]

RIN 2060–AS39

National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units (Mercury and Air Toxics Standards (MATS)). This direct final rule amends the reporting requirements in the MATS rule by temporarily requiring affected sources to submit all required emissions and compliance reports to the EPA through the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool and temporarily suspending the requirement for affected sources to submit certain reports using the Electronic Reporting Tool and the Compliance and Emissions Data Reporting Interface (CEDRI).

DATES: This rule is effective on January 5, 2015 without further notice, unless the EPA receives adverse comment by December 19, 2014. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in the final rule will not take effect.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2009–0234, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Attention Docket ID Number EPA–HQ–OAR–2009–0234.
- *Fax:* (202) 566–9744. Attention Docket ID Number EPA–HQ–OAR–2009–0234.
- *Mail:* U.S. Postal Service, send comments to: U.S. Environmental Protection Agency, EPA Docket Center, Mail Code: 28221T, Attention Docket ID Number EPA–HQ–OAR–2009–0234, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC 20004. Attention Docket ID Number EPA–HQ–OAR–2009–0234. 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 Number EPA–HQ–OAR–2009–0234. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: *http://www.epa.gov/dockets.*

We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5635; fax number: (919) 541–3207; and email address: *parker.barrett@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of This Document. The information in this preamble is organized as follows:

I. Why is the EPA using a direct final rule?
II. Does this direct final rule apply to me?
III. What should I consider as I prepare my comments for the EPA?
IV. What are the amendments made by this direct final rule?
V. 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
K. Congressional Review Act

I. Why is the EPA using a direct final rule?

The EPA is publishing this direct final 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 the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units, if adverse comments are received on this direct final rule. If the EPA receives adverse comment on all or a distinct portion of this direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of this direct final rule will not take effect. Any rule provisions that are not withdrawn will become effective on January 5, 2015 notwithstanding adverse comment on any other provision, unless we determine that it would not be appropriate to promulgate those provisions because they are affected by another provision (or provisions) for which we receive adverse comments. If we receive adverse comments on this direct final rule, resulting in withdrawal of the entire rule or any part(s) of it, we will address those comments when we finalize the proposal we are also publishing in this **Federal Register**. The EPA does not plan to 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.

II. Does this direct final rule apply to me?

Categories and entities potentially regulated by this final rule include:

Category	NAICS Code [1]	Examples of regulated entities
Industry	221112	Fossil fuel-fired electric steam generating units.
Federal government [2]	221122	Fossil fuel-fired electric steam generating units owned by the federal government.
State/local/tribal government [2]	221122	Fossil fuel-fired electric steam generating units owned by states, tribes or municipalities.
	921150	Fossil fuel-fired electric utility steam generating units in Indian country.

[1] North American Industry Classification System.
[2] Federal, state or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this direct final rule. To determine whether your facility would be regulated by this direct final rule, you should examine the applicability criteria in 40 CFR 63.9981. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

III. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, and Attention Docket ID Number EPA–HQ–OAR–2009–0234.

IV. What are the amendments made by this direct final rule?

This direct final rule amends the reporting requirements in 40 CFR 63.10031(f) of the MATS regulation. Currently the rule requires affected sources to submit certain MATS emissions and compliance information electronically, using either the CEDRI or the ECMPS Client Tool. The EPA has developed these two systems for the electronic submittal of emissions data. Historically, CEDRI has been used by sources regulated under 40 CFR parts 60 and 63 to submit performance test reports and other air emissions reports. Historically, ECMPS has been used to report emissions data under the EPA's

Acid Rain Program and other programs that are required to continuously monitor and report emissions according to 40 CFR part 75. These two systems have enhanced the way sources are reporting emissions data to the EPA by providing a streamlined and standardized electronic approach.

Subsequent to publication of MATS, stakeholders commented that the EPA could improve the reporting efficiency of the rule by requiring all data to be reported to one system instead of two. Stakeholders also commented that one system could benefit the EPA and the public in the review of data submitted by setting one consistent format for all data reported through MATS. Further, because the vast majority of sources covered under the MATS rule have been using the ECMPS Client Tool since 2009, the stakeholders have encouraged the EPA to seriously consider consolidating the electronic reporting under ECMPS.

The EPA agrees with the stakeholders that taking an action to increase the efficiency of reporting is not only a plausible path forward, but also a priority of the agency. As a result, the EPA plans to start the process of converting all electronic reporting in the rule to be facilitated by the ECMPS Client Tool with the first step of conversion being this direct final rulemaking. However, because the EPA cannot create a detailed set of reporting instructions and design, develop, beta-test and implement the necessary modifications to the ECMPS Client Tool prior to April 16, 2015, the compliance deadline for the MATS rule, the EPA is implementing a phased approach to completing the modifications to the ECMPS Client Tool.

The first part of the phased approach the EPA plans to take is this direct final rulemaking. This direct final rule requires sources to temporarily use the ECMPS Client Tool to submit Portable Document Format (PDF) versions of the reports that the current MATS rule requires to be submitted using CEDRI. The specific reports that must be submitted in PDF format include: Quarterly and annual performance stack test reports; 30 operating day Hg LEE test reports; Relative Accuracy Test Audits (RATA) reports for Sulfur Dioxide (SO_2), Hydrogen Chloride (HCl), Hydrogen Fluoride (HF), and Mercury (Hg) monitors; Relative Calibration Audit (RCA) and Relative Response Audit (RRA) reports for Particulate Matter (PM) Continuous Emissions Monitoring System (CEMS); 30 operating day rolling average reports for PM CEMS, PM Continuous Parameter Monitoring System (CPMS), and approved HAP metals CEMS; and Semiannual compliance reports. Reports for the performance stack tests, Hg Low Emitting EGU (LEE) tests, RATAs, RRAs, and RCAs typically include a description of the source, the test date(s), a list of attendees, a test protocol, a summary of results, raw field data, and example calculations, and, depending on the method(s) used, may also include the results of sample analyses, quality-assurance information (e.g., bias and drift checks), instrument calibrations, and calibration gas certificates. Additionally, the due dates for all report submittals will continue to be the same as in the original final MATS rulemaking in the **Federal Register** at 77 FR 9303, February 16, 2012.

The EPA realizes that submitting electronic PDF reports is not as desirable as reporting the data in extensible markup language (XML) format, because the information in a PDF report cannot easily be extracted and put in a database format. In view of this, the EPA intends to promulgate an additional data reporting revision to the MATS rule in the second phase of this approach. In the second phase the EPA plans to develop another direct final rulemaking that requires affected sources to submit the data elements required in the rule in a structured XML format using the ECMPS Client Tool, already in use. The second phase will complete the process of conversion of the electronic reporting of data using the ECMPS Client Tool and the MATS rule will be revised to specify all of the required XML data elements for each type of report. The EPA will also develop a detailed set of reporting instructions for each report and modify ECMPS accordingly, in order to be able to receive and process the data submitted.

In the event the EPA is unable to finalize the rulemaking for the second phase of the electronic reporting conversion by April 16, 2017, in accordance with the revisions to the reporting requirements contained in this rulemaking, the reporting requirements will automatically revert to the original requirements set forth in the original MATS rulemaking in the **Federal Register** at 77 FR 9303, February 16, 2012. This is to ensure that the data submitted in the future is consistent with the database accessibility that is associated with information reported in structured XML formats even if the second rulemaking cannot be finalized. Accordingly, this rulemaking includes a date of April 16, 2017, to complete the second phase of the electronic reporting conversion to the ECMPS Client Tool.

Comments on this direct final rule are to be limited to issues directly associated with the electronic reporting changes covered in 40 CFR 63.10031.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden because it does not change the information collection requirements. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulation (40 CFR part 63, subpart UUUUU) under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501, *et seq.,* and has assigned OMB control number 2137.06. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 impact of this final action on small entities, small entity is defined as: (1) A small business that is an electric utility producing 4 billion kilowatt-hours or less as defined by NAICS codes 221122 (fossil fuel-fired electric utility steam generating units) and 921150 (fossil fuel-fired electric utility steam generating units in Indian country); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This rule will not impose any requirements on small entities, and no small entities are expected to incur annualized costs as a result of the amendments. We have determined that the amendments will not result in any "significant" adverse economic impact for small entities. This amendment does not create any new requirements or burdens, and no costs are associated with this amendment.

D. Unfunded Mandates Reform Act

This rule does not contain a federal mandate that may result in expenditures of $100 million or more for state, local and tribal governments, in the aggregate, or the private sector in any one year. The costs of the final amendments would not increase costs associated with the final rule. Thus, this rule is not subject to the requirements of sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA).

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The final amendments contain no requirements that apply to such governments and impose no obligations upon them.

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. This action does not modify existing responsibilities or create new responsibilities among the EPA Regional offices, states or local enforcement agencies. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The final amendments impose no requirements on tribal governments. Thus, Executive Order 13175 does not apply to this action.

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 is based solely on technology performance.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (*e.g.,* materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The final amendments are either clarifications or compliance alternatives which will neither increase or decrease environmental protection.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This direct final rule will be effective on January 5, 2015.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 7, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart UUUUU—National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units

■ 2. Section 63.10031 is amended by:
■ a. Revising the first sentence in each of the following paragraphs: (f) introductory text, (f)(1), (f)(2), and (f)(4);
■ b. Revising paragraph (f)(5); and
■ c. Adding paragraph (f)(6) to read as follows.

§ 63.10031 What reports must I submit and when?

* * * * *

(f) On or after April 16, 2017, within 60 days after the date of completing each performance test, you must submit the results of the performance tests required by this subpart to EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (*www.epa.gov/cdx*). * * *

(1) On or after April 16, 2017, within 60 days after the date of completing each CEMS (SO_2, PM, HCl, HF, and Hg) performance evaluation test, as defined in § 63.2 and required by this subpart, you must submit the relative accuracy test audit (RATA) data (or, for PM CEMS, RCA and RRA data) required by this subpart to EPA's WebFIRE database by using CEDRI that is accessed through EPA's CDX (*www.epa.gov/cdx*). * * *

(2) On or after April 16, 2017, for a PM CEMS, PM CPMS, or approved alternative monitoring using a HAP metals CEMS, within 60 days after the reporting periods ending on March 31st, June 30th, September 30th, and December 31st, you must submit quarterly reports to EPA's WebFIRE database by using the CEDRI that is accessed through EPA's CDX (*www.epa.gov/cdx*). * * *

* * * * *

(4) On or after April 16, 2017, submit the compliance reports required under paragraphs (c) and (d) of this section and the notification of compliance status required under § 63.10030(e) to EPA's WebFIRE database by using the CEDRI that is accessed through EPA's CDX (*www.epa.gov/cdx*). * * *

(5) All reports required by this subpart not subject to the requirements in paragraphs (f) introductory text and (f)(1) through (4) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. If acceptable to both the Administrator and the owner or operator of a source, these reports may be submitted on electronic media. The Administrator retains the right to require submittal of reports subject to paragraphs (f) introductory text and (f)(1) through (4) of this section in paper format.

(6) Prior to April 16, 2017, all reports subject to electronic submittal in paragraphs (f) introductory text, (f)(1), (f)(2), and (f)(4) of this section shall be submitted to the EPA in electronic portable document format (PDF) using the ECMPS Client Tool. The following data elements must be entered into the ECMPS Client Tool at the time of submission of the PDF file:

(i) The facility name, physical address, mailing address (if different from the physical address), and county;

(ii) The ORIS code (or equivalent ID number assigned by EPA's Clean Air Markets Division (CAMD)) and the Facility Registry System (FRS) ID;

(iii) The EGU (or EGUs) to which the report applies. Report the EGU IDs as they appear in the CAMD Business System;

(iv) If any of the EGUs in paragraph (f)(6)(iii) of this section share a common stack, indicate which EGUs share the stack. If emissions data are monitored and reported at the common stack according to part 75 of this chapter, report the ID number of the common stack as it is represented in the electronic monitoring plan required under § 75.53 of this chapter;

(v) If any of the EGUs described in paragraph (f)(6)(iii) of this section are in an averaging plan under § 63.10009, indicate which EGUs are in the plan and whether it is a 30- or 90-day averaging plan;

(vi) The identification of each emission point to which the report applies. An ''emission point'' is a point at which source effluent is released to the atmosphere, and is either a dedicated stack that serves one of the EGUs identified in paragraph (f)(6)(iii) of this section or a common stack that serves two or more of those EGUs. To identify an emission point, associate it with the EGU or stack ID in the CAMD Business system or the electronic monitoring plan (e.g., ''Unit 2 stack,'' ''common stack CS001,'' or ''multiple stack MS001'');

(vii) The rule citation (e.g., § 63.10031(f)(1), § 63.10031(f)(2), etc.) for which the report is showing compliance;

(viii) The pollutant(s) being addressed in the report;

(ix) The reporting period being covered by the report (if applicable);

(x) The relevant test method that was performed for a performance test (if applicable);

(xi) The date the performance test was conducted (if applicable); and

(xii) The responsible official's name, title, and phone number.

* * * * *

[FR Doc. 2014–27126 Filed 11–18–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

[XXXD4523WT DWT000000.000000 DS65101000]

RIN 1090–AB07

Privacy Act Regulations; Exemption for the Insider Threat Program

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is issuing a final rule to amend its regulations to exempt certain records in the Insider Threat Program from one or more provisions of the Privacy Act because of criminal, civil, and administrative law enforcement requirements.

DATES: This final rule is effective December 19, 2014.

FOR FURTHER INFORMATION CONTACT: Teri Barnett, Department of the Interior Privacy Act Officer, U.S. Department of the Interior, 1849 C Street NW., Mail Stop 5547 MIB, Washington, DC 20240. Email at *Privacy@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Department of the Interior (DOI) published a notice of proposed rulemaking in the **Federal Register** on September 2, 2014, 79 FR 51926, proposing to exempt certain records in the Insider Threat Program system of records in accordance with 5 U.S.C. 552a(j)(2) and (k)(2) of the Privacy Act because of criminal, civil, and administrative law enforcement requirements. The Insider Threat Program system of records notice was published in the **Federal Register** on September 2, 2014, 79 FR 52033. Comments were invited on the Insider Threat Program system of records notice and the notice of proposed rulemaking. DOI received no comments on the notice of proposed rulemaking or published system of records notice and will therefore implement the rulemaking as proposed.

Procedural Requirements

1. Regulatory Planning and Review (E.O. 12866)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This rule does not impose a requirement for small businesses to report or keep records on any of the requirements contained in this rule. The exemptions to the Privacy Act apply to individuals, and individuals are not covered entities under the Regulatory Flexibility Act.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule makes only minor changes to 43 CFR part 2. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule makes only minor changes to 43 CFR part 2. A takings implication assessment is not required.

6. Federalism (E.O. 13132)

In accordance with Executive Order 13132, this rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. The rule is not associated with, nor will it 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. A Federalism Assessment is not required.

7. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Does not unduly burden the judicial system.

(b) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(c) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

8. Consultation With Indian Tribes (E.O. 13175)

In accordance with Executive Order 13175, the Department of the Interior has evaluated this rule and determined that it would have no substantial effects on federally recognized Indian Tribes.

9. Paperwork Reduction Act

This rule does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required.

10. National Environmental Policy Act

This rule does not constitute a major Federal action and would not have a significant effect on the quality of the human environment. Therefore, this rule does not require the preparation of an environmental assessment or environmental impact statement under the requirements of the National Environmental Policy Act of 1969.

11. Effects on Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

12. Clarity of This Regulation

We are required by Executive Order 12866 and 12988, the Plain Writing Act of 2010 (H.R. 946), and the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means each rule we publish must:

—Be logically organized;
—Use the active voice to address readers directly;
—Use clear language rather than jargon;
—Be divided into short sections and sentences; and
—Use lists and table wherever possible.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Confidential information, Courts, Freedom of Information Act, Privacy Act.

Dated: November 10, 2014.

Kristen Sarri,

Principal Deputy Assistant Secretary for Policy, Management and Budget.

For the reasons stated in the preamble, the Department of the Interior amends 43 CFR part 2 as follows:

PART 2—FREEDOM OF INFORMATION ACT; RECORDS AND TESTIMONY

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 553; 31 U.S.C. 3717; 43 U.S.C. 1460, 1461.

■ 2. Amend § 2.254 by:
■ a. Revising the introductory text of paragraph (a);
■ b. Adding paragraph (a)(6);
■ c. Revising the introductory text of paragraph (b); and
■ d. Adding paragraph (b)(16).

The revisions and additions read as follows:

§ 2.254 Exemptions.

(a) *Criminal law enforcement records exempt under 5 U.S.C. 552a(j)(2).* Pursuant to 5 U.S.C. 552a(j)(2) the following systems of records are exempted from all of the provisions of 5 U.S.C. 552a and the regulations in this subpart except paragraphs (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), (11) and (12), and (i) of 5 U.S.C. 552a and the portions of the regulations in this subpart implementing these paragraphs:

* * * * *

(6) Insider Threat Program, DOI–50.

(b) *Law enforcement records exempt under 5 U.S.C. 552a(k)(2).* Pursuant to 5 U.S.C. 552a(k)(2), the following systems of records are exempted from paragraphs (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a and the provisions of the regulations in this subpart implementing these paragraphs:

* * * * *

(16) Insider Threat Program, DOI–50.

* * * * *

[FR Doc. 2014–27328 Filed 11–18–14; 8:45 am]

BILLING CODE 4334–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8359]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Virginia:				
City of Chesapeake, Independent City.	510034	May 24, 1974, Emerg; February 2, 1977, Reg; December 16, 2014, Susp.	December 16, 2014.	December 16, 2014.
City of Norfolk, Independent City ...	510104	August 15, 1973, Emerg; August 1, 1979, Reg; December 16, 2014, Susp.	......do	Do.
City of Poquoson, Independent City	510183	August 29, 1973, Emerg; May 16, 1977, Reg; December 16, 2014, Susp.	......do	Do.
Region IV				
South Carolina:				
Florence, City of, Florence County	450078	April 17, 1975, Emerg; December 1, 1981, Reg; December 16, 2014, Susp.	......do	Do.
Florence County, Unincorporated Areas.	450076	May 22, 1979, Emerg; September 2, 1982, Reg; December 16, 2014, Susp.	......do	Do.
Johnsonville, City of, Florence County.	450208	August 4, 1975, Emerg; June 25, 1976, Reg; December 16, 2014, Susp.	......do	Do.
Lake City, City of, Florence County	450079	August 6, 1974, Emerg; June 1, 1981, Reg; December 16, 2014, Susp.	......do	Do.
Pamplico, Town of, Florence County.	450081	October 23, 1995, Emerg; February 1, 2002, Reg; December 16, 2014, Susp.	......do	Do.
Quinby, Town of, Florence County	450082	May 10, 1975, Emerg; November 20, 1978, Reg; December 16, 2014, Susp.	......do	Do.
Region V				
Indiana:				
Brook, Town of, Newton County	180180	April 10, 1975, Emerg; September 1, 1986, Reg; December 16, 2014, Susp.	......do	Do.
Kentland, Town of, Newton County	180182	November 13, 1975, Emerg; September 18, 1985, Reg; December 16, 2014, Susp.	......do	Do.
Newton County, Unincorporated Areas.	180179	April 21, 1975, Emerg; September 1, 1986, Reg; December 16, 2014, Susp.	......do	Do.
Region VII				
Iowa:				
Delaware County, Unincorporated Areas.	190863	N/A, Emerg; September 28, 2010, Reg; December 16, 2014, Susp.	......do	Do.
Manchester, City of, Delaware County.	190112	April 25, 1975, Emerg; October 15, 1982, Reg; December 16, 2014, Susp.	......do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: October 28, 2014.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–27394 Filed 11–18–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130805680–4915–02]

RIN 0648–BD58

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Action

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures described in a framework action to the Fishery Management Plan for the Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (FMP) (Framework Action), as prepared by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils). This final rule allows transfer of Atlantic migratory group Spanish mackerel caught in excess of the trip limit with gillnet gear from one vessel with a Federal Spanish mackerel commercial permit to another vessel

with a Federal Spanish mackerel commercial permit that has not yet harvested the trip limit; allows the receiving vessel involved in a Spanish mackerel transfer-at-sea to have three gillnets onboard instead of two; and modifies the commercial trip limits for king mackerel in the Florida east coast subzone. This rule also implements an administrative change to correct an inadvertent error in a prior rulemaking unrelated to this Framework Action. The purpose of this final rule is to modify the restrictions on transfer-at-sea and gillnet allowances for Atlantic migratory group Spanish mackerel to minimize dead discards of Spanish mackerel and modify the king mackerel trip limit in the Florida east coast subzone to optimize utilization of the resource.

DATES: This rule is effective December 19, 2014.

ADDRESSES: Electronic copies of the Framework Action, which includes an environmental assessment and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727–824–5305, or email: *kate.michie@noaa.gov.*

SUPPLEMENTARY INFORMATION: The coastal migratory pelagic (CMP) fishery of the South Atlantic and the Gulf of Mexico (Gulf), which includes Spanish mackerel, king mackerel, and cobia, is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On March 19, 2014, NMFS published a proposed rule for the Framework Action and requested public comment (79 FR 15293). The proposed rule and Framework Action outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule is provided below.

This final rule allows transfer-at-sea of Spanish mackerel in gillnets between vessels with Federal Spanish mackerel commercial permits that are using gillnet gear and allows vessels engaged in this transfer activity to have three gillnets onboard. The transfer-at-sea of harvested fish is only allowed if all the following conditions are met: (1) The owner or operator of both vessels involved in the transfer reports the transfer by telephone to the NOAA Office of Law Enforcement in Port Orange, Florida, prior to the transfer; (2) harvesting gear must be allowable gillnet gear, as specified in 50 CFR 622.377(b); (3) the transfer can only take place in Federal waters between two vessels with valid commercial permits for Spanish mackerel; (4) the receiving vessel must possess no more than three gillnets after the transfer is completed; (5) all Spanish mackerel exceeding the applicable daily vessel limit shall remain in the gillnet until transferred; (6) the quantity of Spanish mackerel transferred to any single vessel shall not exceed the applicable daily trip limit; and (7) transfers of Spanish mackerel may only occur once per vessel per trip. This final rule also modifies the two gillnet possession restriction in order to account for the portion of a third net that is present onboard a vessel that receives Spanish mackerel transferred at sea. Only vessels engaged in this transfer activity will be allowed to have three gillnets onboard.

This final rule modifies the Atlantic king mackerel Florida east coast subzone trip limit so that during March 1 through March 31, if 70 percent or more of the quota has been harvested, the trip limit will remain at 50 fish per vessel per trip; however, if less than 70 percent of the quota has been harvested during that time, the trip limit will increase to 75 fish per vessel per trip until March 31. From April 1 through October 31, the Florida east coast subzone is not part of the Gulf migratory group king mackerel area; it is part of the Atlantic migratory group king mackerel area.

Additional Changes Contained in This Final Rule

Drift gillnets for all CMP species were prohibited in the South Atlantic exclusive economic zone (EEZ) through the final rule implementing Amendment 3 to the FMP (54 FR 29561, July 13, 1989) and through the final rule implementing the Resubmission of Disapproved Measures in Amendment 3 to the FMP (55 FR 14833, April 19, 1990). Run-around gillnets for king mackerel were prohibited in the South Atlantic EEZ through the final rule implementing Amendment 8 to the FMP (63 FR 10561, March 4, 1998). However, the regulations currently at 50 CFR 622.387, which address prevention of gear conflicts between hook-and-line and gillnet vessels in the South Atlantic EEZ, were inadvertently not removed at the time when the final rule for Amendment 8 was implemented. This rule corrects this mistake by removing the regulations at § 622.387. This revision is unrelated to the Framework Action.

Comments and Responses

NMFS received two comment submissions on the Framework Action and the proposed rule. One comment was from a government organization that stated it had no comment. One comment was from a commercial fishing organization that stated it was in support of the Framework Action and the proposed rule. NMFS received no other comments related to the Framework Action or the proposed rule. Therefore, no changes were made to the final rule in response to public comments.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary for the conservation and management of CMP species and is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared for this action. An FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant economic issues raised by public comment, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA uses updated information to produce more current estimates of numbers of small entities and impacts; however, its conclusions are consistent with the IRFA. The FRFA also includes an administrative action to remove regulatory text that was not included in the IRFA. The FRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this final rule and the preamble to this final rule provides a statement of the need for and objectives of this rule.

No public comments specific to the IRFA were received and, therefore, no public comments are addressed in this FRFA. Moreover, there were no comments pertaining to the economic impacts.

The final rule allows the transfer of Spanish mackerel by gillnet in the Atlantic EEZ, modifies existing trip limits for king mackerel in the Florida east coast subzone, and removes regulatory text concerning prevention of conflicts between hook-and-line and gillnet fishermen that is no longer necessary.

NMFS expects the final rule to directly affect commercial fishermen in the CMP fishery, and these fishermen represent businesses in the finfish harvesting industry. A business (including subsidiaries and affiliates) involved in finfish harvesting is classified as a small business if its total annual revenue is no greater than the Small Business Administration (SBA) size standard for that industry. SBA adjusted the size standard for finfish fishing (NAICS 114111) from $19 million to $20.5 million to account for inflation and the adjusted size standard went into effect on July 14, 2014.

Presently, there are 1,759 commercial fishing vessels with a valid commercial Spanish mackerel permit (as of April 21, 2014). It is unknown how many of those 1,759 vessels may volunteer to participate in a transfer by gillnet. Consequently, all of the businesses that hold at least one of the 1,736 commercial vessel permits for Spanish mackerel (as of November 5, 2013) are presumed to be small businesses. However, 22 vessels with a valid commercial Spanish mackerel gillnet permit have a valid or renewable king mackerel gillnet permit. Hence, it is estimated that at least 22 vessels that harvest Spanish mackerel will be directly affected by the rule. The above 22 gillnet fishing vessels are owned and/or operated by 18 businesses in the finfish fishing industry and each of these businesses is expected to be small.

In the proposed rule, NMFS estimated that there were 1,658 commercial fishing vessels with a valid or renewable permit for king mackerel, all of which were presumed to be small businesses. This number was updated on April 21, 2014, at which time we estimated that there were 1,483 commercial fishing vessels with a valid or renewable king mackerel permit. From this number, NMFS narrowed the number of impacted entities to those permit holders who reside in Florida in Miami/Dade County up through Volusia County, as these entities are the most likely to fish in the Florida east coast subzone. NMFS estimated that those residents totaled approximately 55 percent of all permit holders. Some number of additional entities living outside Miami/Dade County through Volusia County may also travel to and harvest from the Florida east coast subzone, but the inclusion of these entities in the analysis would not likely materially affect the assessment of the expected economic effects. Based on the 55 percent calculated above, we estimate that 816 of the 1,483 vessels with a valid or renewable permit will be directly affected by the action to modify trip limits in the Florida east coast subzone. Although commercial vessels that land king mackerel harvest other species, it is presumed that all of the businesses that own and/or operate one or more of the above 816 vessels are small.

Since implementation of the gillnet prohibitions, the relevance of regulations at 50 CFR 622.387, which address prevention of gear conflicts between hook-and-line and gillnet vessels in the South Atlantic EEZ, has been zero. This is because the regulations implementing Amendment 3 and Amendment 8 to the FMP prohibited drift gillnets and run-around gillnets in the South Atlantic EEZ, respectively; however, the regulations implementing Amendment 8 inadvertently did not remove the provision at 50 CFR 622.387 at that time.

This final rule will end the prohibition on gillnet transfers of Atlantic migratory group Spanish mackerel in the EEZ, allow a vessel with a commercial Spanish mackerel permit to possess three gillnets in the Atlantic EEZ, and establish a new reporting requirement. The operator(s) of the two vessels engaged in a transfer will be required to report the transfer by telephone to the NOAA Office of Law Enforcement in Port Orange, Florida, prior to the transfer. Because any transfer would be voluntary, any of the 18 or more small businesses that own and/or operate gillnet fishing vessels would likely participate in a transfer only if it has a net economic benefit. Because transfers would allow at least 22 vessels to catch more than the trip limit if they transfer the amount of catch in excess of the trip limit to another permitted vessel, up to the trip limit, this action may increase the rate of landings. Vessels may engage in such transfers especially along Florida's east coast after the trip limit is reduced, as vessels that would not have previously reached the trip limit may now receive additional fish, up to the trip limit. NMFS considered one alternative, the no action alternative, to the proposed action of eliminating the prohibition on the transfer of Spanish mackerel by gillnet. The status quo alternative was rejected because it would not provide the potential economic benefit to small businesses as described above.

This final rule will change the commercial trip limit for king mackerel in the Florida east coast subzone without changing any current reporting or recordkeeping requirements. Under this final rule, any vessel that currently lands up to 50 fish per trip in February would experience no loss of landings or ex-vessel (dockside) revenues. For trips that have historically harvested more than 50 fish per trip in February, this final rule is expected to reduce the king mackerel harvest by as much as 25 fish weighing 375 lb (170 kg) and with a dockside value of $829 per trip per vessel in February of each year. Any vessel that currently lands up to 50 fish in March would experience no loss of landings and dockside revenues. Those that currently land more than 50 fish per trip in March are expected to reduce the king mackerel harvest by as much as 25 fish weighing 375 kg and with a dockside value of $829 per trip per vessel in March. Consequently, vessels that have consistently landed less than 50 fish per trip in February and March would experience no adverse economic impact. Those vessels that have landed more than 50 fish per trip during those months would experience losses of dockside revenue up to $829 per trip. If the rate of landings in the first 3 months of the 5-month season were such that the quota could be reached weeks before March 31, the lower trip limit in February could increase both the length of the open season and number of trips when ex-vessel price of king mackerel is typically at its highest in March. However, since the 2012–2013 season, there have been no early closures despite increases in the trip limit in February and March, and the final rule's lower expected trip limits in February and March could result in lower annual landings.

This rule also modifies the commercial trip limit for king mackerel in the Florida east coast subzone. Among the actions in this rule, only this action is expected to potentially result in any adverse economic effect on any small entities. NMFS considered three alternatives, including the status quo alternative, to this action. The status quo commercial trip limit in the Florida east coast subzone is 50 fish from November 1 through January 31 each year. Then, beginning on February 1, and continuing through March 31, if 75 percent or more of the Florida east coast subzone quota has been taken by January 31, the trip limit remains 50 fish. However, if less than 75 percent of the quota has been taken by January 31, the trip limit increases to 75 fish. This alternative was not selected because it could result in a season that closes while the increased demand for king mackerel that occurs during the Lenten season is still high.

The second alternative would set the king mackerel commercial trip limit in the Florida east coast subzone at 50 fish for the entire fishing season. This alternative was not adopted because it would not provide the flexibility to allow small businesses to increase landings of king mackerel when demand increases during the Lenten season.

The third alternative would set the king mackerel trip limit in the Florida east coast subzone at 75 fish for the entire fishing season. This alternative was not adopted because it would likely increase the king mackerel harvest prior to the Lenten season, reduce landings of king mackerel and associated revenues when demand is high during the Lenten season, and result in earlier closure, potentially even before the period of heightened demand.

Finally, this rule also removes language in the codified text regarding prevention of gear conflicts between hook-and-line and gillnet vessels in the South Atlantic EEZ. This change corrects an inadvertent error in the text, as discussed in the preamble. The regulation contained in § 622.387 was necessary before separate quotas, trip limits, and gillnet permits were implemented for the harvest of king mackerel off Florida. Since implementation of those management measures, the impact and relevance of § 622.387 have been zero. Consequently, its removal would have no impact on small businesses.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all CMP vessel permit holders in the Atlantic region.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gillnet, Mackerel, Reporting and recordkeeping requirements, South Atlantic, Trip limits.

Dated: November 12, 2014,

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.377, paragraph (b)(2)(iii) is revised and paragraph (b)(2)(vi) is added to read as follows:

§ 622.377 Gillnet restrictions.

* * * * *

(b) * * *

(2) * * *

(iii) No more than two gillnets, including any net in use, may be possessed at any one time, except for a vessel with a valid commercial vessel permit for Spanish mackerel engaged in a transfer as specified in paragraph (b)(2)(vi) of this section. If two gillnets, including any net in use, are possessed at any one time, they must have stretched mesh sizes (as allowed under the regulations) that differ by at least .25 inch (.64 cm), except for a vessel with a valid commercial vessel permit for Spanish mackerel engaged in a transfer as specified in paragraph (b)(2)(vi) of this section, in which case the vessel may possess two gillnets of the same mesh size provided that one of the nets is transferred to that vessel.

* * * * *

(vi) A portion of a gillnet may be transferred at sea only in the EEZ and only from a vessel with a valid commercial vessel permit for Spanish mackerel that has exceeded a trip limit specified in § 622.385 (b) to another vessel with a valid commercial vessel permit for Spanish mackerel that has not yet reached the trip limit (the receiving vessel). Only one such transfer is allowed per vessel per day. In addition, to complete a legal transfer at sea, all of the following must apply:

(A) All fish exceeding the applicable commercial trip limit may not be removed from the gillnet until the transfer is complete (*i.e.,* the gillnet is onboard the receiving vessel). The fish transferred to the receiving vessel may not exceed the applicable commercial trip limit.

(B) The receiving vessel may possess no more than three gillnets on board after the transfer is complete.

(C) Prior to cutting the gillnet and prior to any transfer of Spanish mackerel from one vessel to another, the owner or operator of both vessels must contact NMFS Office for Law Enforcement, Port Orange, Florida, phone: 1–386–492–6686.

■ 3. In § 622.385, the third sentence in the introductory text and paragraph (a)(2)(i) are revised to read as follows:

§ 622.385 Commercial trip limits.

* * * Except for Atlantic migratory group Spanish mackerel harvested by gillnet, as specified in § 622.377(b)(2)(vi), a species subject to a trip limit specified in this section taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place, and such species may not be transferred in the EEZ. * * *

* * * * *

(a) * * *

(2) * * *

(i) *Eastern zone—Florida east coast subzone.* In the Florida east coast subzone, king mackerel in or from the EEZ may be possessed on board at any time or landed in a day from a vessel with a commercial permit for king mackerel as required under § 622.370(a)(1) as follows:

(A) From November 1 through the end of February—not to exceed 50 fish.

(B) Beginning on March 1 and continuing through March 31—

(*1*) If 70 percent or more of the Florida east coast subzone quota as specified in § 622.384(b)(1)(i)(A) has been taken—not to exceed 50 fish.

(*2*) If less than 70 percent of the Florida east coast subzone quota as specified in § 622.384(b)(1)(i)(A) has been taken—not to exceed 75 fish.

* * * * *

§ 622.387 [Removed and Reserved]

■ 4. Remove and reserve § 622.387.

[FR Doc. 2014–27280 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD627

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2014 Gulf of Alaska Pollock Seasonal Apportionments

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS is adjusting the 2014 seasonal apportionments of the total allowable catch (TAC) in the Gulf of Alaska (GOA) by re-apportioning unharvested pollock TAC from Statistical Areas 610 to Statistical Areas 620 and 630 of the GOA. This action is necessary to provide opportunity for harvest of the 2014 pollock TAC, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), November 14, 2014, until 2400 hours A.l.t., December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The annual pollock TACs in Statistical Areas 610, 620, and 630 of the GOA are apportioned among four seasons, in accordance with § 679.23(d)(2). Regulations at § 679.20(a)(5)(iv)(B) allow the underharvest of a seasonal apportionment to be added to subsequent seasonal apportionments, provided that any revised seasonal apportionment does not exceed 20 percent of the seasonal apportionment for a given statistical area. Therefore, NMFS is increasing the D season apportionment of pollock in Statistical Area 610 of the GOA to reflect the underharvest of pollock in that area during the A, B, and C seasons. In addition, any underharvest remaining beyond 20 percent of the originally specified seasonal apportionment in a particular area may be further apportioned to other statistical areas. Therefore, NMFS also is increasing the D season apportionments of pollock to Statistical Areas 620 and 630 based on the underharvest of pollock in Statistical Area 610 of the GOA. These adjustments are described below.

The D season apportionment of the 2014 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 13,235 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014). In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby increases the D season apportionment for Statistical Area 610 by 2,647 mt to account for the underharvest of the TAC in Statistical Area 610 in the C season. Therefore, the revised D season apportionment of the pollock TAC in Statistical Area 610 is 15,882 mt (13,235 mt plus 2,647 mt).

The pollock D season apportionment in Statistical Area 620 of the GOA is 12,448 mt as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014). In accordance with § 679.20(a)(5)(iv)(B), the Regional Administrator hereby increases the D season apportionment for Statistical Area 620 by 2,490 mt to account for the underharvest of the TAC in Statistical Area 610. This increase is in proportion to the estimated pollock biomass and is not greater than 20 percent of the seasonal TAC apportionment in Statistical Area 620. Therefore, the revised D season apportionment of the pollock TAC in Statistical Area 620 is 14,938 mt (12,448 mt plus 2,490 mt).

The pollock D season apportionment in Statistical Area 630 of the GOA is 13,720 mt as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014). In accordance with § 679.20(a)(5)(iv)(B), the Regional Administrator hereby increases the D season apportionment for Statistical Area 630 by 2,696 mt to reflect the total underharvest of the TAC in Statistical Area 610. This increase is in proportion to the estimated pollock biomass and is not greater than 20 percent of the seasonal TAC apportionment in Statistical Area 630. Therefore, the revised D season apportionment of pollock TAC in Statistical Area 630 is 16,416 mt (13,720 mt plus 2,696 mt).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would provide opportunity to harvest increased pollock seasonal apportionments. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 13, 2014.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: November 14, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–27408 Filed 11–14–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 79, No. 223

Wednesday, November 19, 2014

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA–2014–0466; Airspace Docket No. 14–ANM–6

Proposed Establishment of Class E Airspace; Seattle, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Seattle, WA, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Seattle Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and management of IFR operations within the National Airspace System (NAS).

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

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2014–0466; Airspace Docket No. 14–ANM–6, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA 2014–0466 and Airspace Docket No. 14–ANM–6) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2014–0466 and Airspace Docket No. 14–ANM–6''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

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

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

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at Seattle, WA. This action would contain aircraft while in IFR conditions under control of Seattle ARTCC by vectoring aircraft from en route airspace to terminal areas, therefore enhancing the safety and management of IFR operations within the NAS.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 of the Federal Aviation Administration Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014 is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas

* * * * *

ANM WA E6 Seattle, WA [New]

Seattle, WA

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 49°20′00″ N., long. 120°00′00″ W.; to lat. 49°00′00″ N., long. 123°00′00″ W.; to lat. 48°30′00″ N., long. 123°00′00″ W.; to lat. 48°17′08″ N., long. 123°15′16″ W.; to lat. 48°13′28″ N., long. 123°32′45″ W.; to lat. 48°17′50″ N., long. 124°00′40″ W.; to lat. 48°26′30″ N., long. 124°32′40″ W.; to lat. 48°30′00″ N., long. 124°45′00″ W.; to lat. 48°30′00″ N., long. 125°00′00″ W.; to lat. 46°15′00″ N., long. 124°30′00″ W.; to lat. 46°23′19″ N., long. 121°07′50″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on November 6, 2014.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–27315 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA–2014–0468; Airspace Docket No. 14–ANM–8

Proposed Establishment of Class E Airspace; Bend, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Bend, OR, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Seattle Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and management of IFR operations within the National Airspace System.

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

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2014–0468; Airspace Docket No. 14–ANM–8, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA 2014–0468 and Airspace Docket No. 14–ANM–8) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2014–0468 and Airspace Docket No. 14–ANM–8''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

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

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

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at Spokane, WA. This action would contain aircraft while in IFR conditions under control of Seattle ARTCC by vectoring aircraft from en route airspace to terminal areas, therefore enhancing the safety and management of IFR operations within the NAS.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

ANM WA E6 Bend, OR [New]

Bend, OR

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 45°09′13″ N., long. 119°01′43″ W.; to lat. 43°41′51″ N., long. 120°00′19″ W.; to lat. 43°27′19″ N., long. 119°56′31″ W.; to lat. 42°50′00″ N., long. 124°50′00″ W.; to lat. 46°15′00″ N., long. 124°30′00″ W.; to lat. 46°23′19″ N., long. 121°07′50″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on November 6, 2014.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–27295 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA–2014–0467; Airspace Docket No. 14–ANM–7

Proposed Establishment of Class E Airspace; Spokane, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Spokane, WA, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Seattle Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and management of IFR operations within the National Airspace System (NAS).

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

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2014–0467; Airspace Docket No. 14–ANM–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA 2014–0467 and Airspace Docket No. 14–ANM–7) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2014–0467 and Airspace Docket No. 14–ANM–7''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

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

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

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at Spokane, WA. This action would contain aircraft while in IFR conditions under control of Seattle ARTCC by vectoring aircraft from en route airspace to terminal areas, therefore enhancing the safety and management of IFR operations within the NAS.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

ANM WA E6 Spokane, WA [New]

Spokane, WA

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 45°49′52″ N., long. 118°02′34″ W.; to lat. 44°50′06″ N., long. 117°05′33″ W.; to lat. 45°50′00″ N., long. 115°45′00″ W.; to lat. 46°02′00″ N., long. 115°45′00″ W.; to lat. 48°24′00″ N., long. 115°44′57″ W.; to lat. 49°00′00″ N., long. 115°30′00″ W.; to lat. 49°00′00″ N., long. 120°00′00″ W.; to lat. 46°23′19″ N., long. 121°07′50″ W.; to lat. 45°09′13″ N., long. 119°01′43″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on 11/06/2014.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–27318 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 10

[Docket No. FDA–2012–D–1002]

Questions and Answers Regarding Food Facility Registration (Sixth Edition); Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a guidance for industry entitled ''Questions and Answers Regarding Food Facility Registration (Sixth Edition).'' The guidance includes one additional question and answer regarding FDA's policy regarding food facility registration for farms that also pack or hold raw agricultural commodities grown on a farm under different ownership in light of other ongoing FDA Food Safety Modernization Act (FSMA) rulemakings.

DATES: Submit either electronic or written comments on FDA guidances at any time.

ADDRESSES: Submit electronic comments on the guidance 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. Submit written requests for single copies of the guidance to the Office of Compliance, Division of Field Programs and Guidance, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Amy Barringer, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1988.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Questions and Answers Regarding Food Facility Registration (Sixth Edition) available on FDA's Web site at *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm331959.htm.*'' We are issuing this guidance consistent with our good guidance practices (GGP) regulation (§ 10.115 (21 CFR 10.115)). In accordance with § 10.115(g)(2), we are implementing this guidance without prior public comment because we have determined that prior public participation is not feasible or appropriate. The guidance represents a less burdensome policy consistent with the public health. Although this guidance document is immediately in effect, FDA will accept comments at any time.

Section 102 of FSMA (Pub. L. 111–353), signed into law on January 4, 2011, amends section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) (the FD&C Act) regarding requirements for food facility registration. Further, section 102(a)(3) of FSMA amends section 415 of the FD&C Act to provide that food facilities required to register with FDA must renew their registrations with FDA every 2 years, between October 1 and December 31 of each even-numbered year, by submitting registrations renewals to FDA.

In addition to amending section 415 of the FD&C Act, FSMA also amended the FD&C Act such that section 415 functions in connection with other food safety provisions. For instance, FSMA added section 418 of the FD&C Act (21 U.S.C. 350g), which establishes certain preventive control requirements for food facilities that are required to register under section 415 of the FD&C Act. In general, section 418(a) of the FD&C Act requires the owner, operator, or agent in charge of a ''facility'' to evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls, monitor the performance of those controls, and maintain records of the monitoring. The term ''facility'' is defined in section 418(*o*)(2) of the FD&C Act as ''a domestic facility or a foreign facility that is required to register under section 415.''

As part of the rulemaking to implement section 418 of the FD&C Act, on September 29, 2014 (79 FR 58524), we published a supplemental notice of proposed rulemaking in the **Federal Register**, ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food'' (preventive controls for human food). In that supplemental proposed rule, we proposed, inter alia, certain changes to the definition of the term ''farm'' in 21 CFR 1.227 (§ 1.227). If implemented, these changes would impact food facility registration because the food facility registration requirements of section 415 of the FD&C Act do not apply to an establishment that meets the definition of ''farm.'' The current definition of a ''farm'' under § 1.227 describes a farm in relevant part as a facility devoted to the growing and harvesting of crops, the raising of animals (including seafood), or both. Although that definition of ''farm'' then provides that farms also pack or hold food, it limits facilities that fall within the definition of ''farm'' to those that pack or hold food grown, raised, or consumed on that farm or another farm under the same ownership. Thus, under the current definition, an establishment that is devoted to the growing and harvesting of crops, but also packs and holds food not grown or raised on that farm or on another farm under the same ownership, would fall outside the definition of ''farm'' and be required to register as a food facility. In the supplemental notice of proposed rulemaking for preventive controls for human food, FDA proposed to revise the ''farm'' definition in relevant part so that it would no longer limit establishments that fall within the ''farm'' definition to those that pack or hold food grown, raised, or consumed on that farm or another farm under the same ownership. Under the revised ''farm'' definition, an establishment devoted to the growing of crops, the raising of animals, or both, would remain within the ''farm'' definition (and, thus, not be subject to the FD&C Act section 415 registration regulations) even if it packs and holds raw agricultural commodities grown on another farm.

In light of this ongoing rulemaking, we are announcing our policy regarding food facility registration for farms that also pack or hold raw agricultural commodities grown on a farm under different ownership and that would no longer be required to register if the proposed amendments to the ''farm'' definition are finalized as proposed. Under this policy, as discussed in the guidance, FDA does not intend to prioritize enforcing the registration requirement for such establishments. This policy is a less burdensome policy consistent with the public health. FDA intends to make further updates to this guidance once certain FSMA rulemakings are final in order to make sure questions and answers, key terms, and definitions are consistent and accurate with regard to the registration of food facility requirements.

The guidance represents our current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations and section 415 of the FD&C Act. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in §§ 1.230 through 1.235 and section 415 of the FD&C Act have been approved under OMB control number 0910–0502.

III. Comments

Interested persons may submit either electronic comments regarding this guidance 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.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/RegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.* Always access an FDA guidance document by using FDA's Web site listed in the previous sentence to find the most current version of the guidance.

Dated: November 13, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–27290 Filed 11–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2014–OII–0019; CFDA Number: 84.282A]

Proposed Priorities, Requirements, Definitions, and Selection Criteria—Charter Schools Program Grants to State Educational Agencies

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Proposed priorities, requirements, definitions, and selection criteria.

SUMMARY: The Assistant Deputy Secretary for Innovation and Improvement proposes priorities, requirements, definitions, and selection criteria under the Charter Schools Program (CSP) Grants to State educational agencies (SEAs). The Assistant Deputy Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for competitions in fiscal year (FY) 2015 and later years. We take this action in order to support the development of *high-quality charter schools* throughout the Nation by strengthening several components of this program, including grantee accountability; accountability and oversight for authorized public chartering agencies; and support to *educationally disadvantaged students.*

DATES: We must receive your comments on or before January 5, 2015.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments, address them to Stefan Huh, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W230, Washington, DC 20202–5970. *Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Jonathan Bettis, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W242, Washington, DC 20202–5970. Telephone: (202) 453–6533 or by email: *charter.schools@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of This Regulatory Action: The Assistant Deputy Secretary for Innovation and Improvement proposes priorities, requirements, definitions, and selection criteria for CSP Grants to SEAs. The Assistant Deputy Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for competitions in FY 2015 and later years. We take this action in order to support the development of *high-quality charter schools* throughout the Nation by strengthening several components of the program, including grantee accountability, accountability and oversight for authorized public chartering agencies, and support to *educationally disadvantaged students.*

Summary of the Major Provisions of This Regulatory Action: As noted above, the Assistant Deputy Secretary proposes this regulatory action to achieve three main goals.

The first goal is greater accountability for SEAs' use of CSP funds; the proposed priorities, requirements, definitions, and selection criteria would increase the likelihood that CSP funds are directed toward the creation of *high-quality charter schools.* Specifically, in order to address the proposed selection criteria, the SEA would be asked to explain how charter schools fit into the State's broader education reform strategy. In addition, these proposed selection criteria would clarify how the SEA should manage and report on project performance. Proposed selection criteria (a) (''State-Level Strategy'') and (b) (''Policy Context for Charter Schools'') would address the SEA's strategy for incorporating charter schools into the State's broader effort to improve student outcomes and how the policy context supports this goal. Proposed selection criterion (c) (''Past Performance'') would assess the performance of charter schools in the applicant's State over the past five years. Proposed selection criterion (e) (''Vision for Growth and Accountability'') would address the SEA's vision for measuring and reporting on charter school performance, cultivating the growth of new *high-quality charter schools,* and promoting rigorous accountability for charter school performance. Proposed selection criterion (f) (''Dissemination of Information and Best Practices'') would help ensure that the SEA has a plan for disseminating information about charter schools and best practices in successful charter schools. Proposed selection criterion (h) (''Management Plan and Theory of Action'') and the proposed logic model application requirement would require the SEA to provide a logic model that describes how its CSP funds would be linked to the achievement of specific measurable outcomes and performance measures that allow the SEA to track and evaluate its project's performance. Proposed selection criterion (i) (''Project Design'') would solicit information on the mechanics of the charter school subgrant program the SEA plans to implement with CSP funds. In addition to the selection criteria discussed above, proposed priority 4 (''SEAs That Have Never Received A CSP Grant'') would promote the first goal of greater accountability by supporting the growth of *high-quality charter school* sectors in States that have not received CSP funding in the past, thereby creating new systems of supports and increasing the funding available for *high-quality charter schools* in new regions.

The second goal of this proposed regulatory action is to strengthen public accountability and oversight for authorized public chartering agencies. The proposed regulations would help ensure that SEAs implement program requirements, as well as State policies and supports, in a manner that enables authorized public chartering agencies to be keenly focused on school quality through rigorous and transparent charter school authorization processes. Furthermore, it would increase the likelihood that CSP funds are directed toward the creation of *high-quality charter schools* and help improve the quality of all charter schools throughout the State.

The following proposed priorities and selection criteria support this second goal. Proposed priorities 1 (''Periodic Review and Evaluation'') and 2 (''Charter School Oversight'') would clarify existing statutory priorities in these areas. Proposed priority 3 (''High-Quality Authorizing and Monitoring Processes'') would encourage authorized public chartering agencies in States applying for this grant to adopt key authorizing and monitoring processes that are identified as best practices in the field. Proposed selection criterion (g) (''Oversight of Authorized Public Chartering Agencies'') would request that SEAs explain, in detail, their State's plan for holding authorized public chartering agencies accountable for the quality of the charter schools they approve.

The third goal of this proposed regulatory action is to encourage a stronger focus on supporting and improving academic outcomes for *educationally disadvantaged students.* While this goal has been a theme in previous competitions under this program, the proposed priorities, requirements, definitions, and selection criteria would raise its profile. The continued growth of charter schools, and ongoing questions about *educationally disadvantaged students'* access to and performance in charter schools, compels the Assistant Deputy Secretary to encourage a continued focus on students at the greatest risk of academic failure. A critical component of serving all students, including *educationally disadvantaged students,* is consideration of student body diversity, including racial, ethnic, and socioeconomic diversity. This proposed regulatory action encourages broad consideration of student body composition, consistent with applicable law, as charter schools are authorized and funded and as best practices are disseminated.

The following proposed priorities and selection criteria support this third goal. Proposed selection criterion (d) (''Quality of Plan to Support Educationally Disadvantaged Students'') would allow SEAs to highlight specific actions they would take to support *educationally disadvantaged students* through charter schools, while proposed selection criteria (f) (''Dissemination of Best Practices'') and (g) (''Oversight of Authorized Public Chartering Agencies'') would encourage the meaningful incorporation of diversity into charter school models and charter school practices.

In addition to the three goals outlined above, the Assistant Deputy Secretary proposes these priorities, requirements, definitions, and selection criteria in order to clarify certain statutory requirements and to streamline the CSP application process, thereby decreasing the burden on the applicant.

Costs and Benefits

The Department believes that the benefits of this regulatory action outweigh any associated costs, which we believe would be minimal. This action would not impose cost-bearing requirements on participating SEAs apart from those related to preparing an application for a CSP grant and would strengthen accountability for the use of Federal funds by helping to ensure that the Department awards CSP grants to SEAs that are most capable of expanding the number of *high-quality charter schools* available to our Nation's students. Please refer to the *Regulatory Impact Analysis* in this notice for a more detailed discussion of costs and benefits.

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed priority, requirement, definition, or selection criteria that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed priorities, requirements, definitions, and selection criteria. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in 400 Maryland Avenue SW., Room 4W259 Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the CSP is to increase national understanding of the charter school model by:

(1) Providing financial assistance for the planning, program design, and initial implementation of charter schools;

(2) Evaluating the effects of charter schools, including the effects on students, student achievement, student growth, staff, and parents;

(3) Expanding the number of *high-quality charter schools* available to students across the Nation; and

(4) Encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

The purpose of the CSP Grants to SEAs is to enable SEAs to provide financial assistance, through subgrants to eligible applicants, for the planning, program design, and initial implementation of charter schools and for the dissemination of information about successful charter schools, including practices that existing charter schools have demonstrated are successful.

Program Authority: Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7221–7221j); and the Consolidated Appropriations Act, 2014 (Pub. L. 113–76).

Proposed Priorities: This notice contains four proposed priorities.

Proposed Priority 1—Periodic Review and Evaluation

Background: Under the CSP authorizing statute, the Department must give priority to applications from SEAs in States that provide for periodic review and evaluation by the authorized public chartering agency of each charter school.[1] These reviews must be conducted at least once every five years for each charter school (unless required more frequently by State law) to determine whether the charter school is meeting the terms of the school's charter and meeting or exceeding the student academic achievement requirements and goals for charter schools as set forth under State law or the school's charter (20 U.S.C. 7221a(e)(2)). While this periodic review and evaluation by an authorized public chartering agency would not necessarily have to occur only as part of the charter renewal process, in order to meet the priority, the periodic review and evaluation would have to provide an opportunity for the authorized public chartering agency to impose meaningful consequences on a charter school that is not meeting the terms of its charter or is not meeting or exceeding applicable student academic achievement requirements and goals.

The language in this proposed priority is identical to the language in the statute, except that this proposed priority would clarify that periodic review and evaluation should provide an opportunity for the authorized public chartering agency to take appropriate action or impose meaningful consequences on the charter school, if necessary. The proposed priority would also clarify that the student academic achievement requirements and goals may be established in a State regulation or State policy that meets or exceeds such requirements in the State law or regulation.

Proposed Priority: To meet this priority, the applicant must demonstrate that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school at least once every five years, unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter and meeting or exceeding the student academic achievement requirements and goals for charter schools as set forth in the school's charter or under State law, a State regulation, or a State policy, provided that the student academic achievement requirements and goals for charter schools established by that policy meet or exceed those set forth under applicable State law or State regulation. Periodic review and evaluation provides an opportunity for the authorized public chartering agency to take appropriate action or impose meaningful consequences on the charter school, if necessary.

Proposed Priority 2—Charter School Oversight

Background: Since FY 2010, each appropriations act applicable to the Department has required SEAs receiving CSP grants to provide two assurances.[2] First, each SEA applicant must provide an assurance that State law, regulations, or other policies require that each authorized charter school in the State (a) operate under a legally binding charter or performance contract between itself and the school's authorized public chartering agency that describes the rights and responsibilities of the school and the public chartering agency; (b) conduct annual, timely, and independent audits of the school's financial statements that are filed with the school's authorized public chartering agency; and (c) demonstrate improved student academic achievement. Second, each SEA applicant must provide an assurance that authorized public chartering agencies in the State use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA [3] as the most important factor when determining whether to renew or revoke a school's charter.[4]

In the past, these two requirements were incorporated into an assurance document that SEA grantees signed to affirm compliance. These requirements are important characteristics of high-quality authorizing practices and are essential to holding charter schools accountable. Incorporating the language for these requirements into a priority would strengthen the Department's ability to hold SEAs accountable for meeting these requirements at the time the award is made and throughout the grant period.[5]

Proposed Priority: To meet this priority, an application must demonstrate that State law, regulations, or other policies in the State where the applicant is located require the following:

(a) That each charter school in the State—

(1) Operates under a legally binding charter or performance contract between itself and the school's authorized public chartering agency that describes the rights and responsibilities of the school and the public chartering agency;

(2) Conducts annual, timely, and independent audits of the school's financial statements that are filed with the school's authorized public chartering agency; and

(3) Demonstrates improved student academic achievement; and

(b) That all authorized public chartering agencies in the State use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA (20 U.S.C. 6311(b)(2)) as the most important factor when determining whether to renew or revoke a school's charter.

Proposed Priority 3—High-Quality Authorizing and Monitoring Processes

Background: The quality of a charter school is influenced by the quality of the charter approval process and the quality of its authorized public chartering agency's oversight and monitoring processes. This proposed priority would promote the use of charter approval, monitoring, and oversight practices that have been identified by stakeholders as likely to contribute to the creation and operation of *high-quality charter schools.*[6]

High-quality authorizing processes can influence the quality of charter schools through the authorization process and beyond. Expedited charter approval for operators with exemplary track records helps increase the number of *high-quality charter schools,* while a multi-tiered approval process can keep potentially poor-performing charter schools from ever operating. Clear charter approval processes and frameworks for evaluating charter schools and authorized public chartering agencies would strengthen accountability and improve transparency.

Strong performance monitoring mechanisms can increase the speed of

[1] Under section 5202(e)(1) of the ESEA, an SEA must meet this criterion and one or more of the three criteria described in section 5202(e)(3) in order to receive priority (20 U.S.C. 7221a(e)).

[2] The Consolidated Appropriations Act, 2010 (Pub. L. 111–117); the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10); the Continuing Appropriations Act, 2012 (Pub. L. 112–36); the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113–6); and the Consolidated Appropriations Act, 2014 (Pub.L. 113–76).

[3] The groups of students described in section 1111(b)(2)(C)(v) of the ESEA include public elementary and secondary school students, economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency.

[4] This priority would not preclude an authorized public chartering agency from revoking or electing not to renew a school's charter based on other non-academic factors, such as financial mismanagement.

[5] In years in which the appropriations act requires the elements of this proposed priority, it will be a requirement.

[6] See e.g., *National Association of Charter School Authorizers' Index of Essential Practices 2012.* Available at: *www.pageturnpro.com/National-Association-of-Charter-School-Authorizers/50450-The-Index-of-Essential-Practices-2012/index.html#/1.*

decision-making by authorized public chartering agencies, allowing *high-quality charter schools* to open, expand, and disseminate information about best practices. These systems can also accelerate the identification of charter schools that are performing poorly or demonstrate significant operational risks and, when necessary, expedite their closure.

Proposed Priority: To meet this priority, an applicant must demonstrate that all authorized public chartering agencies in the State operate using one or more of the following:

(a) Frameworks and processes to evaluate the performance of charter schools on a regular basis that include—

(1) Rigorous academic and operational performance expectations (including performance expectations related to financial management and equitable treatment of all students and applicants);

(2) School-specific performance objectives aligned to those expectations;

(3) Clear criteria for renewing the charter of a school based on an objective body of evidence, including the performance objectives outlined in the charter contract, demonstration of organizational and fiscal viability, and demonstration of fidelity to the terms of the charter contract and applicable law;

(4) Clear criteria for revoking the charter of a school if there is violation of law or public trust regarding student safety or public funds, or evidence of poor student academic achievement; and

(5) Annual reporting by authorized public chartering agencies to each of their authorized charter schools that summarizes the individual school's performance and compliance, based on this framework, and identifies any areas needing improvement.

(b) Standardized systems that measure and benchmark the performance of the authorized public chartering agency, including the performance of its portfolio of charter schools, and provide for the annual dissemination of information on such performance;

(c) Authorizing processes that establish clear criteria for evaluation of charter applications and include a multi-tiered clearance or review of a charter school, including a final review immediately before the school opens for its first operational year; or

(d) Authorizing processes that include differentiated review of charter petitions based on whether, and the extent to which, the charter school developer has been successful (as determined by the authorized public chartering agency) in establishing and operating one or more high-quality charter schools.

Proposed Priority 4—SEAs That Have Never Received a CSP Grant

Background: This proposed priority would assist SEAs that have never received a CSP grant and it would address a major purpose of the CSP by expanding the number of *high-quality charter schools* across the Nation. A CSP grant can help an SEA support the growth of a *high-quality charter school* sector in its State beyond the startup of additional charter schools. The required elements for conducting a CSP subgrant program and the opportunity to share effective practices with other SEA grantees contribute to the development of a solid infrastructure to support charter schools. These required elements include investing in quality authorizing practices, developing a subgrant competition process, and disseminating information about charter schools and best practices in charter schools. Therefore, this proposed priority would help create and strengthen a community of charter school practitioners and supports for the charter school sector in the State.

Proposed Priority: To meet this priority, an applicant must be an eligible SEA applicant that has never received a CSP grant.

Types of Priorities: When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Proposed Requirements

Background: We propose four application requirements to use in conjunction with the statutory application requirements. The purpose of the first application requirement is to collect important information on charter school admissions lotteries, including any proposed student enrollment preferences or exemptions from the lottery.[7] The purposes of the remaining three application requirements are to strengthen the Department's ability to monitor CSP grants and ensure that grantees adhere to the terms of their approved applications, specifically through the development of comprehensive logic models and their definitions of a *high-quality charter school* and an *academically poor-performing charter school,* during their projects.

Proposed Requirements: The Assistant Deputy Secretary proposes the following requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

Lottery and Enrollment Preferences: Describe (1) how lotteries for admission to charter schools will be conducted in your State, including any student enrollment preferences or exemptions from the lottery that charter schools are required or expressly permitted by the State to employ, and (2) any mechanisms that exist for the SEA or authorized public chartering agency to review, monitor, or approve such lotteries or student enrollment preferences or exemptions from the lottery. In addition, the SEA must provide an assurance that it will require each applicant for a CSP subgrant to include in its application descriptions of its recruitment and admissions policies and practices, including a description of the proposed lottery and any enrollment preferences or exemptions from the lottery the charter school employs or plans to employ, and how those enrollment preferences or exemptions are consistent with State law, the CSP authorizing statute, and CSP guidance (for information related to admissions and lotteries under the CSP, please see Section E of the CSP guidance at *http://www2.ed.gov/programs/charter/nonregulatory-guidance.html*).

[7] The Department is requesting this information in response to specific recommendations made by the Government Accountability Office (GAO) in its February 2013 report entitled, ''Charter Schools: Guidance Needed for Military Base Schools on Startup and Operational Issues'' (GAO–13–67). In its response to the report, the Department agreed, among other things, to require SEAs (and other eligible applicants under the CSP), as appropriate, (a) to describe any enrollment preferences that charter schools are required or permitted to employ under State law; and (b) to require applicants for CSP subgrants to include descriptions of their recruitment and admissions policies and practices, including any enrollment preferences they plan to employ, in their subgrant applications.

Logic model: Provide a complete logic model for the project, as defined in 34 CFR 77.1.[8] The logic model must address the role of the grant in promoting the State-level strategy, articulated in selection criterion (a), for expanding the number of *high-quality charter schools* through startup subgrants, optional dissemination subgrants, optional revolving loan funds, and other strategies.

High-quality charter school: Provide—

(a) Written certification that, for the purposes of the CSP grant, the SEA uses the term *high-quality charter schools* as defined in this notice; or

(b) If the State proposes to use an alternative definition of *high-quality charter school* in accordance with paragraph (b) of the definition of the term in this notice, (1) the specific definition the State proposes to use; and (2) a written explanation of why the proposed definition is at least as rigorous as the definition of *high-quality charter school* set forth in the Definitions section of this notice.

Academically poor-performing charter school: Provide—

(a) Written verification that, for purposes of the CSP grant, the SEA uses the term *academically poor-performing charter schools* as defined in this notice; or

(b) If the State proposes to use an alternative definition of *academically poor-performing charter school* in accordance with paragraph (b) of the definition of the term in this notice, (1) the specific definition the State proposes to use; and (2) a written explanation of why the proposed definition is at least as rigorous as the definition of *academically poor-performing charter school* set forth in the Definitions section of this notice.

Proposed Definitions

Background: We propose to define four important terms associated with this program that are not defined in section 5210 of the ESEA (20 U.S.C. 7221i) or 34 CFR 77.1.

Proposed Definitions: The Assistant Deputy Secretary proposes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

The proposed definitions of *high-quality charter school,* and *significant compliance issue* are substantively similar to the definitions of the terms in the notice of final priorities, requirements, and definitions for the CSP Replication and Expansion grant program, published in the **Federal Register** on July 12, 2011 (76 FR 40898). While the definition of ''educationally disadvantaged students'' is similar to the definition of the term in the July 12, 2011, notice of final priorities, requirements, and definitions for the CSP Replication and Expansion grant program, the definition of *educationally disadvantaged students* in this notice is based primarily on section 1115(b)(2) of the ESEA.

Although we propose minor revisions to these definitions to capture the meaning of these terms from a State perspective, the substance of the definitions remains unchanged.

Academically poor-performing charter school means—

(a) A charter school that has been in operation for at least three years and that—

(1) Has been identified as being in the lowest-performing five percent of all schools in the State and has failed to improve school performance (based on the SEA's accountability system under the ESEA) over the past three years; and

(2) Has failed to demonstrate student academic growth (at least an average of one grade level of growth for each cohort of students) in each of the past three years, as demonstrated by statewide or other assessments approved by the authorized public chartering agency; or

(b) An SEA may use an alternative definition for *academically poor-performing charter school,* provided that the SEA complies with the requirements for proposing to use an alternative definition for the term as set forth in paragraph (b) of ''*Academically poor-performing charter school*'' in the Proposed Requirements section of this notice.

Educationally disadvantaged students means economically disadvantaged students, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, or homeless students.

High-quality charter school means—

(a) A charter school that shows evidence of strong academic results for the past three years (or over the life of the school, if the school has been open for fewer than three years), based on the following factors:

(1) Increased student academic achievement and attainment (including, if applicable, high school graduation rates and college and other postsecondary education enrollment rates) for all students, including, as applicable, *educationally disadvantaged students* served by the charter school;

(2) Either—

(i) Demonstrated success in closing historic achievement gaps for subgroups of students described in section 1111 of the ESEA (20 U.S.C. 6311) at the charter school; or

(ii) No significant achievement gaps between any of the subgroups of students described in section 1111 of the ESEA (20 U.S.C. 6311) at the charter school and significant gains in student academic achievement for all populations of students served by the charter school;

(3) Results (including, if applicable and available, performance on statewide tests, annual student attendance and retention rates, high school graduation rates, college and other postsecondary education attendance rates, and college and other postsecondary education persistence rates) for low-income and other *educationally disadvantaged students* served by the charter school that are above the average academic achievement results for such students in the State;

(4) Results on a performance framework established by the State or authorized public chartering agency for purposes of evaluating charter school quality; and

(5) No *significant compliance issues,* particularly in the areas of student safety, financial management, and equitable treatment of students; or

(b) An SEA may use an alternative definition for *high-quality charter school,* provided that the SEA complies with the requirements for proposing to use an alternative definition for the term as set forth in paragraph (b) of ''*High-quality charter school*'' in the Proposed Requirements section of this notice.

Significant compliance issue means a violation that did, will, or could (if not addressed or if it represents a pattern of repeated misconduct or material non-compliance) lead to the revocation of a school's charter.

Proposed Selection Criteria

Background: The proposed selection criteria would strengthen several components of this program, which include grantee accountability; accountability and oversight for authorized public chartering agencies; and equitable access to charter schools and support for *educationally disadvantaged students.* The proposed selection criteria also would improve efficacy in data collection and reporting by clarifying application requirements and streamlining the selection criteria.

[8] Under 34 CFR 77.1, *logic model* (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Specifically, factors (1), (2), and (3) under proposed selection criterion (b) (''Policy Context for Charter Schools'') are based upon elements of the CSP authorizing statute.

Proposed selection criteria (a) (''State-Level Strategy''), (b) (''Policy Context for Charter Schools''), and (c) (''Past Performance'') would request that the SEA describe its vision and the policy context for charter schools in the State and provide evidence of the past performance of charter schools in the State. These criteria are intended to encourage an SEA to consider charter schools as a key part of its overall efforts to improve public education and allow reviewers to evaluate the context in which a grant might be awarded.

Proposed selection criteria (d) (''Quality of Plan to Support Educationally Disadvantaged Students''), (e) (''Vision for Growth and Accountability''), (f) (''Dissemination of Information and Best Practices''), and (g) (''Oversight of Authorized Public Chartering Agencies'') would allow an SEA to focus on specific areas of importance for charter schools in its State. As noted in the *Executive Summary,* a major focus of the competition would be on the quality of the plan to support *educationally disadvantaged students.* Specifically, proposed selection criterion (d) (''Quality of Plan to Support Educationally Disadvantaged Students'') would ask an SEA to describe how it plans to support *educationally disadvantaged students* equitably and meaningfully.

Proposed selection criterion (e) (''Vision for Growth and Accountability'') would ask an SEA to describe its vision for cultivating high-performing charter schools generally, while proposed selection criteria (f) (''Dissemination of Information and Best Practices'') and (g) (''Oversight of Authorized Public Chartering Agencies'') would ask an SEA to describe how it plans to disseminate best or promising practices of charter schools to each local educational agency (LEA) in the State. In addition, these criteria would ask an SEA to describe its efforts to strengthen authorized public chartering agencies' oversight and approval processes for charter schools (including any efforts by the SEA to encourage authorized public chartering agencies to create a robust portfolio of *charter schools,* including charter schools with a focus on increasing student body diversity). By disseminating information on successful school models that incorporate student body diversity, and by encouraging authorized public chartering agencies to work with charter school developers to address student body diversity during the charter approval, monitoring, and renewal processes, these selection criteria would encourage the meaningful inclusion of student body diversity in charter school models, in accordance with applicable law, as they are being developed and implemented.

Proposed selection criteria (h) (''Management Plan and Theory of Action'') and (i) (''Project Design'') would require an SEA to describe, in detail, the key elements of its proposed project in the form of a logic model that includes relevant program and project-specific performance measures and the mechanics of the SEA's planned subgrant competitions, including how such competitions would create a portfolio of subgrantees that focus on areas of need within the State.

Proposed Selection Criteria: The Assistant Deputy Secretary proposes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. In the notice inviting applications or the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) *State-Level Strategy.* The Secretary considers the quality of the State-level strategy for using charter schools to improve educational outcomes for students throughout the State. In determining the quality of the State-level strategy, the Secretary considers one or more of the following factors:

(1) The extent to which the SEA's CSP activities, including the subgrant program, are integrated into the State's overall strategy for improving student academic achievement and attainment (including high school graduation rates and college and other postsecondary education enrollment rates), and closing achievement and attainment gaps, and complement or leverage other statewide education reform efforts (*e.g., as described in the State's Race to the Top application or ESEA Flexibility request*);

(2) The extent to which funding equity for charter schools (including equitable funding for charter school facilities) is incorporated into the SEA's State-level strategy; and

(3) The extent to which the State encourages local strategies for improving student academic achievement and attainment that involve charter schools, including but not limited to the following:

(i) Collaboration, including the sharing of data and promising instructional and other practices, between charter schools and other public schools or providers of early learning and development programs or alternative education programs; and

(ii) The creation of charter schools that would serve as viable options for students who currently attend, or would otherwise attend, the State's lowest-performing schools.

(b) *Policy Context for Charter Schools.* The Secretary considers the policy context for charter schools under the proposed project. In determining the policy context for charter schools under the proposed project, the Secretary considers one or more of the following factors:

(1) The degree of flexibility afforded to charter schools under the State's charter school law, including:

(i) The extent to which charter schools in the State are exempt from State or local rules that inhibit the flexible operation and management of public schools; and

(ii) The extent to which charter schools in the State have a high degree of autonomy, including autonomy over the charter school's budget, expenditures, staffing, procurement, and curriculum;

(2) The quality of the SEA's process for:

(i) Annually informing each charter school in the State about Federal funds the charter school is eligible to receive and about Federal programs in which the charter school may participate; and

(ii) Annually ensuring that each charter school in the State receives, in a timely fashion, the school's commensurate share of Federal funds that are allocated by formula each year, particularly during the first year of operation of the school and during a year in which the school's enrollment expands significantly; and

(3) The quality of the SEA's plan to ensure that charter schools that are considered to be LEAs under State law and that LEAs in which charter schools are located will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(c) *Past Performance.* The Secretary considers the past performance of charter schools in a State that enacted a charter school law for the first time five or more years before submission of its application. In determining the past performance of charter schools in a State that enacted a charter school law for the first time five or more years before submission of the SEA's application, the Secretary considers one or more of the following factors:

(1) The extent to which there has been a demonstrated increase, for each of the past five years, in the number and percentage of *high-quality charter schools* (as defined in this notice) in the State;

(2) The extent to which there has been a demonstrated reduction, for each of the past five years, in the number and percentage of *academically poor-performing charter schools* (as defined in this notice) in the State; and

(3) Whether, and the extent to which, the academic achievement and academic attainment (including high school graduation rates and college and other postsecondary education enrollment rates) of charter school students equal or exceed the academic achievement and academic attainment of similar students in other public schools in the State over the past five years.

(d) *Quality of Plan to Support Educationally Disadvantaged Students.* The Secretary considers the quality of the SEA's plan to support *educationally disadvantaged students.* In determining the quality of the plan to support *educationally disadvantaged students,* the Secretary considers one or more of the following factors:

(1) The extent to which the SEA's charter school subgrant program would—

(i) Assist students, particularly *educationally disadvantaged students,* in meeting and exceeding State academic content standards and State student achievement standards; and

(ii) Reduce or eliminate achievement gaps for *educationally disadvantaged students;*

(2) The quality of the SEA's plan to ensure that charter schools attract, recruit, admit, enroll, serve, and retain *educationally disadvantaged students* equitably, meaningfully, and, with regard to *educationally disadvantaged students* who are students with disabilities or English learners, in a manner consistent with, as appropriate, the IDEA (regarding students with disabilities) and civil rights laws, in particular, section 504 of the Rehabilitation Act of 1973, as amended, and title VI of the Civil Rights Act of 1964;

(3) The extent to which the SEA will encourage innovations in charter schools, such as models, policies, supports, or structures, that are designed to improve the academic achievement of *educationally disadvantaged students;* and

(4) The quality of the SEA's plan for monitoring all charter schools to ensure compliance with Federal and State laws, particularly laws related to educational equity, nondiscrimination, and access to public schools for *educationally disadvantaged students.*

(e) *Vision for Growth and Accountability.* The Secretary determines the quality of the SEA's vision for charter school growth and accountability. In determining the quality of the SEA's vision, the Secretary considers one or more of the following factors:

(1) The quality of the SEA's systems for collecting, analyzing, and publicly reporting data on charter school performance, including data on student academic achievement, attainment (including high school graduation rates and college and other postsecondary education enrollment rates), retention, and discipline for all students and disaggregated by student subgroup;

(2) The ambition, vision, and feasibility of the SEA's plan (including key actions) to support the creation of *high-quality charter schools* during the project period, including a reasonable estimate of the number of *high-quality charter schools* to be created in the State during the project period; and

(3) The ambition, vision, and feasibility of the SEA's plan (including key actions) to support the closure of *academically poor-performing charter schools* in the State (i.e., through revocation, non-renewal, or voluntary termination of a charter) during the project period.

(f) *Dissemination of Information and Best Practices.* The Secretary considers the quality of the SEA's plan to disseminate information about charter schools and best or promising practices of successful charter schools to each LEA in the State as well as to charter schools, other public schools, and charter school developers (20 U.S.C. 7221(b)(2); 20 U.S.C. 7221(c)(f)(6)). If an SEA proposes to use a portion of its grant funds for dissemination subgrants under section 5204(f)(6)(B) of the ESEA (20 U.S.C. 7221c), the SEA should incorporate these subgrants into the overall plan for dissemination. In determining the quality of the SEA's plan to disseminate information about charter schools and best or promising practices of successful charter schools, the Secretary considers one or more of the following factors:

(1) The extent to which the SEA will serve as a leader in the State for identifying and disseminating information (which may include, but is not limited to, providing technical assistance) about best or promising practices in successful charter schools, including how the SEA will use measures of efficacy and data in identifying such practices and assessing the impact of its dissemination activities;

(2) The quality of the SEA's plan for disseminating information and research on best or promising practices used and benefits of charter schools that effectively incorporate student body diversity, including racial and ethnic diversity and diversity with respect to *educationally disadvantaged students,* consistent with applicable law;

(3) The quality of the SEA's plan for disseminating information and research on best or promising practices in charter schools related to student discipline and school climate; and

(4) For an SEA that proposes to use a portion of its grant funds to award dissemination subgrants under section 5204(f)(6)(B) of the ESEA (20 U.S.C. 7221a), the quality of the subgrant award process and the likelihood that such dissemination activities will increase the number of *high-quality charter schools* in the State and contribute to improved student academic achievement.

(g) *Oversight of Authorized Public Chartering Agencies.* The Secretary considers the quality of the SEA's plan (including any use of grant administrative or other funds) to monitor, evaluate, assist, and hold accountable authorized public chartering agencies. In determining the quality of the SEA's plan to provide oversight to authorized public chartering agencies, the Secretary considers how well the SEA's plan will ensure that authorized public chartering agencies are—

(1) Seeking and approving charter school petitions from developers with the capacity to create *high-quality charter schools;*

(2) Approving charter school petitions with design elements that incorporate evidence-based school models and practices, including, but not limited to, school models and practices that focus on racial and ethnic diversity in student bodies and diversity in student bodies with respect to *educationally disadvantaged students,* consistent with applicable law;

(3) Establishing measureable academic and operational performance expectations for all charter schools (including alternative charter schools, virtual charter schools, and charter schools that include pre-kindergarten, if such schools exist in the State) that include, but are not limited to, the elements of *high-quality charter schools* as defined in this notice;

(4) Monitoring their charter schools on at least an annual basis, including conducting an in-depth review of each charter school at least once every five years, to ensure that charter schools are meeting the terms of their charters and complying with applicable State and Federal laws;

(5) Using increases in student academic achievement as the most important factor in renewal decisions; basing renewal decisions on a comprehensive set of criteria, which are set forth in the charter contract; and revoking, not renewing, or encouraging the voluntary termination of charters held by *academically poor-performing charter schools;*

(6) Providing, on an annual basis, public reports on the performance of their portfolios of charter schools, including the performance of each individual charter school with respect to meeting the terms of, and expectations set forth in, the school's charter contract.

(7) Supporting charter school autonomy while holding charter schools accountable for results and meeting the terms of their charters and performance agreements; and

(8) Ensuring the continued accountability of charter schools during any transition to new State assessments or accountability systems, including those based on college- and career-ready standards.

(h) *Management Plan and Theory of Action.* The Secretary considers the quality of the management plan and the project's theory of action. In determining the quality of the management plan and the project's theory of action, the Secretary considers one or more of the following factors:

(1) The quality, cohesion, and reasoning of the logic model (as defined in 34 CFR 77.1 (c)), including the extent to which it addresses the role of the grant in promoting the State-level strategy for using charter schools to improve educational outcomes for students through CSP subgrants for planning, program design, and initial implementation; optional dissemination subgrants; optional revolving loan funds; and other strategies;

(2) The extent to which the SEA's project-specific performance measures, including any measures required by the Department, support the logic model; and

(3) The adequacy of the management plan to—

(i) Achieve the objectives of the proposed project on time and within budget, including the existence of clearly defined responsibilities, timelines, and milestones for accomplishing project tasks; and

(ii) Address any compliance issues or findings related to the CSP that are identified in an audit or other monitoring review.

(i) *Project Design.* The Secretary considers the quality of the design of the SEA's charter school subgrant program, including the extent to which the project design furthers the SEA's overall strategy for increasing the number of *high-quality charter schools* in the State and improving student academic achievement. In determining the quality of the project design, the Secretary considers one or more of the following factors:

(1) The quality of the SEA's charter school subgrant awards process, and the dissemination subgrant awards process, if applicable, including:

(i) The subgrant application and peer review process, timelines for these processes, and how the SEA intends to ensure that subgrants will be awarded to applicants demonstrating the capacity to create *high-quality charter schools;* and

(ii) A reasonable year-by-year estimate, with supporting evidence, of the number of subgrants the SEA expects to award during the project period and the average size of those subgrants, including an explanation of any assumptions upon which the estimates are based, and if the SEA has previously received a CSP grant, the percentage of eligible applicants that were awarded subgrants and how this percentage related to the overall quality of the applicant pool;

(2) The process for monitoring CSP subgrantees;

(3) How the SEA will create a portfolio of subgrantees that focuses on areas of need within the State, such as increasing student body diversity, and how this prioritization aligns with the State-level strategy;

(4) The steps the SEA will take to inform teachers, parents, and communities of the SEA's charter school subgrant program; and

(5) A description of any requested waivers of statutory or regulatory provisions over which the Secretary exercises administrative authority and the extent to which those waivers will, if granted, further the objectives of the project.

Final Priorities, Requirements, Definitions, and Selection Criteria: We will announce the final priorities, requirements, definitions, and selection criteria in a notice in the **Federal Register**. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action would have an annual effect on the economy of more than $100 million because we anticipate awarding more than $100 million in grants to SEAs in FY 2015. Therefore, this proposed action is ''economically significant'' and subject to review by OMB under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits, both quantitative and qualitative, of this proposed regulatory action and have determined that the benefits would justify the costs.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these proposed priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this proposed regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis we discuss the potential costs and benefits of this action as well as regulatory alternatives we considered.

Discussion of Potential Costs and Benefits

The Department believes that this regulatory action would not impose significant costs on eligible SEAs, whose participation in this program is voluntary. This action would not impose requirements on participating SEAs apart from those related to preparing an application for a CSP grant. The costs associated with meeting these requirements are, in the Department's estimation, minimal.

This regulatory action would strengthen accountability for the use of Federal funds by helping to ensure that the Department selects for CSP grants the SEAs that are most capable of expanding the number of *high-quality charter schools* available to our Nation's students, consistent with the purpose of the program as described in section 5201 of the ESEA (20 U.S.C. 7221). Similarly, this action would benefit participating SEAs by supporting their efforts to encourage the development and operation of *high-quality charter schools.* The Department believes that these benefits to the Federal government and to SEAs outweigh the costs associated with this action.

Regulatory Alternatives Considered

The Department believes that the priorities, requirements, definitions, and selection criteria proposed in this notice are needed to administer the program effectively. As an alternative to promulgating the proposed selection criteria, the Department could choose from among the selection factors authorized for CSP grants to SEAs in section 5204(a) of the ESEA (20 U.S.C. 7221c) and the general selection criteria in 34 CFR 75.210. We do not believe that these factors and criteria provide a sufficient basis on which to evaluate the quality of applications. In particular, the factors and criteria would not sufficiently enable the Department to assess an applicant's past performance with respect to the operation of *high-quality charter schools* or the closure of *academically poor-performing charter schools* (as would be examined under proposed selection criterion (c) ''Past Performance'') or its plan to hold authorized public chartering agencies accountable for the performance of charter schools that they approve (as under criterion (g) ''Oversight of Authorized Public Chartering Agencies''), considerations which are critically important in determining applicant quality.

We note that several of the priorities, requirements, and selection criteria proposed in this notice are based on priorities, requirements, selection criteria, and other provisions in the authorizing statute for this program.

Accounting Statement

As required by OMB Circular A–4 (available at *www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this regulatory action. This table provides our best estimate of the changes in annual monetized transfers as a result of this regulatory action. Expenditures are classified as transfers from the Federal Government to SEAs.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

[in millions]

Category	Transfers
Annualized Monetized Transfers.	$100.
From Whom to Whom?	From the Federal Government to SEAs.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g., braille, large print, audiotape, or compact disc*) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: November 13, 2014.

Nadya Chinoy Dabby,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2014–27264 Filed 11–18–14; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2011–0817; FRL–9918–60–OAR]

RIN 2060–AQ93

National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants: Amendments

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On February 12, 2013, the Environmental Protection Agency (EPA) finalized amendments to the national emission standards for the control of hazardous air pollutants (NESHAP) from the new and existing Portland cement manufacturing industry at major sources of hazardous air pollutants (HAP). Subsequently, the EPA has become aware of certain minor technical errors in those amendments, and is, accordingly, proposing amendments and technical corrections to the final rule. In addition, the EPA plans to remove rule provisions establishing an affirmative defense in the final technical correction rule.

DATES: *Comments.* Comments must be received on or before January 20, 2015, or 30 days after date of public hearing, if later.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by November 24, 2014, we will hold a public hearing on December 4, 2014 on the EPA campus at 109 T.W. Alexander Drive, Research Triangle Park, North Carolina.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2011–0817, 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 Attention Docket ID No. EPA–HQ–OAR–2011–0817 in the subject line of the message.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2011–0817.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA–HQ–OAR–2011–0817, 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, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand/Courier Delivery:* EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC 20004, Attention Docket ID Number EPA–HQ–OAR–2011–0817. 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 Number EPA–HQ–OAR–2011–0817. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: *http://www.epa.gov/dockets.*

Docket. The EPA has established a docket for this rulemaking under Docket ID Number EPA–HQ–OAR–2011–0817. 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, is not placed on the Internet and 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, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Public Hearing. If anyone contacts the EPA requesting a public hearing by November 24, 2014, the public hearing will be held on December 4, 2014 at the EPA's campus at 109 T.W. Alexander Drive, Research Triangle Park, North Carolina. The hearing will begin at 1:00 p.m. (Eastern Standard Time) and conclude at 5:00 p.m. (Eastern Standard Time). Please contact Ms. Pamela Garrett at (919) 541–7966 or to register to speak at the hearing, or to inquire about whether a hearing will be held. The last day to pre-register in advance to speak at the hearings will be December 1, 2014. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration. If you require an accommodation, we ask that you pre-register for the hearing, as we may not be able to arrange such accommodations without advance notice.

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. Because this hearing is being held at a U.S. government facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma or the state of Washington, you must present an additional form of identification to enter the federal building. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons.

The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Commenters should notify Ms. Garrett if they will need specific equipment, or if there are other special needs related to providing comments at the hearings. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

Again, a hearing will only be held if requested by November 24, 2014. Please contact Ms. Pamela Garrett at (919) 541–7966 or at *garrett.pamela@epa.gov* or visit *http://www.epa.gov/airquality/cement/actions.html* to determine if a hearing will be held. If the EPA holds a public hearing, the EPA will keep the record of the hearing open for 30 days after completion of the hearing to provide an opportunity for submission of rebuttal and supplementary information.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon Nizich, Minerals and Manufacturing Group, Sector Policies and Programs Division (D243–04), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2825; facsimile number: (919) 541–5450; email address: *nizich.sharon@epa.gov.* For information about the applicability of the NESHAP or NSPS contact Mr. Patrick Yellin, Monitoring, Assistance and Media Programs Division (2227A), Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number (202) 564–2970; email address *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of this Document. The following outline is provided to aid in locating information in the preamble.

I. General Information
A. What is the source of authority for this action?
B. What entities are potentially affected by this action?
C. What should I consider as I prepare my comments for the EPA?
II. Background
III. Discussion of the Issues Under Consideration
IV. Plan To Remove Affirmative Defense
V. Solicitation of Public Comment on Proposed Amendments
VI. Technical Corrections and Clarifications
VII. 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

I. General Information

A. What is the source of authority for this action?

The statutory authority for this action is provided by sections 111, 112 and 301(a) of the Clean Air Act (CAA) as amended (42 U.S.C. 7411, 7412 and 7601(a)).

B. What entities are potentially affected by this action?

Categories and entities potentially regulated by this proposed rule include:

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Category	NAICS code [a]	Examples of regulated entities
Industry	327310	Portland cement manufacturing plants.
Federal government		Not affected.
State/local/tribal government		Portland cement manufacturing plants.

[a] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility could be regulated by this action, you should examine the applicability criteria in 40 CFR 60.60 (subpart F) or in 40 CFR 63.1340 (subpart LLL). If you have any questions regarding the applicability of this action to a particular entity, contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

C. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit this information to the EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI to only the following address: Ms. Sharon Nizich, c/o OAQPS Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2011–0817.

Docket. The docket number for this document is Docket ID No. EPA–HQ–OAR–2011–0817.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this document will be posted on the WWW through the Technology Transfer Network (TTN) Web site. Following signature, the EPA will post a copy of this document at *http://www.epa.gov/airquality/cement/actions.html.* The TTN provides information and technology exchange in various areas of air pollution control.

II. Background

In 2010, the EPA established NESHAP for the Portland Cement source category. 75 FR 54970 (September 9, 2010). Specifically, the EPA established emission standards for mercury (Hg), hydrogen chloride (HCl), total hydrocarbons (THC) (or in the alternative, organic HAP (oHAP), and particulate matter (PM). These standards, established pursuant to section 112 (d) of the Act (CAA), reflected performance of maximum available control technology. Following court remand, *Portland Cement Ass'n* v. *EPA,* 665 F. 3d 177 (D.C. Cir. 2011), the EPA amended some of these standards in 2013, and established a new compliance date for the amended standards. 78 FR 10006 (Feb. 12, 2013). All of these actions were upheld by the United States Court of Appeals for the District of Columbia Circuit. *Natural Resources Defense Council* v. *EPA,* 749 F. 3d 1055 (D.C. Cir. 2014). The court, however, also vacated a provision of the rule establishing an affirmative defense when violations of the standards occurred because of malfunctions. 749 F. 3d at 1063–64. In light of the court's vacatur, the regulatory provisions establishing the affirmative defense are null and void. Thus, the EPA plans to remove the affirmative defense regulatory text (40 CFR 63.1344) as part of the final technical corrections rule.

The EPA also adopted standards of performance for new Portland cement sources as part of the same regulatory action establishing the 2010 NESHAP. 75 FR 54970(Sept. 9, 2010); see also *Portland Cement Ass'n* v. *EPA,* 665 F. 3d at 190–92 (upholding these standards). The EPA is proposing certain technical changes to these standards as part of today's action. These changes do not affect the standards nor do they affect the expected cost of compliance.

III. Discussion of the Issues Under Consideration

The EPA is proposing certain clarifying changes and corrections to the 2013 final rule. Specifically, these amendments would: (1) Clarify the definition of rolling average, operating day and run average; (2) restore the table of emission limits which apply until the September 9, 2015, compliance date; (3) correct equation 8 regarding sources with an alkali bypass or inline coal mill that include a separate stack; (4) provide a scaling alternative for sources that have a wet scrubber, tray tower or dry scrubber relative to the HCl compliance demonstration; (5) add a temperature parameter to the startup and shutdown requirements; (6) clarify language related to span values for both Hg and HCl measurements; and (7) correct inadvertent typographical errors. The EPA also proposes to clarify and correct certain inadvertent inconsistencies in the final rule regulatory text, such as correction of the compliance date for new sources and correction to the compliance date regarding monitoring and recordkeeping requirements to reflect the effective date of the final rule for the NSPS.

In both the NSPS and the NESHAP, we are proposing language to clarify the existing definitions of Operating Day, Rolling Average and Run Average to promote consistent and clear monitoring data recording and emissions reporting. The clarifications below are in response to industry questions and neither is intended to change the meaning of the final rule. We propose to clarify that ''Operating Day'' is any 24-hour period where clinker is produced. This clarification is necessary to specify that during any day with both operations and emissions, an emissions value or an average of emissions values representing those operations is included in the 30-day rolling average calculation. We also propose to clarify that ''Rolling Average'' means a weighted average of all monitoring data collected during a specified time period divided by all production of clinker during those same hours of operation. This clarification is necessary to specify the way a long term rolling average value is calculated such that different facilities are not using different approaches to demonstrate compliance with the rule. In addition, we propose to revise the definition of ''Run Average'' to clarify that the run average means the average of the recorded parameter values, not the 1-minute parameter values, for a run.

We are proposing to amend 40 CFR 63.1349(b)(8)(vii) that includes a provision describing performance testing requirements when a source demonstrates compliance with the emissions standard using a continuous emissions monitoring system (CEMS) for sulfur dioxide (SO_2) measurement and reporting.

We are proposing to add a scaling alternative whereby if a source uses a wet scrubber, tray tower or dry scrubber, and where the test run average of the three HCl compliance tests demonstrates compliance below 2.25 parts per million by volume (ppmv) (which is 75 percent of the HCl emission limit), the source may calculate an operating limit by establishing a relationship of the average SO_2 CEMS signal to the HCl concentration (corrected to 7 percent oxygen). The operating limit would be established at a point where the SO_2 CEMS indicates the source would be at 2.25 ppmv. Since the 2.25 ppmv is below the actual limit of 3.0 ppmv, the source will continue to demonstrate compliance with the HCl standard. Given the fact that SO_2 controls preferentially remove HCl, an increase in SO_2 emissions would not indicate an increase in HCl emissions as long as some SO_2 emissions reductions are occurring. Adding this compliance flexibility should not result in any increase in HCl emissions. We solicit comment on this approach.

We also propose, under 40 CFR 63.1346(g)(3), to revise language related to the use of air pollution control devices (APCD). During startup, fuel feed is increased over time until normal operating temperatures are achieved. According to industry, during both startup and shutdown, the gas stream to the APCD will be above 12-percent oxygen because the system is being operated at reduced fuel combustion rates. The minimal temperature at which oxygen content is below 12 percent and thereby assuring the stream is nonexplosive, is 300 degrees Fahrenheit. There are also issues with activated carbon and hydrated lime being injected into large ducts with low gas flows. With low gas flows, these materials fall out of the stream and accumulate in the duct work. In addition, lime affected by water vapor condensation present during startup and shutdown conditions will cause the lime to harden and reduce the efficiency for dust removal.[1] Therefore, we propose to require the APCD be turned on when the temperature of the APCD reaches 300 degrees Fahrenheit. We also propose to clarify that this section is applicable to HAP control devices, a requirement inadvertently missing from the promulgated rule.

We propose to modify the measurement span criteria for HCl CEMS to include better quality assurance/quality control (QA/QC) for measurements of elevated HCl emissions that may result from ''mill off'' operations. This slight increase in measurement span (from 5 parts per million (ppm) to 10 ppm) provides for an improved balance between accurately quantifying measurements at low emissions levels (the majority of operating time) and improving QA/QC for brief periods of elevated emissions observed during ''mill off'' operation (the majority of HCl mass emissions).

We propose to remove 40 CFR 60.64(c)(2), which applied when sources did not have valid 15-minute CEMS data. This provision allowed for inclusion of the average emission rate from the previous hour for which data were available. This provision was inadvertently added to the final rule, but this substitution is not an allowable action. We solicit comment on removal of this subsection.

We are also proposing to revise 40 CFR 63.1350(o) (Alternative Monitoring Requirements Approval), since language in this section, which does not allow an operator to apply for alternative THC monitoring, is now obsolete. Since there is now alternative monitoring allowed in 40 CFR 63.1350(j) due to the 2013 amendments (see 78 FR 10015), the exception is largely no longer needed. A source that emits a high amount of THC due to methane emissions, for example, can follow the alternative oHAP monitoring requirements. For any other reason that an alternative THC monitoring protocol is warranted, we are proposing the source be allowed to submit an application to the Administrator subject to the provisions of 40 CFR 63.1350(o)(1) through (6).

IV. Plan To Remove Affirmative Defense

As noted above, the United States Court of Appeals for the District of Columbia Circuit vacated the affirmative defense provisions contained in the Portland Cement NESHAP rule. (*NRDC* v. *EPA,* 749 F. 3d at 1063–64 (D.C. Cir. 2014). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. Specifically, the court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.''' Id. at 1063. In light of this decision, the affirmative defense provisions are null and void. The EPA plans to remove the regulatory affirmative defense provisions as part of the final technical corrections rule to reflect the court's vacatur. In the event that a source fails to comply with the applicable CAA section 112 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses, to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112 standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' 40 CFR 63.2 (definition of malfunction).

Further, to the extent the EPA files an enforcement action against a source for violation of an emission standard, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

V. Solicitation of Public Comment on Proposed Amendments

At this time, the EPA is only proposing specific technical corrections and clarifications to the final rule's requirements, and is seeking comment on these corrections and clarifications. The EPA is not proposing any other revisions to the final rule. The EPA is seeking comment only on the specific proposed technical corrections proposed in this document. The EPA will not respond to any comments addressing any other issues or any other provisions of the final rule or any other rule. The EPA is not seeking comment on its plan to remove the affirmative defense regulatory text. The removal of the affirmative defense merely corrects the regulation to reflect that the provisions have no legal effect in light of the court's vacatur and, thus, notice and comment is not required (See 5 U.S.C 553(b)(B)).

VI. Technical Corrections and Clarifications

These technical corrections and clarifications are being proposed to correct inaccuracies and oversights that were promulgated in the final rule and to make the rule language consistent with provisions addressed through this reconsideration. We are soliciting comment only on whether the proposed changes provide the intended accuracy, clarity and consistency. These proposed changes are described in Tables 2 and 3 of this preamble. We request comment on all of these proposed changes.

TABLE 2—MISCELLANEOUS PROPOSED TECHNICAL CORRECTIONS TO 40 CFR PART 60, SUBPART F

Section of subpart F	Description of proposed correction
40 CFR 60.61(f)	Revise the definition of ''operating day'' to clarify that the 24 hour period beginning at 12:00 midnight covers the time the kiln produces any amount of clinker.
40 CFR 60.61(g)	Add the definition of ''rolling average'' to clarify the length of time considered in developing the average.
40 CFR 60.61(h)	Add the definition of ''run average'' to clarify that the run average means the average of the recorded parameter values, not the 1-minute parameter values, for a run.
40 CFR 60.62(a)(1)(i)	Add the missing paragraph listing the current PM mission limit for kilns constructed, reconstructed or modified after August 17, 1971, but on or before June 16, 2008.

[1] These issues are further discussed in the docket, via communication with John Holmes dated September 24, 2014.

TABLE 2—MISCELLANEOUS PROPOSED TECHNICAL CORRECTIONS TO 40 CFR PART 60, SUBPART F—Continued

Section of subpart F	Description of proposed correction
40.CFR 60.62(a)(2)	Add the missing paragraph listing the opacity limit for kilns constructed, reconstructed, or modified after August 17, 1971 but on or before June 16, 2008.
40 CFR 60.62(b)(1)(iii)	Add the missing paragraph listing the current PM emission limit for clinker coolers constructed, reconstructed or modified after August 17, 1971, but on or before June 16, 2008.
40 CFR 60.62(b)(1)(iv)	Add the missing paragraph listing the opacity limit for clinker coolers constructed, reconstructed or modified after August 17, 1971, but on or before June 16, 2008.
40 CFR 60.62(d)	Revise this paragraph to clarify that you are subject to an applicable less stringent requirement until the time you are in compliance with an applicable more stringent requirement: Under NSPS, CAA section 111, you are not subject to two different subparts at the same time for a given pollutant.
40 CFR 60.62(e)	Add a paragraph to clarify that the compliance date for all revised monitoring and recordkeeping requirements contained in the rule will be the same as listed in 40 CFR 63.1351(c) unless you commenced construction as of June 16, 2008, at which time the compliance date is November 8, 2010, or upon startup, whichever is later.
40 CFR 60.63(c)(1)	Revise this paragraph to change reference paragraph from Section 60.8 to Sections 60.62(a)(1)(ii) and 60.62(a)(1)(iii).
40 CFR 60.63(c)(2)(i) and (iii)	Revise these paragraphs to clarify that your PM continuous parameter monitoring system (CPMS) must provide either a milliamp or digital signal output.
40 CFR 60.63(c)(3)	Revise this paragraph to clarify that your PM CPMS must provide either a milliamp or digital signal output.
40 CFR 60.63(c)(4)(ii), (iii) and (iv), and 60.63(c)(5) and (6).	Revise these paragraphs to clarify that your PM CPMS must provide either a milliamp or digital signal output, replace terms X1 and Y2 with subscripts X_1 and Y_2; and revise definition of the term X_1 to correct a typographical error, changing the word ''you'' to ''your''.
40 CFR 60.63(c)(7)	Revise this paragraph to clarify that for each performance test, you must conduct at least three separate test runs each while the mill is on and the mill is off.
40 CFR 60.63(c)(7)	Revise this paragraph to clarify that you must use a time weighted average of the results from three consecutive runs to determine compliance.
40 CFR 60.64(c)(2)	Remove this paragraph since this is not an allowable action.

TABLE 3—MISCELLANEOUS, PROPOSED TECHNICAL CORRECTIONS TO 40 CFR PART 63, SUBPART LLL

Section of subpart LLL	Description of proposed correction
40 CFR 63.1341	Revise the definition of ''rolling average'' to clarify the length of time considered in developing the average.
40 CFR 63.1341	Revise the definition of ''operating day'' to clarify that the 24 hour period beginning at 12:00 midnight covers the time the kiln produces any amount of clinker.
40 CFR 63.1341	Revise the definition of ''run average'' to clarify that the run average means the average of the recorded parameter values, not the 1-minute parameter values, for a run. Also add this definition to the NSPS.
40 CFR 63.1343(a)	Revise this paragraph to clarify that the 30-day period means all operating hours within 30 consecutive kiln operating days.
40 CFR 63.1343(b)	Revise footnote (1) of the table to clarify PM performance tests are based on three test runs using Method 5 or 5I.
40 CFR 63.1343(b)	Add footnote (1) to item number 4 in Table 1, which references the use of Method 5 or 5I for PM performance tests.
40 CFR 63.1343(b)(2)	Revise this paragraph to clarify that Equation 2 applies both to kilns that combine kiln exhaust, clinker cooler gas, and/or coal mill and alkali bypass exhaust.
40 CFR 63.1343(d)	Revise this paragraph to include a reference to emission limits applicable until September 9, 2015.
40 CFR 63.1346(g)(3)	Add the term ''hazardous air pollutants'' to this paragraph to clarify that referenced air pollution control devices are HAP control devices, and revise paragraph to include a temperature parameter.
40 CFR 63.1348(a)(4)(iv) and (v)	Revise this paragraph to clarify that the requirement is based on a time weighted average.
40 CFR 63.1348(b)(1)(iii)	Revise this paragraph to clarify you may not use data recorded during control device malfunctions to report emissions or operating levels.
40 CFR 63.1349(b)(1)(i)(C)	Remove ''2 hour'' reference in this paragraph, which was just an example and not a requirement for duration of test runs.
40 CFR 63.1349(b)(1)(i), (ii), and (iii)	Revise paragraphs to clarify that your PM CPMS must provide either a milliamp or digital signal output.
40 CFR 63.1349(b)(1)(iii)(C)	Revise definition of the term X_1 to correct a typographical error, changing the word ''you'' to ''your.''
40 CFR 63.1349(b)(1)(iii)(D) through 63.1349(b)(1)(v).	Revise these paragraphs to clarify that your operating limit must be expressed in milliamps or the digital equivalent.
40 CFR 63.1349(b)(1)(vi)	Revise this paragraph to clarify that for each performance test, you must conduct at least three separate test runs each while the mill is on and the mill is off, and also clarify that you must calculate a time weighted average.
40 CFR 63.1349(b)(1)(viii)	Revise Equation 8 to correct the label for combined hourly emission rate of PM from E_c to E_{cm}.
40 CFR 63.1349(b)(1)(ix)	Revise this paragraph to clarify the time weighted average emissions are to be calculated using 40 CFR 63.1349(b)(1)(i).
40 CFR 63.1349(b)(3)(iii)	Revise this paragraph to clarify that average temperatures must be calculated for each run instead of hourly temperatures.
40 CFR 63.1349(b)(4)(iii)	Revise equation 9 to correct a typographical error by adding the terms, ''Qab'' and ''Qcm'' to the denominator.

TABLE 3—MISCELLANEOUS, PROPOSED TECHNICAL CORRECTIONS TO 40 CFR PART 63, SUBPART LLL—Continued

Section of subpart LLL	Description of proposed correction
40 CFR 63.1349(b)(5)(ii)	Revise definitions of "n" and "P" to clarify hours used in the calculation are for the previous 30 kiln operating day periods and include requirement that data must be based on qualified data.
40 CFR 63.1349(b)(6)(iii)	Revise this paragraph to clarify that the SO_2 operating limit used must be based on an average recorded during the HCl stack test run that demonstrates compliance with the emission limit.
40 CFR 63.1349(b)(6)(iv)	Revise equation 11 to correct a typographical error by adding the terms, "Qab" and "Qcm" to the denominator.
40 CFR 63.1349(b)(7)	Revise this paragraph to correct a typographical error by changing reference to paragraph (a)(4) to paragraph (b)(4).
40 CFR 63.1349(b)(7)(ii) and (iii)	Revise these two paragraphs to clarify calculations are from the output recorded during the 3 hour test, which also must be from both the three raw mill on and three raw mill off test runs.
40 CFR 63.1349(b)(7)(v)	Add this paragraph to clarify that if you have an inline coal mill, you must measure at the coal mill inlet and calculate a weighted average for all emission sources including the coal mill and the alkali bypass. Note adding this paragraph changes the subsequent numbering of paragraphs in this section.
40 CFR 63.1349(b)(7)(vii)	Revise this paragraph to add the word "that" for clarity regarding the demonstration that average organic HAP emission levels are at or above 75 percent of your emission limit.
40 CFR 63.1349(b)(7)(viii)(B)	Revise this paragraph to remove a comma after the word "value."
40 CFR 63.1349(b)(7)(xii)	Remove the term "highest load or capacity" since the load level is already defined under the performance testing requirements, general provisions, 40 CFR 60.8(c).
40 CFR 63.1349(b)(7)(xiii)(B)	Clarify the compliance test is based on a 30 month test instead of an annual test.
40 CFR 63.1349(b)(8)	Revise this paragraph to clarify that you must establish an SO_2 operating limit equal to the average recorded output during the HCl stack test.
40 CFR 63.1349(b)(8)(ii)	Revise this paragraph to clarify that the average SO_2 concentration must be calculated from the recorded output instead of the 1-minute averages.
40 CFR 63.1349(b)(8)(vi)	Revise this paragraph to correct a typographical error by replacing "THC" with "HCl" when calculating the limit as the weighted average of HCl levels measured.
40 CFR 63.1349(b)(8)(vii)	Revise this paragraph to include a proposed scaling alternative if the average of the three HCl compliance tests determines that the HCl emissions are below 75 percent of the HCl emissions limit.
40 CFR 63.1349(b)(8)(x)(B)	Revise this paragraph to replace "annual" with "periodic" which is more relevant to the timing of the performance test.
40 CFR 63.1350(a)(2)	Remove this provision since it no longer applies. See 78 FR 10015.
40 CFR 63.1350(i)(1)	Revise this paragraph to clarify that both Performance Specification 8 and Performance Specification 8a are acceptable performance specifications for compliance with this paragraph.
40 CFR 63.1350(i)(2)	Revise this paragraph to clarify that performance tests on alkali bypass and coal mill stacks must be repeated every 30 months instead of annually.
40 CFR 63.1350(j)	Revise this paragraph to clarify that both Performance Specification 8 and Performance Specification 8a are acceptable performance specifications for compliance with this paragraph.
40 CFR 63.1350(k)(2)	Revise this paragraph to clarify that you must use one of the three options, not one of the two options in paragraphs (k)(2)(i) and (ii) of this section to quality assure data measured above the span value.
40 CFR 63.1350(k)(5)(iv)	Revise this paragraph to add the alkali bypass as being subject to this requirement.
40 CFR 63.1350(l)	Revise paragraphs in this section to clarify the measurement span value range is 0 to 10 ppmvw, and to add one more option in paragraphs (l)(1)(ii)(A through C) to quality assure data measured above the span value.
40 CFR 63.1350(n)	Amend this paragraph to clarify that this section is applicable when use of a CEMS is required.
40 CFR 63.1350(n)(1)	Amend this paragraph to remove reference to the location for installing each sensor of the flow rate monitoring system relative to the sampling location of the PM CEMS, since the sensor of each flow rate monitoring system is not applicable for PM in this section.
40 CFR 63.1350(o)	Remove the phrase, "except for emission standards for THC" from the section.
40 CFR 63.1350(o)(3)	Revise this paragraph to correct a typographical error by replacing the term "(m)(3)(i)" with "(o)(3)(i)."
40 CFR 63.1354(b)(9)	Revise this paragraph to clarify reports to be submitted semiannually to the Compliance and Emissions Data Reporting Interface (CEDRI).
40 CFR 63.1354(b)(9)(i)	Revise this paragraph to clarify intent of section and to correct a typographical error by replacing the reference "1344" with "1346."
40 CFR 63.1354(b)(9)(ii)	Revise this paragraph to clarify intent of section and to correct a typographical error by replacing the reference "1350(f)(7)" with "1350(g)(1)(iii)."
40 CFR 63.1354(b)(9)(iii)	Revise this paragraph to clarify intent of section and to correct a typographical error by replacing the reference "63.1344(c)" with "63.1346(c)(2.)"
40 CFR 63.1354(b)(9)(iv)	Revise this paragraph to clarify intent of section and to correct a typographical error by replacing the reference "63.1350(i)" with "63.1347(a)(3)."
40 CFR 63.1354(b)(9)(v)	Revise this paragraph to clarify intent of section and to correct a typographical error by replacing the reference "63.1350(a)" with "63.1347(a)."
40 CFR 63.1354(b)(9)(vi)	Revise this paragraph to clarify that Dioxin/Furans and PM CPMS monitoring systems are subject to this section.
40 CFR 63.1354(b)(9)(viii) through (x)	Add these paragraphs of requirements listed in the NSPS, 40 CFR 60.64, but were inadvertently left out of 40 CFR 63.1354.
40 CFR 63.1356	Revise this section to clarify that you are subject to an applicable less stringent requirement until the time you are in compliance with an applicable more stringent requirement: Under NSPS, Section 111, you are not subject to two different subparts at the same time for a given pollutant.

TABLE 3—MISCELLANEOUS, PROPOSED TECHNICAL CORRECTIONS TO 40 CFR PART 63, SUBPART LLL—Continued

Section of subpart LLL	Description of proposed correction
40 CFR 63.1357	Remove this provision since it no longer applies: PM CEMS was replaced with PM CPMS in the February 2013 amendments. See 78 FR 10007.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The EPA is not proposing any new information collection activities (e.g., monitoring, reporting, recordkeeping) as part of this action. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0416. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 action on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any new requirements on small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action does not contain a federal mandate that may result in expenditures of $100 million or more for state, local and tribal governments, in the aggregate, or the private sector in any one year. This action proposes minor changes to the rule to correct and clarify technical issues raised by stakeholders and, thus, does not exceed estimated costs developed for the final rule (refer to final Technical Support Document EPA–HQ–OAR–2011–0817–0845). Thus, this rule is not subject to the requirements of section 202 and 205 of the UMRA. This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action contains no requirements that apply to such governments, imposes no obligations upon them and will not result in expenditures by them of $100 million or more in any one year or incur any disproportionate impacts on them.

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. This action seeks comment on proposed technical corrections to the NESHAP for Portland Cement Manufacturing sources located at major sources of HAP without proposing any changes to the rule. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed action from state and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

The EPA specifically solicits additional comment on this proposed action from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

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 is based solely on technology performance.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, 12(d), (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by 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 rule does not involve technical standards. Therefore, the EPA is not considering the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

An analysis of demographic data was prepared for the 2010 final rule and can be found in the docket for that rulemaking (See docket item EPA–HQ–OAR–2011–0817). The impacts of the 2010 rule, which assumed full compliance, are expected to be unchanged as a result of this action. Therefore, beginning from the date of full compliance, the EPA has determined that the proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income populations. In addition, the full benefits of this final rule will not result until 2015 due to the final amended compliance date but the demographic analysis showed that the average of populations in close proximity to the sources, and thus most likely to be affected by the sources, were similar in demographic composition to national averages.

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 4, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is proposed to be 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.

Subpart F—[Amended]

■ 2. Section 60.61 is amended by:

■ a. Revising paragraph (f).

■ b. Adding paragraphs (g) and (h).

The revision and addition read as follows:

* * * * *

§ 60.61 Definitions.

* * * * *

(f) *Operating day* means a 24-hour period beginning at 12:00 midnight during which the kiln produces clinker at any time. For calculating Rolling Average emissions, an *operating day* does not include the hours of operation during startup or shutdown.

(g) *Rolling average* means the weighted average of all data, meeting QA/QC requirements or otherwise normalized, collected during the applicable averaging period. The period of a rolling average stipulates the frequency of data averaging and reporting; a thirty-day rolling average period requires calculation of a new average value each day that includes the average emissions over the previous thirty days divided by the total production during these same periods. A twelve month rolling average stipulates a new average value calculated each month that includes the average emissions over the previous twelve months divided by the total production during the same periods.

(h) *Run average* means the average of the recorded parameter values for a run.

■ 3. Section 60.62 is amended by:

■ a. Adding paragraphs (a)(1)(i), (a)(2), (b)(1)(iii), (b)(1)(iv), and (e).

■ b. Revising paragraph (d).

The additions and revision read as follows:

§ 60.62 Standards.

(a) * * *

(1) Contain particulate matter (PM) in excess of:

(i) 0.30 pounds per ton of feed (dry basis) to the kiln for kilns constructed, reconstructed, or modified after August 17, 1971 but on or before June 16, 2008.

* * * * *

(2) Exhibit greater than 20 percent opacity for kilns constructed, reconstructed, or modified after August 17, 1971 but on or before June 16, 2008, except that this opacity limit does not apply to any kiln subject to a PM limit in paragraph (a)(1) of this section that uses a PM continuous parametric monitoring system (CPMS).

* * * * *

(b) * * *

(1) * * *

(iii) 0.10 lb per ton of feed (dry basis) for clinker coolers constructed, reconstructed, or modified after August 17, 1971 but on or before June 16, 2008.

(iv) 10 percent opacity for clinker coolers constructed, reconstructed, or modified after August 17, 1971 but on or before June 16, 2008.

* * * * *

(d) If you have an affected source subject to this subpart with a different emissions limit or requirement for the same pollutant under another regulation in title 40 of this chapter, once you are in compliance with the most stringent emissions limit or requirement, you are not subject to the less stringent requirement. Until you are in compliance with the more stringent limit, the less stringent limit continues to apply.

(e) The compliance date for all revised monitoring and recordkeeping requirements contained in this rule will be the same as listed in 63.1351(c) unless you commenced construction as of June 16, 2008, at which time the compliance date is November 8, 2010 or upon startup, whichever is later.

■ 4. Section 60.63 is amended by revising paragraphs (c)(1), (c)(2)(i), (c)(2)(iii), (c)(3), (c)(4)(ii), (c)(4)(iii), (c)(4)(iv), (c)(5), (c)(6), and (c)(7) to read as follows:

§ 60.63 Monitoring of operations.

* * * * *

(c) *** (1) For each kiln or clinker cooler subject to a PM emissions limit in § 60.62(a)1(ii) and 60.62(a)1(iii), you must demonstrate compliance through an initial performance test. You will conduct your performance test using Method 5 or Method 5I at appendix A–3 to part 60 of this chapter. You must also monitor continuous performance through use of a PM CPMS.

(2) * * *

(i) Your PM CPMS must provide a 4–20 milliamp or digital signal output and the establishment of its relationship to manual reference method measurements must be determined in units of milliamps or the monitors digital equivalent.

* * * * *

(iii) During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, record and average all milliamp or digital output values from the PM CPMS for the periods corresponding to the compliance test runs (e.g., average all your PM CPMS output values for three corresponding 2-hour Method 5I test runs).

(3) Determine your operating limit as specified in paragraphs (c)(4)(i) through (c)(5) of this section. If your PM performance test demonstrates your PM emission levels to be below 75 percent of your emission limit, you will use the average PM CPMS value recorded during the PM compliance test, the milliamp or digital equivalent of zero output from your PM CPMS, and the average PM result of your compliance test to establish your operating limit. If your PM compliance test demonstrates your PM emission levels to be at or above 75 percent of your emission limit, you will use the average PM CPMS value recorded during the PM compliance test to establish your operating limit. You must verify an existing or establish a new operating limit after each repeated performance test. You must repeat the performance test at least annually and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(4) * * *

(ii) * * *

X_1 = The PM CPMS data points for the three runs constituting the performance test.

Y_1 = The PM concentration value for the three runs constituting the performance test, and

n = The number of data points.

(iii) With your PM CPMS instrument zero expressed in milliamps or a digital value, your three run average PM CPMS milliamp or digital signal value, and your three run average PM concentration from your three PM performance test runs, determine a relationship of lb/ton-clinker per milliamp with equation 2.

$$R = \frac{Y_1}{(X_1 - z)} \qquad \text{(Eq. 2)}$$

Where:

R = The relative lb/ton clinker per milliamp for your PM CPMS.

Y_1 = The three run average PM lb/ton clinker.

X_1 = The three run average milliamp output from your PM CPMS.

z = the milliamp equivalent of your instrument zero determined from (c)(4)(i) of this section.

(iv) Determine your source specific 30-day rolling average operating limit using the lb/ton-clinker per milliamp or digital signal value from Equation 2 above in Equation 3, below. This sets your operating limit at the PM CPMS output value corresponding to 75 percent of your emission limit.

$$O_l = z + (0.75(L)) / R \qquad \text{(Eq. 3)}$$

Where:

O_l = The operating limit for your PM CPMS on a 30-day rolling average, in milliamps or the digital equivalent.

L = Your source emission limit expressed in lb/ton clinker.

z = Your instrument zero in milliamps or a digital equivalent, determined from (1)(i).

R = The relative lb/ton-clinker per milliamp or digital equivalent, for your PM CPMS, from Equation 2.

(5) If the average of your three PM compliance test runs is at or above 75 percent of your PM emission limit, you must determine your operating limit by averaging the PM CPMS milliamp output corresponding to your three PM performance test runs that demonstrate compliance with the emission limit using Equation 4.

$$O_h = \frac{1}{n}\sum_{i=1}^{n} X_1 \qquad \text{(Eq. 4)}$$

Where:

X_1 = The PM CPMS data points for all runs i.

n = The number of data points.

O_h = Your site specific operating limit, in milliamps or digital equivalent.

(6) To determine continuous compliance, you must record the PM CPMS output data for all periods when the process is operating, and use all the PM CPMS data for calculations when the source is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the PM CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (milliamps or the digital equivalent) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day. Use Equation 5 to determine the 30 kiln operating day average.

$$\text{30kiln operating day average} = \frac{\sum_{i=1}^{n} Hpvi}{n} \qquad \text{(Eq. 5)}$$

Where:

Hpvi = The hourly parameter value for hour i.

n = The number of valid hourly parameter values collected over the previous 30 kiln operating days.

(7) Use EPA Method 5 or Method 5I of appendix A to part 60 of this chapter to determine PM emissions. For each performance test, conduct at least three separate runs each while the mill is on and the mill is off under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. Conduct each test run to collect a minimum sample volume of 2 dscm for determining compliance with a new source limit and 1 dscm for determining compliance with an existing source limit. Calculate the time weighted average of the results from three consecutive runs to determine compliance. You need not determine the particulate matter collected in the impingers (''back half'') of the Method 5 or Method 5I particulate sampling train to demonstrate compliance with the PM standards of this subpart. This shall not preclude the permitting authority from requiring a determination of the ''back half'' for other purposes.

(8) * * *

* * * * *

■ 5. Section 60.64 is amended by removing and reserving paragraph (c)(2) to read as follows:

§ 60.64 Test methods and procedures.

* * * * *

(2) [Reserved]

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 6. The authority citation for part 63 continues to read as follows:

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

Subpart LLL—[Amended]

■ 7. Section 63.1341 is amended by revising the definitions for ''Operating day'', ''Rolling average'', and ''Run average'' to read as follows:

§ 63.1341 Definitions.

* * * * *

Operating day means any 24-hour period beginning at 12:00 midnight during which the kiln produces any amount of clinker. For calculating the rolling average emissions, kiln operating days do not include the hours of operation during startup or shutdown.

* * * * *

Rolling average means the weighted average of all data, meeting QA/QC requirements or otherwise normalized, collected during the applicable averaging period. The period of a rolling average stipulates the frequency of data averaging and reporting; a thirty-day rolling average period requires calculation of a new average value each day that includes the average emissions over the previous thirty days divided by the total production during these same periods. A twelve month rolling average stipulates a new average value calculated each month that includes the average emissions over the previous twelve months divided by the total production during the same periods.

Run average means the average of the recorded parameter values for a run.

* * * * *

■ 8. Section 63.1343 is amended by revising paragraphs (a), Table 1 in paragraph (b)(1), (b)(2), and (d) to read as follows:

§ 63.1343 What standards apply to my kilns, clinker coolers, raw material dryers, and open clinker storage piles?

(a) *General.* The provisions in this section apply to each kiln and any alkali bypass associated with that kiln, clinker cooler, raw material dryer, and open clinker storage pile. All D/F, HCl, and total hydrocarbon (THC) emissions limit are on a dry basis. The D/F, HCl, and THC limits for kilns are corrected to 7 percent oxygen. All THC emissions limits are measured as propane. Standards for mercury and THC are based on a rolling 30-day average. If using a CEMS to determine compliance with the HCl standard, this standard is based on a rolling 30-day average. You must ensure appropriate corrections for moisture are made when measuring flow rates used to calculate mercury emissions. The 30-day period means all operating hours within 30 consecutive kiln operating days excluding periods of startup and shutdown. All emissions limits for kilns, clinker coolers, and raw material dryers currently in effect that are superseded by the limits below continue to apply until the compliance date of the limits below, or until the source certifies compliance with the limits below, whichever is earlier.

(b)(1) * * *

TABLE 1—EMISSIONS LIMITS FOR KILNS, CLINKER COOLERS, RAW MATERIAL DRYERS, RAW AND FINISH MILLS

If your source is a (an):	And the operating mode is:	And if is located at a:	Your emissions limits are:	And the units of the emissions limit are:	The oxygen correction factor is:
1. Existing kiln	Normal operation	Major or area source	PM [1] 0.07 D/F [2] 0.2 Mercury 55 THC [3 4] 24	lb/ton clinker ng/dscm (TEQ) lb/MM tons clinker ppmvd	NA. 7 percent. NA. 7 percent.
2. Existing kiln	Normal operation	Major source	HCl 3	ppmvd	7 percent.
3. Existing kiln	Startup and shutdown	Major or area source	Work practices (63.1346(f)).	NA	NA.
4. New kiln	Normal operation	Major or area source	PM [1] 0.02 D/F [2] 0.2 Mercury 21 THC [3 4] 24	lb/ton clinker ng/dscm (TEQ) lb/MM tons clinker ppmvd	NA. 7 percent. NA. 7 percent.
5. New kiln	Normal operation	Major source	HCl 3	ppmvd	7 percent.
6. New kiln	Startup and shutdown	Major or area source	Work practices (63.1346(f)).	NA	NA.
7. Existing clinker cooler.	Normal operation	Major or area source	PM 0.07	lb/ton clinker	NA.
8. Existing clinker cooler.	Startup and shutdown	Major or area source	Work practices (63.1348(b)(9)).	NA	NA.
9. New clinker cooler	Normal operation	Major or area source	PM 0.02	lb/ton clinker	NA.
10. New clinker cooler	Startup and shutdown	Major or area source	Work practices (63.1348(b)(9)).	NA	NA.
11. Existing or new raw material dryer.	Normal operation	Major or area source	THC [3 4] 24	ppmvd	NA.
12. Existing or new raw material dryer.	Startup and shutdown	Major or area source	Work practices (63.1348(b)(9)).	NA	NA.
13. Existing or new raw or finish mill.	All operating modes	Major source	Opacity 10	percent	NA.

[1] The initial and subsequent PM performance tests are performed using Method 5 or 5I and consist of three test runs.

[2] If the average temperature at the inlet to the first PM control device (fabric filter or electrostatic precipitator) during the D/F performance test is 400 °F or less, this limit is changed to 0.40 ng/dscm (TEQ).

[3] Measured as propane.

[4] Any source subject to the 24 ppmvd THC limit may elect to meet an alternative limit of 12 ppmvd for total organic HAP.

(2) When there is an alkali bypass and/or an inline coal mill with a separate stack associated with a kiln, the combined PM emissions from the kiln and the alkali bypass stack and/or the inline coal mill stack are subject to the PM emissions limit. Existing kilns that combine the clinker cooler exhaust and/or coal mill exhaust with the kiln exhaust and send the combined exhaust to the PM control device as a single stream may meet an alternative PM emissions limit. This limit is calculated using Equation 1 of this section:

$$PM_{alt} = (0.0060 \times 1.65)(Q_k + Q_c + Q_{ab} + Q_{cm})/(7000) \quad \text{(Eq. 1)}$$

Where:

PM_{alt} = Alternative PM emission limit for commingled sources.

0.006 = The PM exhaust concentration (gr/dscf) equivalent to 0.070 lb per ton clinker where clinker cooler and kiln exhaust gas are not combined.

1.65 = The conversion factor of ton feed per ton clinker.

Q_k = The exhaust flow of the kiln (dscf/ton feed).

Q_c = The exhaust flow of the clinker cooler (dscf/ton feed).

Q_{ab} = The exhaust flow of the alkali bypass (dscf/ton feed).

Q_{cm} = The exhaust flow of the coal mill (dscf/ton feed).

7000 = The conversion factor for grains (gr) per lb.

For new kilns that combine kiln exhaust, clinker cooler gas and/or coal mill and alkali bypass exhaust, the limit is calculated using the Equation 2 of this section:

$$PM_{alt} = (0.0020 \times 1.65)(Q_k + Q_c + Q_{ab} + Q_{cm})/(7000) \quad \text{(Eq. 2)}$$

Where:

PM_{alt} = Alternative PM emission limit for commingled sources.

0.002 = The PM exhaust concentration (gr/dscf) equivalent to 0.020 lb per ton clinker where clinker cooler and kiln exhaust gas are not combined.

1.65 = The conversion factor of ton feed per ton clinker.

Q_k = The exhaust flow of the kiln (dscf/ton feed).

Q_c = The exhaust flow of the clinker cooler (dscf/ton feed).

Q_{ab} = The exhaust flow of the alkali bypass (dscf/ton feed).

Q_{cm} = The exhaust flow of the coal mill (dscf/ton feed).

7000 = The conversion factor for gr per lb.

* * * * *

(d) Emission limits in effect prior to September 9, 2010. Any source defined as an existing source in § 63.1351, and that was subject to a PM, mercury, THC, D/F, or opacity emissions limit prior to September 9, 2010, must continue to meet the limits as shown in 76 FR 2836 until September 9, 2015.

* * * * *

■ 9. Section 63.1346 is amended by revising paragraph (g)(3)to read as follows:

§ 63.1346 Operating limits for kilns.

* * * * *

(g) * * *

(3) All air pollution control devices that control hazardous air pollutants must be turned on and operating at the time the gas stream to the air pollution control device reaches 300 degrees Fahrenheit. Temperature content to be measured at the inlet of the baghouse or ESP every fifteen minutes during startup until all HAP control devices are operating, and every fifteen minutes during shutdown until any activated carbon or lime injection systems are not operating.

* * * * *

■ 10. Section 63.1348 is amended by revising paragraphs (a)(4)(iv), (a)(4)(v), and (b)(1)(iii) to read as follows:

§ 63.1348 Compliance requirements.

* * * * *

(iv) The time weighted average total organic HAP concentration measured during the separate initial performance test specified by § 63.1349(b)(7) must be used to determine initial compliance.

(v) The time weighted average THC concentration measured during the initial performance test specified by § 63.1349(b)(4) must be used to determine the site-specific THC limit. Using the fraction of time the inline kiln/raw mill is on and the fraction of time that the inline kiln/raw mill is off, calculate this limit as a time weighted average of the THC levels measured during raw mill on and raw mill off testing using one of the two approaches in § 63.1349(b)(7)(vii) or (viii) depending on the level of organic HAP measured during the compliance test.

* * * * *

(b) * * *

(1) * * *

(iii) You may not use data recorded during monitoring system malfunctions or repairs associated with monitoring system malfunctions in calculations used to report emissions or operating levels. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

* * * * *

■ 10. Section 63.1349 is amended by revising paragraph (b) to read as follows:

§ 63.1349 Performance testing requirements.

* * * * *

(b)(1) *PM emissions tests.* The owner or operator of a kiln subject to limitations on PM emissions shall demonstrate initial compliance by conducting a performance test using Method 5 or Method 5I at appendix A–3 to part 60 of this chapter. You must also monitor continuous performance through use of a PM continuous parametric monitoring system (PM CPMS).

(i) For your PM CPMS, you will establish a site-specific operating limit. If your PM performance test demonstrates your PM emission levels to be below 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test, the milliamp equivalent of zero output from your PM CPMS, and the average PM result of your compliance test to establish your operating limit. If your PM compliance test demonstrates your PM emission levels to be at or above 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test to establish your operating limit. You will use the PM CPMS to demonstrate continuous compliance with your operating limit. You must repeat the performance test annually and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(A) Your PM CPMS must provide a 4–20 milliamp or digital signal output and the establishment of its relationship to manual reference method measurements must be determined in units of milliamps or the monitors digital equivalent.

(B) Your PM CPMS operating range must be capable of reading PM concentrations from zero to a level equivalent to three times your allowable emission limit. If your PM CPMS is an auto-ranging instrument capable of multiple scales, the primary range of the instrument must be capable of reading PM concentration from zero to a level equivalent to three times your allowable emission limit.

(C) During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, record and average all milliamp or digital output values from the PM CPMS for the periods corresponding to the compliance test runs (e.g., average all your PM CPMS output values for three corresponding Method 5I test runs).

(ii) Determine your operating limit as specified in paragraphs (b)(1)(iii) through (iv) of this section. If your PM performance test demonstrates your PM emission levels to be below 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test, the milliamp or digital equivalent of zero output from your PM CPMS, and the average PM result of your compliance test to establish your operating limit. If your PM compliance test demonstrates your PM emission levels to be at or above 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test to establish your operating limit. You must verify an existing or establish a new operating limit after each repeated performance test. You must repeat the performance test at least annually and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(iii) If the average of your three Method 5 or 5I compliance test runs is below 75 percent of your PM emission limit, you must calculate an operating limit by establishing a relationship of PM CPMS signal to PM concentration using the PM CPMS instrument zero, the average PM CPMS values corresponding to the three compliance test runs, and the average PM concentration from the Method 5 or 5I compliance test with the procedures in (a)(1)(iii)(A) through (D) of this section.

(A) Determine your PM CPMS instrument zero output with one of the following procedures.

(1) Zero point data for in-situ instruments should be obtained by removing the instrument from the stack and monitoring ambient air on a test bench.

(2) Zero point data for extractive instruments should be obtained by removing the extractive probe from the stack and drawing in clean ambient air.

(3) The zero point may also be established by performing manual reference method measurements when the flue gas is free of PM emissions or contains very low PM concentrations (e.g., when your process is not operating, but the fans are operating or your source is combusting only natural gas) and plotting these with the compliance data to find the zero intercept.

(4) If none of the steps in paragraphs (a)(1)(iii)(A)(*1*) through (3) of this section are possible, you must use a zero output value provided by the manufacturer.

(B) Determine your PM CPMS instrument average in milliamps, and the average of your corresponding three PM compliance test runs, using equation 3.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_1, \bar{y} = \frac{1}{n}\sum_{i=1}^{n} Y_1 \qquad \text{(Eq. 3)}$$

Where:

X_1 = The PM CPMS data points for the three runs constituting the performance test.
Y_1 = The PM concentration value for the three runs constituting the performance test.
n = The number of data points.

(C) With your instrument zero expressed in milliamps or a digital value, your three run average PM CPMS milliamp or digital signal value, and your three run PM compliance test average, determine a relationship of lb/ton-clinker per milliamp with Equation 4.

$$R = \frac{Y_1}{(X_1 - z)} \qquad \text{(Eq. 4)}$$

Where:

R = The relative lb/ton-clinker per milliamp for your PM CPMS.
Y_1 = The three run average lb/ton-clinker PM concentration.
X_1 = The three run average milliamp output from your PM CPMS.
z = The milliamp equivalent of your instrument zero determined from (b)(1)(iii)(A).

(D) Determine your source specific 30-day rolling average operating limit using the lb/ton-clinker per milliamp or digital signal value from Equation 4 in Equation 5, below. This sets your operating limit at the PM CPMS output value corresponding to 75 percent of your emission limit.

$$O_l = z + \frac{0.75(L)}{R} \qquad \text{(Eq. 5)}$$

Where:

O_l = The operating limit for your PM CPMS on a 30-day rolling average, in milliamps or the digital equivalent.
L = Your source emission limit expressed in lb/ton clinker.
z = Your instrument zero in milliamps, or digital equivalent, determined from (1)(i).
R = The relative lb/ton-clinker per milliamp, or digital equivalent, for your PM CPMS, from Equation 4.

(iv) If the average of your three PM compliance test runs is at or above 75 percent of your PM emission limit you must determine your operating limit by averaging the PM CPMS milliamp output corresponding to your three PM performance test runs that demonstrate compliance with the emission limit using Equation 6.

$$O_h = \frac{1}{n}\sum_{i=1}^{n} X_1 \qquad \text{(Eq. 6)}$$

Where:

X_1 = The PM CPMS data points for all runs i.
n = The number of data points.
O_h = Your site specific operating limit, in milliamps or the digital equivalent.

(v) To determine continuous operating compliance, you must record the PM CPMS output data for all periods when the process is operating, and use all the PM CPMS data for calculations when the source is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the PM CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (milliamps or the digital equivalent) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day. Use Equation 7 to determine the 30 kiln operating day average.

$$30\text{kiln operating day} = \frac{\sum_{i=1}^{n} Hpvi}{n} \quad \text{(Eq. 7)}$$

Where:

Hpvi = The hourly parameter value for hour i.

n = The number of valid hourly parameter values collected over 30 kiln operating days.

(vi) For each performance test, conduct at least three separate test runs each while the mill is on and the mill is off, under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. Conduct each test run to collect a minimum sample volume of 2 dscm for determining compliance with a new source limit and 1 dscm for determining compliance with an existing source limit. Calculate the time weighted average of the results from three consecutive runs, including applicable sources as required by (D)(viii), to determine compliance. You need not determine the particulate matter collected in the impingers (''back half'') of the Method 5 or Method 5I particulate sampling train to demonstrate compliance with the PM standards of this subpart. This shall not preclude the permitting authority from requiring a determination of the ''back half'' for other purposes.

(vii) For PM performance test reports used to set a PM CPMS operating limit, the electronic submission of the test report must also include the make and model of the PM CPMS instrument, serial number of the instrument, analytical principle of the instrument (e.g. beta attenuation), span of the instruments primary analytical range, milliamp value equivalent to the instrument zero output, technique by which this zero value was determined, and the average milliamp signals corresponding to each PM compliance test run.

(viii) When there is an alkali bypass and/or an inline coal mill with a separate stack associated with a kiln, the main exhaust and alkali bypass and/or inline coal mill must be tested simultaneously and the combined emission rate of PM from the kiln and alkali bypass and/or inline coal mill must be computed for each run using Equation 8 of this section.

$$E_{Cm} = \frac{E_K + E_B + E_C}{P} \quad \text{(Eq. 8)}$$

Where:

E_{Cm} = Combined hourly emission rate of PM from the kiln and bypass stack and/or inline coal mill, lb/ton of kiln clinker production.

E_K = Hourly emissions of PM emissions from the kiln, lb.

E_B = Hourly PM emissions from the alkali bypass stack, lb.

E_C = Hourly PM emissions from the inline coal mill stack, lb.

P = Hourly clinker production, tons.

(ix) The owner or operator of a kiln with an in-line raw mill and subject to limitations on PM emissions shall demonstrate initial compliance by conducting separate performance tests while the raw mill is under normal operating conditions and while the raw mill is not operating, and calculate the time weighted average emissions using 63.1349(b)(1)(i) of this section.

(2) *Opacity tests.* If you are subject to limitations on opacity under this subpart, you must conduct opacity tests in accordance with Method 9 of appendix A–4 to part 60 of this chapter. The duration of the Method 9 performance test must be 3 hours (30 6-minute averages), except that the duration of the Method 9 performance test may be reduced to 1 hour if the conditions of paragraphs (b)(2)(i) through (b)(2)(ii) of this section apply. For batch processes that are not run for 3-hour periods or longer, compile observations totaling 3 hours when the unit is operating.

(i) There are no individual readings greater than 10 percent opacity;

(ii) There are no more than three readings of 10 percent for the first 1-hour period.

(3) *D/F Emissions Tests.* If you are subject to limitations on D/F emissions under this subpart, you must conduct a performance test using Method 23 of appendix A–7 to part 60 of this chapter. If your kiln or in-line kiln/raw mill is equipped with an alkali bypass, you must conduct simultaneous performance tests of the kiln or in-line kiln/raw mill exhaust and the alkali bypass. You may conduct a performance test of the alkali bypass exhaust when the raw mill of the in-line kiln/raw mill is operating or not operating.

(i) Each performance test must consist of three separate runs conducted under representative conditions. The duration of each run must be at least 3 hours, and the sample volume for each run must be at least 2.5 dscm (90 dscf).

(ii) The temperature at the inlet to the kiln or in-line kiln/raw mill PMCD, and, where applicable, the temperature at the inlet to the alkali bypass PMCD must be continuously recorded during the period of the Method 23 test, and the continuous temperature record(s) must be included in the performance test report.

(iii) Average temperatures must be calculated for each run of the performance test.

(iv) The run average temperature must be calculated for each run, and the average of the run average temperatures must be determined and included in the performance test report and will determine the applicable temperature limit in accordance with § 63.1344(b).

(v)(A) If sorbent injection is used for D/F control, you must record the rate of sorbent injection to the kiln exhaust, and where applicable, the rate of sorbent injection to the alkali bypass exhaust, continuously during the period of the Method 23 test in accordance with the conditions in § 63.1350(m)(9), and include the continuous injection rate record(s) in the performance test report. Determine the sorbent injection rate parameters in accordance with paragraphs (b)(3)(vi) of this section.

(B) Include the brand and type of sorbent used during the performance test in the performance test report.

(C) Maintain a continuous record of either the carrier gas flow rate or the carrier gas pressure drop for the duration of the performance test. If the carrier gas flow rate is used, determine, record, and maintain a record of the accuracy of the carrier gas flow rate monitoring system according to the procedures in appendix A to part 75 of this chapter. If the carrier gas pressure drop is used, determine, record, and maintain a record of the accuracy of the carrier gas pressure drop monitoring system according to the procedures in § 63.1350(m)(6).

(vi) Calculate the run average sorbent injection rate for each run and determine and include the average of the run average injection rates in the performance test report and determine the applicable injection rate limit in accordance with § 63.1346(c)(1).

(4) *THC emissions test.* (i) If you are subject to limitations on THC emissions, you must operate a CEMS in accordance with the requirements in § 63.1350(i). For the purposes of conducting the accuracy and quality assurance evaluations for CEMS, the THC span value (as propane) is 50 ppmvd and the

reference method (RM) is Method 25A of appendix A to part 60 of this chapter.

(ii) Use the THC CEMS to conduct the initial compliance test for the first 30 kiln operating days of kiln operation after the compliance date of the rule. See 63.1348(a).

(iii) If kiln gases are diverted through an alkali bypass or to a coal mill and exhausted through a separate stack, you must calculate a kiln-specific THC limit using Equation 9:

$$Cks = \frac{(MACT\ Limit\ x\ (Qab+Qcm+Qks)) - (Qab\ x\ Cab) - (Qcm\ x\ Ccm)}{Qks+Qab+Qcm)} \quad \text{(Eq. 9)}$$

Where:

Cks = Kiln stack concentration (ppmvd).
Qab = Alkali bypass flow rate (volume/hr).
Cab = Alkali bypass concentration (ppmvd).
Qcm = Coal mill flow rate (volume/hr).
Ccm = Coal mill concentration (ppmvd).
Qks = Kiln stack flow rate (volume/hr).

(iv) THC must be measured either upstream of the coal mill or the coal mill stack.

(v) Instead of conducting the performance test specified in paragraph (b)(4) of this section, you may conduct a performance test to determine emissions of total organic HAP by following the procedures in paragraphs (b)(7) of this section.

(5) *Mercury Emissions Tests.* If you are subject to limitations on mercury emissions, you must operate a mercury CEMS or a sorbent trap monitoring system in accordance with the requirements of § 63.1350(k). The initial compliance test must be based on the first 30 kiln operating days in which the affected source operates using a mercury CEMS or a sorbent trap monitoring system after the compliance date of the rule. See § 63.1348(a).

(i) If you are using a mercury CEMS or a sorbent trap monitoring system, you must install, operate, calibrate, and maintain an instrument for continuously measuring and recording the exhaust gas flow rate to the atmosphere according to the requirements in § 63.1350(k)(5).

(ii) Calculate the emission rate using Equation 10 of this section:

$$E_{30D} = k \frac{\sum_{i=1}^{n} C_i Q_i}{P} \quad \text{(Eq. 10)}$$

Where:

E_{30D} = 30-day rolling emission rate of mercury, lb/MM tons clinker.
C_i = Concentration of mercury for operating hour i, µg/scm.
Q_i = Volumetric flow rate of effluent gas for operating hour i, where C_i and Q_i are on the same basis (either wet or dry), scm/hr.
k = Conversion factor, 1 lb/454,000,000 µg.
n = Number of kiln operating hours in the previous 30 kiln operating day period where both C and Qi qualified data are available.
P = Total runs from the previous 30 days of clinker production during the same time period as the mercury emissions measured, million tons.

(6) *HCl emissions tests.* For a source subject to limitations on HCl emissions you must conduct performance testing by one of the following methods:

(i)(A) If the source is equipped with a wet scrubber, tray tower or dry scrubber, you must conduct performance testing using Method 321 of appendix A to this part unless you have installed a CEMS that meets the requirements § 63.1350(l)(1). For kilns with inline raw mills, testing should be conducted for the raw mill on and raw mill off conditions.

(B) You must establish site specific parameter limits by using the CPMS required in § 63.1350(l)(1). For a wet scrubber or tray tower, measure and record the pressure drop across the scrubber and/or liquid flow rate and pH in intervals of no more than 15 minutes during the HCl test. Compute and record the 24-hour average pressure drop, pH, and average scrubber water flow rate for each sampling run in which the applicable emissions limit is met. For a dry scrubber, measure and record the sorbent injection rate in intervals of no more than 15 minutes during the HCl test. Compute and record the 24-hour average sorbent injection rate and average sorbent injection rate for each sampling run in which the applicable emissions limit is met.

(ii)(A) If the source is not controlled by a wet scrubber, tray tower or dry sorbent injection system, you must operate a CEMS in accordance with the requirements of § 63.1350(l)(1). See § 63.1348(a).

(B) The initial compliance test must be based on the 30 kiln operating days that occur after the compliance date of this rule in which the affected source operates using a HCl CEMS. Hourly HCl concentration data must be obtained according to § 63.1350(l).

(iii) As an alternative to paragraph (b)(6)(i)(B) of this section, you may choose to monitor SO_2 emissions using a CEMS in accordance with the requirements of § 63.1350(l)(3). You must establish an SO_2 operating limit equal to the average recorded during the HCl stack test where the HCl stack test run result demonstrates compliance with the emission limit. This operating limit will apply only for demonstrating HCl compliance.

(iv) If kiln gases are diverted through an alkali bypass or to a coal mill and exhausted through a separate stack, you must calculate a kiln-specific HCl limit using Equation 11:

$$Cks = \frac{(MACT\ Limit\ x\ (Qab+Qcm+Qks)) - (Qab\ x\ Cab) - (Qcm\ x\ Ccm)}{Qks+Qab+Qcm)} \quad \text{(Eq. 11)}$$

Where:

Cks = Kiln stack concentration (ppmvd).
Qab = Alkali bypass flow rate (volume/hr).
Cab = Alkali bypass concentration (ppmvd).
Qcm = Coal mill flow rate (volume/hr).
Ccm = Coal mill concentration (ppmvd).
Qks = Kiln stack flow rate (volume/hr).

(7) *Total Organic HAP Emissions Tests.* Instead of conducting the performance test specified in paragraph (b)(4) of this section, you may conduct a performance test to determine emissions of total organic HAP by following the procedures in paragraphs (b)(7)(i) through (v) of this section.

(i) Use Method 320 of appendix A to this part, Method 18 of Appendix A of part 60, ASTM D6348–03 or a combination to determine emissions of total organic HAP. Each performance test must consist of three separate runs under the conditions that exist when the affected source is operating at the representative performance conditions in accordance with § 63.7(e). Each run must be conducted for at least 1 hour.

(ii) At the same time that you are conducting the performance test for total organic HAP, you must also determine a site-specific THC emissions limit by operating a THC CEMS in accordance with the requirements of § 63.1350(j). The duration of the performance test must be at least 3 hours and the average THC concentration (as calculated from the recorded output) during the 3-hour test must be calculated. You must establish your THC operating limit and determine compliance with it according to paragraphs (a)(7)(vii) through (viii) of this section. It is permissible to extend the testing time of the organic HAP performance test if you believe extended testing is required to adequately capture organic HAP and/or THC variability over time.

(iii) If your source has an in-line kiln/raw mill you must use the fraction of time the raw mill is on and the fraction of time that the raw mill is off and calculate this limit as a weighted average of the THC levels measured during three raw mill on and three raw mill off tests.

(iv) If your organic HAP emissions are below 75 percent of the organic HAP standard and you determine your operating limit with paragraph (b)(7)(vii) of this section your THC CEMS must be calibrated and operated on a measurement scale no greater than 180 ppmvw, as carbon, or 60 ppmvw as propane.

(v) If your kiln has an inline coal mill, and you are required to measure at the coal mill inlet, you must also measure oHAP at the coal mil inlet and calculate a weighted average for all emission sources including the inline coal mill and the alkali bypass.

(vi) Your THC CEMS measurement scale must be capable of reading THC concentrations from zero to a level equivalent to two times your highest THC emissions average determined during your performance test, including mill on or mill off operation.

Note: This may require the use of a dual range instrument to meet this requirement and paragraph (b)(7)(iv) of this section.

(vii) Determine your operating limit as specified in paragraphs (a)(7)(vii) and (viii) of this section. If your organic HAP performance test demonstrates your average organic HAP emission levels are below 75 percent of your emission limit (9 ppmv) you will use the average THC value recorded during the organic HAP performance test, and the average total organic HAP result of your performance test to establish your operating limit. If your organic HAP compliance test results demonstrate that your average organic HAP emission levels are at or above 75 percent of your emission limit, your operating limit is established as the average THC value recorded during the organic HAP performance test. You must establish a new operating limit after each performance test. You must repeat the performance test no later than 30 months following your last performance test and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(viii) If the average organic HAP results for your three Method 18 and/or Method 320 performance test runs are below 75 percent of your organic HAP emission limit, you must calculate an operating limit by establishing a relationship of THC CEMS signal to the organic HAP concentration using the average THC CEMS value corresponding to the three organic HAP compliance test runs and the average organic HAP total concentration from the Method 18 and/or Method 320 performance test runs with the procedures in (a)(7)(vii)(A) and (B) of this section.

(A) Determine the THC CEMS average values in ppmvw, and the average of your corresponding three total organic HAP compliance test runs, using Equation 12.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_i , \bar{y} = \frac{1}{n}\sum_{i=1}^{n} Y_i \qquad \text{(Eq. 12)}$$

Where:

x = The THC CEMS average values in ppmvw.
Xi = The THC CEMS data points for all three runs i.
Yi = The sum of organic HAP concentrations for test runs i. and
n = The number of data points.

(B) You must use your three run average THC CEMS value and your three run average organic HAP concentration from your three Method 18 and/or Method 320 compliance tests to determine the operating limit. Use equation 13 to determine your operating limit in units of ppmvw THC, as propane.

$$T_l = \left(\frac{9}{Y_1}\right) * X_1 \qquad \text{(Eq. 13)}$$

Where:

T_l = The 30-day operating limit for your THC CEMS, ppmvw.
Y_1 = The average organic HAP concentration from Eq. 12, ppmv.
X_1 = The average THC CEMS concentration from Eq. 12, ppmvw.

(ix) If the average of your three organic HAP performance test runs is at or above 75 percent of your organic HAP emission limit, you must determine your operating limit using Equation 14 by averaging the THC CEMS output values corresponding to your three organic HAP performance test runs that demonstrate compliance with the emission limit. If your new THC CEMS value is below your current operating limit, you may opt to retain your current operating limit, but you must still submit all performance test and THC CEMS data according to the reporting requirements in paragraph (d)(1) of this section.

$$T_h = \frac{1}{n}\sum_{i=1}^{n} X_1 \qquad \text{(Eq. 14)}$$

Where:

X_1 = The THC CEMS data points for all runs i.
n = The number of data points.
T_h = Your site specific operating limit, in ppmvw THC.

(x) If your kiln has an inline kiln/raw mill, you must conduct separate performance tests while the raw mill is operating (''mill on'') and while the raw mill is not operating (''mill off''). Using the fraction of time the raw mill is on and the fraction of time that the raw mill is off, calculate this limit as a weighted average of the THC levels measured during raw mill on and raw mill off compliance testing with Equation 15.

$$R = (y * t) + (x * (1 - t)) \qquad \text{(Eq.15)}$$

Where:

R = Operating limit as THC, ppmvw.
y = Average THC CEMS value during mill on operations, ppmvw.
t = Percentage of operating time with mill on.
x = Average THC CEMS value during mill off operations, ppmvw.
(1-t) = Percentage of operating time with mill off.

(xi) To determine continuous compliance with the THC operating limit, you must record the THC CEMS output data for all periods when the process is operating and the THC CEMS is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the THC CEMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (ppmvw) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day. Use Equation 16 to determine the 30 kiln operating day average.

$$30\text{kiln operating day} = \frac{\sum_{i=1}^{n} Hpvi}{n} \quad \text{(Eq. 16)}$$

Where:

Hpvi = The hourly parameter value for hour i, ppmvw.

n = The number of valid hourly parameter values collected over 30 kiln operating days.

(xii) Use EPA Method 18 or Method 320 of appendix A to part 60 of this chapter to determine organic HAP emissions. For each performance test, conduct at least three separate runs under the conditions that exist when the affected source is operating at the level reasonably expected to occur. If your source has an in-line kiln/raw mill you must conduct three separate test runs with the raw mill on, and three separate runs under the conditions that exist when the affected source is operating at the level reasonably expected to occur with the mill off. Conduct each Method 18 test run to collect a minimum target sample equivalent to three times the method detection limit. Calculate the average of the results from three runs to determine compliance.

(xiii) If the THC level exceeds by 10 percent or more your site-specific THC emissions limit, you must

(A) As soon as possible but no later than 30 days after the exceedance, conduct an inspection and take corrective action to return the THC CEMS measurements to within the established value; and

(B) Within 90 days of the exceedance or at the time of the 30 month compliance test, whichever comes first, conduct another performance test to determine compliance with the organic HAP limit and to verify or re-establish your site-specific THC emissions limit.

(8) HCl Emissions Tests with SO_2 Monitoring. If you choose to monitor SO_2 emissions using a CEMS to demonstrate HCl compliance, follow the procedures in (b)(8)(i) through (ix) of this section and in accordance with the requirements of § 63.1350(l)(3). You must establish an SO_2 operating limit equal to the average recorded during the HCl stack test. This operating limit will apply only for demonstrating HCl compliance.

(i) Use Method 321 of appendix A to this part to determine emissions of HCl. Each performance test must consist of three separate runs under the conditions that exist when the affected source is operating at the representative performance conditions in accordance with § 63.7(e). Each run must be conducted for at least one hour.

(ii) At the same time that you are conducting the performance test for HCl, you must also determine a site-specific SO_2 emissions limit by operating an SO_2 CEMS in accordance with the requirements of § 63.1350(l). The duration of the performance test must be three hours and the average SO_2 concentration (as calculated from the average output) during the 3-hour test must be calculated. You must establish your SO_2 operating limit and determine compliance with it according to paragraphs (b)(8)(vii) and (viii)of this section.

(iii) If your source has an in-line kiln/raw mill you must use the fraction of time the raw mill is on and the fraction of time that the raw mill is off and calculate this limit as a weighted average of the SO_2 levels measured during raw mill on and raw mill off testing.

(iv) Your SO_2 CEMS must be calibrated and operated according to the requirements of § 60.63(f).

(v) Your SO_2 CEMS measurement scale must be capable of reading SO_2 concentrations consistent with the requirements of § 60.63(f), including mill on or mill off operation.

(vi) If your kiln has an inline kiln/raw mill, you must conduct separate performance tests while the raw mill is operating (''mill on'') and while the raw mill is not operating (''mill off''). Using the fraction of time the raw mill is on and the fraction of time that the raw mill is off, calculate this limit as a weighted average of the HCl levels measured during raw mill on and raw mill off compliance testing with Equation 17.

$$R=(y*t)+x*(t-1) \quad \text{(Eq. 17)}$$

Where:

R = Operating limit as SO_2, ppmvw.

y = Average SO_2 CEMS value during mill on operations, ppmvw.

t = Percentage of operating time with mill on, expressed as a decimal.

x = Average SO_2 CEMS value during mill off operations, ppmvw.

t − 1 = Percentage of operating time with mill off, expressed as a decimal.

(vii) If the average of your three HCl compliance test runs is below 75 percent of your HCl emission limit, you must calculate an operating limit by establishing a relationship of SO_2 CEMS signal to your HCl concentration corrected to 7% O_2 by using the SO_2 CEMS instrument zero, the average SO_2 CEMS values corresponding to the three compliance test runs, and the average HCl concentration from the HCl compliance test with the procedures in (a)(1)(iii)(A) through (D) of this section.

(A) Determine your SO_2 CEMS instrument zero output with one of the following procedures.

(*1*) Zero point data for in-situ instruments should be obtained by removing the instrument from the stack and monitoring ambient air on a test bench.

(*2*) Zero point data for extractive instruments may be obtained by removing the extractive probe from the stack and drawing in clean ambient air.

(*3*) The zero point may also be established by performing probe-flood introduction of high purity nitrogen or certified zero air free of SO_2.

(*4*) If none of the steps in paragraphs (a)(1)(iii)(A)(*1*) through (*3*) of this section are possible, you must use a zero output value provided by the manufacturer.

(B) Determine your SO_2 CEMS instrument average ppm, and the average of your corresponding three HCl compliance test runs, using equation 18.

$$\overline{x} = \frac{1}{n}\sum_{i=1}^{n} X_1 , \overline{y} = \frac{1}{n}\sum_{i=1}^{n} Y_1 \quad \text{(Eq. 18)}$$

Where:

X_1 = The SO_2 CEMS data points for the three runs constituting the performance test.

Y_1 = The HCl emission concentration expressed as ppmv corrected to 7% O_2 for the three runs constituting the performance test.

n = The number of data points.

(C) With your instrument zero expressed in ppmv, your three run average SO_2 CEMS expressed in ppmv, and your three run HCl compliance test average in ppm corrected to 7% O_2, determine a relationship of ppm HCl corrected to 7% O_2 per ppm SO_2 with Equation 19.

$$R = \frac{Y_1}{(X_1 - z)} \qquad \text{(Eq. 19)}$$

Where:

R = The relative HCl ppmv corrected to 7% O_2 per ppm SO_2 for your SO_2 CEMS.

Y_1 = The three run average HCl concentration corrected to 7% O_2.

X_1 = The three run average ppm recorded by your SO_2 CEMS.

z = The instrument zero output ppm value.

(D) Determine your source specific 30-day rolling average operating limit using ppm HCl corrected to 7% O_2 per ppm SO_2 value from Equation 19 in Equation 20, below. This sets your operating limit at the SO_2 CEMS ppm value corresponding to 75 percent of your emission limit.

$$O_1 = z + \frac{0.75(L)}{R} \qquad \text{(Eq. 20)}$$

Where:

O_l = The operating limit for your SO_2 CEMS on a 30-day rolling average, in ppmv.

L = Your source HCl emission limit expressed in ppmv corrected to 7% O_2.

z = Your instrument zero in ppmv, determined from (1)(i).

R = The relative oxygen corrected ppmv HCl per ppmv SO_2, for your SO_2 CEMS, from Equation 19.

(viii) To determine continuous compliance with the SO_2 operating limit, you must record the SO_2 CEMS output data for all periods when the process is operating and the SO_2 CEMS is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the SO_2 CEMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (ppmvw) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day. Use Equation 18 to determine the 30 kiln operating day average.

$$30 kiln\ operating\ day = \frac{\sum_{i=1}^{n} Hpvi}{n} \qquad \text{(Eq. 21)}$$

Where:

Hpvi = The hourly parameter value for hour i, ppmvw.

n = The number of valid hourly parameter values collected over 30 kiln operating days.

(ix) Use EPA Method 321 of appendix A to part 60 of this chapter to determine HCl emissions. For each performance test, conduct at least three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. If your source has an in-line kiln/raw mill you must conduct three separate test runs with the raw mill on, and three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur with the mill off.

(x) If the SO_2 level exceeds by 10 percent or more your site-specific SO_2 emissions limit, you must

(A) As soon as possible but no later than 30 days after the exceedance, conduct an inspection and take corrective action to return the SO_2 CEMS measurements to within the established value. and

(B) Within 90 days of the exceedance or at the time of the periodic compliance test, whichever comes first, conduct another performance test to determine compliance with the HCl limit and to verify or re-establish your site-specific SO_2 emissions limit.

* * * * *

■ 11. Section 63.1350 is amended by:

■ a. Removing and reserving paragraph (a)(2).

■ b. Revising paragraphs (i)(1) through (i)(2), (j), (k)(2), (k)(2)(ii), (l), (n), (n)(1), (o), and (o)(3).

■ c. Adding paragraphs (k)(2)(iii) and (k)(2)(iv).

The revisions read as follows:

§ 63.1350 Monitoring requirements.

(a) * * *

(2) [Reserved]

* * * * *

(i) * * *

(1) You must install, operate, and maintain a THC continuous emission monitoring system in accordance with Performance Specification 8 or Performance Specification 8A of appendix B to part 60 of this chapter and comply with all of the requirements for continuous monitoring systems found in the general provisions, subpart A of this part. The owner or operator must operate and maintain each CEMS according to the quality assurance requirements in Procedure 1 of appendix F in part 60 of this chapter.

(2) Performance tests on alkali bypass and coal mill stacks must be conducted using Method 25A in appendix A to 40 CFR part 60 and repeated every 30 months.

(j) *Total organic HAP monitoring requirements.* If you are complying with the total organic HAP emissions limits, you must continuously monitor THC according to paragraph (i)(1) and (2) or in accordance with Performance Specification 8 or Performance Specification 8A of appendix B to part 60 of this chapter and comply with all of the requirements for continuous monitoring systems found in the general provisions, subpart A of this part. You must operate and maintain each CEMS according to the quality assurance requirements in Procedure 1 of appendix F in part 60 of this chapter. In addition, your must follow the monitoring requirements in paragraphs (m)(1) through (m)(4) of this section. You must also develop an emissions monitoring plan in accordance with paragraphs (p)(1) through (p)(4) of this section.

(k) * * *

(2) In order to quality assure data measured above the span value, you must use one of the three options in paragraphs (k)(2)(i) through (iii) of this section.

* * * * *

(ii) Quality assure any data above the span value by proving instrument linearity beyond the span value established in paragraph (k)(1) of this section using the following procedure. Conduct a weekly ‘‘above span linearity’’ calibration challenge of the monitoring system using a reference gas with a certified value greater than your highest expected hourly concentration. The ‘‘above span’’ reference gas must meet the requirements of PS 12A, Section 7.1 and must be introduced to the measurement system at the probe. Record and report the results of this procedure as you would for a daily calibration. The ''above span linearity'' challenge is successful if the value measured by the Hg CEMS falls within 10 percent of the certified value of the reference gas. If the value measured by the Hg CEMS during the above span linearity challenge exceeds 10 percent of the certified value of the reference gas, the monitoring system must be evaluated and repaired and a new ''above span linearity'' challenge met before returning the Hg CEMS to service, or data above span from the Hg CEMS must be quality assured using the procedure established in (k)(2)(iii).

(iii) Quality assure any data above the span value established in paragraph (k)(1) of this section using the following procedure. Any time two consecutive one-hour average measured concentration of Hg exceeds the span value you must, within 24 hours before or after, introduce a higher, ''above span'' Hg reference gas standard to the Hg CEMS. The ''above span'' reference gas must meet the requirements of PS 12A, Section 7.1, must target a concentration level between 50 and 150 percent of the highest expected hourly concentration measured during the period of measurements above span, and must be introduced at the probe. Record and report the results of this procedure as you would for a daily calibration. The ''above span'' calibration is successful if the value measured by the Hg CEMS is within 20 percent of the certified value of the reference gas. If the value measured by the Hg CEMS exceeds 20 percent of the certified value of the reference gas, then you must normalize the one-hour average stack gas values measured above the span during the 24-hour period preceding or following the ''above span'' calibration for reporting based on the Hg CEMS response to the reference gas as shown in equation 22:

$$\frac{Certified\ reference\ gas\ value}{Measured\ value\ of\ reference\ gas}\ x\ Measured\ stack\ gas\ result = Normalized\ stack\ gas\ result \qquad (Eq. 22)$$

Only one 'above span' calibration is needed per 24 hour period.

(iv) If mercury emissions from the coal mill and alkali bypass are below the method detection limit for two consecutive annual performance tests, you may reduce the frequency of the performance tests of coal mills and alkali bypasses to once every 30 months. If the measured mercury concentration exceeds the method detection limit, you must revert to testing annually until two consecutive annual tests are below the method detection limit.

* * * * *

(l) *HCl Monitoring Requirements.* If you are subject to an emissions limitation on HCl emissions in § 63.1343, you must monitor HCl emissions continuously according to paragraph (l)(1) or (2) and paragraphs (m)(1) through (4) of this section or, if your kiln is controlled using a wet or dry scrubber or tray tower, you alternatively may parametrically monitor SO_2 emissions continuously according to paragraph (l)(3) of this section. You must also develop an emissions monitoring plan in accordance with paragraphs (p)(1) through (4) of this section.

(1) If you monitor compliance with the HCl emissions limit by operating an HCl CEMS, you must do so in accordance with Performance Specification 15 (PS 15) of appendix B to part 60 of this chapter, or, upon promulgation, in accordance with any other performance specification for HCl CEMS in appendix B to part 60 of this chapter. You must operate, maintain, and quality assure a HCl CEMS installed and certified under PS 15 according to the quality assurance requirements in Procedure 1 of appendix F to part 60 of this chapter except that the Relative Accuracy Test Audit requirements of Procedure 1 must be replaced with the validation requirements and criteria of sections 11.1.1 and 12.0 of PS 15. If you install and operate an HCl CEMS in accordance with any other performance specification for HCl CEMS in appendix B to part 60 of this chapter, you must operate, maintain and quality assure the HCl CEMS using the procedure of appendix F to part 60 of this chapter applicable to the performance specification. You must use Method 321 of appendix A to part 63 of this chapter as the reference test method for conducting relative accuracy testing. The span value and calibration requirements in paragraphs (l)(1)(i) and (ii) of this section apply to HCl CEMS other than those installed and certified under PS 15.

(i) You must use a measurement span value for any HCl CEMS of 0–10 ppmvw. The HCl CEMS data recorder output range must include the full range of expected HCl concentration values which would include those expected during ''mill off'' conditions. The corresponding data recorder range shall be documented in the site-specific monitoring plan and associated records.

(ii) In order to quality assure data measured above the span value, you must use one of the three options in paragraphs (l)(1)(ii)(A) through (C) of this section.

(A) Include a second span that encompasses the HCl emission concentrations expected to be encountered during ''mill off'' conditions. This second span may be rounded to a multiple of 5 μg/m³ of total HCl. The requirements of the appropriate HCl monitor performance specification shall be followed for this second span with the exception that a RATA with the mill off is not required.

(B) Quality assure any data above the span value by proving instrument linearity beyond the span value established in paragraph (I)(1)(i) of this section using the following procedure. Conduct a weekly ''above span linearity'' calibration challenge of the monitoring system using a reference gas with a certified value greater than your highest expected hourly concentration. The ''above span'' reference gas must meet the requirements of the applicable performance specification and must be introduced to the measurement system at the probe. Record and report the results of this procedure as you would for a daily calibration. The ''above span linearity'' challenge is successful if the value measured by the HCl CEMS falls within 10 percent of the certified value of the reference gas. If the value measured by the HCl CEMS during the above span linearity challenge exceeds 10 percent of the certified value of the reference gas, the monitoring system must be evaluated and repaired and a new ''above span linearity'' challenge met before returning the HCl CEMS to service, or data above span from the HCl CEMS must be quality assured using the procedure established in (I)(1)(C).

(C) Quality assure any data above the span value established in paragraph (1)(1)(i) of this section using the following procedure. Any time the average measured concentration of HCl exceeds or is expected to exceed the span value for greater than two hours you must, within a period 24 hours before or after the 'above span' period, introduce a higher, 'above span' HCl reference gas standard to the HCl CEMS. The 'above span' reference gas must meet the requirements of the applicable performance specification and target a concentration level between 50 and 100 percent of the highest expected hourly concentration measured during the period of measurements above span, and must be introduced at the probe. Record and report the results of this procedure as you would for a daily calibration. The 'above span' calibration is successful if the value measured by the HCl CEMS is within 20 percent of the certified value of the reference gas. If the value measured by the HCl CEMS is not within 20 percent of the certified value of the reference gas, then you must normalize the stack gas values measured above span as described in paragraph (l)(1)(ii)(D) below. If the 'above span' calibration is conducted during the period when measured emissions are above span and there is a failure to collect the required minimum number of data points in an hour due to the calibration duration, then you must determine the emissions average for that missed hour as the average of hourly averages for the hour preceding the missed hour and the hour following the missed hour.

(D) In the event that the 'above span' calibration is not successful (i.e., the HCl CEMS measured value is not within 20 percent of the certified value of the reference gas), then you must normalize the one-hour average stack gas values measured above the span during the 24-hour period preceding or following the 'above span' calibration for reporting based on the HCl CEMS response to the reference gas as shown in Equation 23:

$$\frac{Certified\ reference\ gas\ value}{Measured\ value\ of\ reference\ gas} x\ Measured\ stack\ gas\ result = Normalized\ stack\ gas\ result \qquad (Eq. 23)$$

Only one 'above span' calibration is needed per 24-hour period.

(2) Install, operate, and maintain a CMS to monitor wet scrubber or tray tower parameters, as specified in paragraphs (m)(5) and (7) of this section, and dry scrubber, as specified in paragraph (m)(9) of this section.

(3) If the source is equipped with a wet or dry scrubber or tray tower, and you choose to monitor SO_2 emissions, monitor SO_2 emissions continuously according to the requirements of § 60.63(e) through (f) of part 60 subpart F of this chapter. If SO_2 levels increase above the 30-day rolling average SO_2 operating limit established during your performance test, you must:

(i) As soon as possible but no later than 48 hours after you exceed the established SO_2 value conduct an inspection and take corrective action to return the SO_2 emissions to within the operating limit; and

(ii) Within 60 days of the exceedance or at the time of the next compliance test, whichever comes first, conduct an HCl emissions compliance test to determine compliance with the HCl emissions limit and to verify or re-establish the SO_2 CEMS operating limit.

* * * * *

(n) *Continuous Flow Rate Monitoring System.* You must install, operate, calibrate, and maintain instruments, according to the requirements in paragraphs (n)(1) through (10) of this section, for continuously measuring and recording the stack gas flow rate to allow determination of the pollutant mass emissions rate to the atmosphere from sources subject to an emissions limitation that has a pounds per ton of clinker unit and that is required to be monitored by a CEMS.

(1) You must install each sensor of the flow rate monitoring system in a location that provides representative measurement of the exhaust gas flow rate at the sampling location of the mercury CEMS, taking into account the manufacturer's recommendations. The flow rate sensor is that portion of the system that senses the volumetric flow rate and generates an output proportional to that flow rate.

* * * * *

(o) *Alternate monitoring requirements approval.* You may submit an application to the Administrator for approval of alternate monitoring requirements to demonstrate compliance with the emission standards of this subpart subject to the provisions of paragraphs (o)(1) through (6) of this section.

* * * * *

(3) You must submit the application for approval of alternate monitoring requirements no later than the notification of performance test. The application must contain the information specified in paragraphs (o)(3)(i) through (iii) of this section:

* * * * *

■ 12. 63.1354 is amended by:

■ a. Revising paragraphs (b)(9) through (b)(9)(vi).

■ b. Adding paragraphs (b)(9)(viii) through (b)(9)(x).

The revisions and additions read as follows:

§ 63.1354 Reporting requirements.

* * * * *

(b) * * *

(9) The owner or operator shall submit a summary report semiannually to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*www.epa.gov/cdx*).) You must use the appropriate electronic report in CEDRI for this subpart. Instead of using the electronic report in CEDRI for this subpart, you may submit an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*), once the XML schema is available. If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report the Administrator at the appropriate address listed in § 63.13. You must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted.

The report must contain the information specified in § 63.10(e)(3)(vi). In addition, the summary report shall include:

(i) All exceedances of maximum control device inlet gas temperature limits specified in § 63.1346(a) and (b);

(ii) Notification of any failure to calibrate thermocouples and other temperature sensors as required under § 63.1350(g)(1)(iii) of this subpart; and

(iii) Notification of any failure to maintain the activated carbon injection rate, and the activated carbon injection carrier gas flow rate or pressure drop, as applicable, as required under § 63.1346(c)(2).

(iv) Notification of failure to conduct any combustion system component inspections conducted within the reporting period as required under § 63.1347(a)(3).

(v) Any and all failures to comply with any provision of the operation and maintenance plan developed in accordance with § 63.1347(a).

(vi) For each PM CPMS, HCl, Hg, and THC CEMS, D/F temperature monitoring system, or Hg sorbent trap monitoring system, within 60 days after the reporting periods, you must report all of the calculated 30-operating day rolling average values derived from the CPMS, CEMS, CMS, or Hg sorbent trap monitoring systems.

* * * * *

(viii) Within 60 days after the date of completing each CEMS performance evaluation test as defined in § 63.2, you must submit relative accuracy test audit (RATA) data to the EPA's CDX by using CEDRI in accordance with paragraph (9) of this section. Only RATA pollutants that can be documented with the ERT (as listed on the ERT Web site) are subject to this requirement. For any performance evaluations with no corresponding RATA pollutants listed on the ERT Web site, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 63.13.

(ix) For PM performance test reports used to set a PM CPMS operating limit, the electronic submission of the test report must also include the make and model of the PM CPMS instrument, serial number of the instrument, analytical principle of the instrument (e.g. beta attenuation), span of the instruments primary analytical range, milliamp value equivalent to the instrument zero output, technique by which this zero value was determined, and the average milliamp signals corresponding to each PM compliance test run.

(x) All reports required by this subpart not subject to the requirements in paragraphs (b)(9) and (b)(9)(viii) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. The Administrator or the delegated authority may request a report in any form suitable for the specific case (e.g., by commonly used electronic media such as Excel spreadsheet, on CD or hard copy). The Administrator retains the right to require submittal of reports subject to paragraph (b)(9) and (b)(9)(viii) of this section in paper format.

* * * * *

■ 13. Revise § 63.1356 to read as follows:

§ 63.1356 Sources with multiple emissions limit or monitoring requirements.

If you have an affected source subject to this subpart with a different emissions limit or requirement for the same pollutant under another regulation in title 40 of this chapter, once you are in compliance with the most stringent emissions limit or requirement, you are not subject to the less stringent requirement. Until you are in compliance with the more stringent limit, the less stringent limit continues to apply.

§ 63.1357 [Remove and reserve]

■ 14. Remove and reserve § 63.1357.

[FR Doc. 2014–26905 Filed 11–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2009–0234; FRL–9919–20–OAR]

RIN 2060–AS39

National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units (Mercury and Air Toxics Standards (MATS)). In addition to this proposed rule the EPA is publishing a direct final rule that amends the reporting requirements of the MATS rule by temporarily requiring affected sources to submit all required emissions and compliance reports to the EPA through the Emissions Collection and Monitoring Plan System Client Tool and temporarily suspending the requirement for affected sources to submit certain reports using the Electronic Reporting Tool and the Compliance and Emissions Data Reporting Interface. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by December 19, 2014.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2009–0234, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Attention Docket ID Number EPA–HQ–OAR–2009–0234.
- *Fax:* (202) 566–9744. Attention Docket ID Number EPA–HQ–OAR–2009–0234.
- *Mail:* U.S. Postal Service, send comments to: U.S. Environmental Protection Agency, EPA Docket Center, Mail Code: 28221T, Attention Docket ID Number EPA–HQ–OAR–2009–0234, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Ave., NW., Washington, DC 20004. Attention Docket ID Number EPA–HQ–OAR–2009–0234. 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 Number EPA–HQ–OAR–2009–0234. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment.

Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: *http://www.epa.gov/dockets.*

We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5635; fax number: (919) 541–3207; and email address: *parker.barrett@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is the EPA issuing this proposed rule?

The EPA is proposing this rule to take action on amendments to the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units (40 CFR part 63, subpart UUUUU; MATS). In addition, the EPA has published a direct final rule revising the reporting requirements in 40 CFR 63.10031 in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment on a distinct portion of the direct final rule, we will withdraw that portion of the rule and it will not take effect. In this instance, we would address all public comments in any subsequent final rule based on this proposed rule.

If we receive adverse comment on a distinct provision of the direct final rule, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on the date set out in the direct final rule, notwithstanding adverse comment on any other provision. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time.

The regulatory text for this proposal is identical to that for the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**. For further supplementary information, the detailed rationale for this proposal and the regulatory revisions, see the direct final rule published in a separate part of this **Federal Register**.

II. Does this action apply to me?

Categories and entities potentially regulated by this final rule include:

Category	NAICS code [1]	Examples of regulated entities
Industry	221112	Fossil fuel-fired electric steam generating units.
Federal government [2]	221122	Fossil fuel-fired electric steam generating units owned by the federal government.
State/local/tribal government [2]	221122	Fossil fuel-fired electric steam generating units owned by states, tribes or municipalities.
	921150	Fossil fuel-fired electric utility steam generating units in Indian country.

[1] North American Industry Classification System.
[2] Federal, state or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this direct final rule. To determine whether your facility would be regulated by this direct final rule, you should examine the applicability criteria in 40 CFR 63.9981. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

III. Statutory and Executive Orders

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: November 7, 2014.

Gina McCarthy,

Administrator.

[FR Doc. 2014–27127 Filed 11–18–14; 8:45 am]

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Notices

Federal Register

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Wednesday, November 19, 2014

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2014–0036]

Codex Alimentarius Commission: Meeting of the Codex Committee on Fats and Oils

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition (CFSAN) are sponsoring a public meeting on January 13, 2015. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions that will be discussed at the 24th session of the Codex Committee on Fats and Oils (CCFO) of the Codex Alimentarius Commission (Codex), taking place in Malaysia, February 9–13, 2015. The Under Secretary for Food Safety and the FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 24th session of the CCFO and to address items on the agenda.

DATES: The public meeting is scheduled for January 13, 2015 from 10:00 a.m.–12:00 p.m.

ADDRESSES: The public meeting will take place at the Harvey Wiley Building, United States Food and Drug Administration, CFSAN, 5100 Paint Branch Parkway, Room number TBA, College Park, MD 20740.

Documents related to the 24th session of the CCFO will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.org/meetings-reports/en/.*

Paul South, U.S. Delegate to the 24th session of CCFO, invites U.S. interested parties to submit their comments electronically to the following email address: *Paul.South@fda.hhs.gov.*

Call in Number

If you wish to participate in the public meeting for the 24th session of CCFO by conference call, please use the call in number and participant code listed below:

Call in Number: 1–888–844–9904

The participant code will be listed on the Web link below: *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/us-codex-alimentarius/public-meetings*.

FOR FURTHER INFORMATION ABOUT THE 24TH SESSION OF THE CCFO CONTACT: Paul South, Review Chemist, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–1640, Fax: (301) 436–2632, Email: *Paul.South@fda.hhs.gov*.

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Marie Maratos, U.S. Codex Office, 1400 Independence Ave SW., Room 4861, Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157, Email: *Marie.Maratos@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in the food trade.

The CCFO is responsible for elaborating worldwide standards for fats and oils of animal, vegetable and marine origin including margarine and olive oil. The Committee is hosted by Malaysia.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 24th session of CCFO will be discussed during the public meeting:

- Matters Referred by the Codex Alimentarius Commission and Other Codex Committees
- Proposed draft Standard for Fish Oils
- Review of the Lists of acceptable previous cargoes
- Discussion Paper on the Amendment of the Standard for Named Vegetable Oils: Sunflower Seed Oils
- Discussion Paper on Cold Pressed Oils
- Discussion Paper on the Amendment of the Standard for Named Vegetable Oils: High Oleic Soybean Oil
- Discussion Paper on the Amendment of the Standard for Named Vegetable Oils for the Addition of Palm Oil with High Oleic Acid OxG
- Other Business and Future Work

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the January 13, 2015 public meeting, draft U.S. positions on the agenda items will be described and discussed. Attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 24th session of CCFO, Paul South (see **ADDRESSES**). Written comments should state that they relate to activities of the 24th session of CCFO.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service for industry, trade and farm groups, consumer interest groups, allied health professionals, and other individuals who have asked to be included. The update is available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service.*

Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

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Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on November 14, 2014.

Mary Frances Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2014–27413 Filed 11–18–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2010–0023]

Shiga Toxin-Producing Escherichia coli (STEC) in Certain Raw Beef Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and response to comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing that it has completed and is making available its analysis on the estimated costs and benefits associated with the implementation of its non-O157 STEC testing on beef manufacturing trimmings and the costs and benefits associated with the potential expansion of its non-O157 STEC testing to ground beef and ground beef components other than beef manufacturing trimmings. In addition, FSIS is responding to comments that it received on the previous cost benefits analysis.

DATES: To receive full consideration, comments should be received by January 20, 2015.

ADDRESSES: FSIS invites interested persons to submit comments on this notice and the cost benefit analysis. Comments may be submitted by one of the following methods:

• *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.

• *Mail, including CD–ROMs:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.

• *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS 2010–0023. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriot Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Assistant Administrator, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On September 20, 2011, FSIS announced in the **Federal Register** its determination that raw, non-intact beef products or raw, intact beef products that are intended for use in raw, non-intact product, that are contaminated with Shiga toxin-producing *Escherichia coli* (STEC) O26, O45, O103, O111, O121, or O145 are adulterated within the meaning of 21 U.S.C. 601(m)(1)(76 FR 58157; Sep. 20, 2011). In support of its determination, the Agency cited evidence of the STEC organisms' high pathogenicity, low infectious dose, transmissibility from person to person, and thermal resistance high enough for them to survive ordinary cooking (76 FR 51858–51859). FSIS stated that raw, non-intact beef products that are contaminated with these STEC are also unhealthful and unwholesome (under 21 U.S.C. 601(m)(3)) (76 FR 58159).

In this 2011 **Federal Register** notice, FSIS included an estimate of costs and benefits of testing for non-O157 STEC in all non-intact beef product subject to Agency testing (76 FR 58157; Sept. 20, 2011, at 58162–58164). The Agency asked for comments on its plans for implementing the program, including cost estimates (76 FR 58164), which included costs to FSIS laboratories for analyzing trim samples for non-O157 STEC (approximately $204,050 to $338,270 per year in 2010 dollars), cost of additional establishments testing for non-O157 (about $12.3 million to $16.4 million per year), and the loss to the industry from diverting the contaminated products (about $12.1 to $16.1 million per year). FSIS also announced in this notice its plan to conduct a new ''checklist'' survey of its field inspection personnel who are stationed in beef slaughter and processing establishments.

FSIS implemented a verification sampling and testing program for the six adulterant non-O157 STEC in raw beef manufacturing trimmings on June 4, 2012, as announced in a 2012 **Federal Register** notice (77 FR 9889; Feb. 2012). The Agency also announced (75 FR 31975 at 31976; May 31, 2012) that it would update and revise the September

20, 2011, economic analysis, respond to comments received on the analysis, and assess the economic effects of testing for the specified STECs on raw beef manufacturing trimmings, other raw ground beef components, and ground beef. FSIS also announced that when the economic analysis was complete, the Agency would announce its availability, request comments on it, assess the comments, and make any necessary changes to the analysis before finalizing the analysis and expanding FSIS testing to include other raw ground beef components and ground product.

Summary of the Economic Analysis

FSIS has estimated the cost to the regulated industry and FSIS associated with the implementation of its non-O157 STEC testing on beef manufacturing trimmings since June 2012, based on Agency testing data and information collected through the FSIS 2013 Pathogen Controls in Beef Operations Survey. This survey is available at: [*http://www.fsis.usda.gov/wps/wcm/connect/184a3baa-2f73-4651-8aba-68124580f4e0/Pathogen_Controls_in_Beef_Operations_Survey.pdf?MOD=AJPERES.* The survey report is at: [*http://www.fsis.usda.gov/wps/wcm/connect/6d37a1fc-a3e1-40b6-90cc-719bdb391522/STEC_Survey_Comments_Summary.pdf?MOD=AJPERES*], and the cost-benefit analysis is at: [*http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/federal-register-notices*]. The cost for the current testing of beef manufacturing trimmings (including Agency and the industry testing) is about $1.37 million. If the Agency expands the testing to bench trim, other components, and raw ground beef, it will add another $1 million to the cost and bring up the grand total to about $2.37 million. Of the $2.37 million, $1.38 million is for FSIS and $0.99 million for the industry.

FSIS also assessed the benefits associated with the new testing. Benefits would accrue from reduced illnesses and deaths, reduced outbreak-related recalls, and improved business practices. FSIS has concluded that the benefits accruing to industry, Government, and consumers from this new testing policy will result in net economic benefits. However, FSIS was not able to quantify the benefits of expanding the testing.

Summary of the New Checklist Survey Results

In May–July 2013, FSIS conducted the checklist survey entitled, ''The Pathogen Controls in Beef Operations Survey.'' The purpose of the survey was to gather information on the controls that beef slaughtering and processing establishments have in place to reduce STEC and *Salmonella* contamination. The survey questions covered a wide range of topics, including establishment pre-harvest management controls, establishment sanitary dressing procedures, establishment carcass sampling and testing, establishment use of high event periods, information on which beef products are produced at particular establishments, and controls that establishments use to address STEC. FSIS sent surveys to inspectors in 486 establishments out of a total of approximately 2,300 beef slaughter or beef processing establishments to collect the information. The survey results related to non-O157 STEC testing include that about 29 percent of the beef establishments reassessed their HACCP plans for raw beef products based on FSIS's new non-O157 STEC policy, and about 43 percent of the establishments that tested for non-O157 STEC took more than one action (such as confirmatory testing following presumptive positive results or cooking) with products that screened positive. FSIS used the survey results and an updated risk assessment to develop the updated economic analysis.

Response to Comments on the 2011 Federal Register Notice

Comment: A trade association stated that the FSIS verification sampling and testing for non-O157 STEC will lead to additional costs for taxpayers and consumers because of increased testing and destruction or diversion of meat.

Response: FSIS recognizes that FSIS testing will likely result in additional costs to establishments. The Agency understands that the industry is likely to transfer some of its costs to consumers. The Agency has determined, however, that the benefits resulting from reduced illness and deaths, reduced outbreak-related recalls, and improved business practices justify the costs.

Comment: A trade association stated that FSIS underestimated the cost to the Agency and to the industry of implementing this new program. According to the commenter, the true cost of Agency testing, including the cost for testing ground beef, would total $1,170,564 per year in additional expenses. The commenter also stated that adding the costs attendant on a ''for-cause Food Safety Assessment,'' which FSIS conducts when ground beef is confirmed to contain STEC, would add an additional $854,000. According to the comment, FSIS has grossly underestimated the cost of implementing this policy testing.

Response: The Agency has updated the cost estimate to include the costs of expanding testing to raw ground beef products and other raw ground beef components (other than manufacturing trimmings). FSIS found that there will be additional benefits, as well as additional costs, should the Agency begin testing additional product for non-O157 STEC. As mentioned in the Summary of Economic Analysis, the cost for the current testing of beef manufacturing trimmings (including Agency and the industry testing) is about $1.37 million. If the Agency expands the testing to bench trim, other components, and raw ground beef, it will add another $1 million to the cost and bring the grand total to about $2.37 million. Of the $2.37 million, $1.38 is for FSIS and $0.99 for the industry.

FSIS also estimated the benefits associated with the new testing policy. Benefits would accrue from reduced illnesses and deaths, reduced outbreak-related recalls, and improved business practices. The Agency still concludes that the costs are low for new testing that is warranted, and that the benefits justify the costs.

Comment: A trade association stated that the Agency grossly miscalculated the costs to industry and made seriously flawed assumptions in its cost analysis when it concluded that only 33 percent of beef slaughter establishments test for *E. coli* O157:H7. The trade association stated that the better measure for this analysis would be to use the data in Table 5.2.10 in FSIS' 2007 checklist study—''Testing of Source Materials for 03B Establishments.''

Response: The Agency has updated the cost analysis adopting a slightly different approach with information from our 2013 Pathogen Controls in Beef Operations Survey. Thus, there is no reason to use the outdated data from the 2007 checklist study any more. Details are in the updated cost-benefit analysis.

Comment: A trade association stated that FSIS estimated in the 2011 **Federal Register** notice that approximately 20 percent of establishments were testing for non-O157 STEC and did not adequately support that estimate. The comment further stated that the Agency failed to account properly for added laboratory costs for the industry. The commenter stated that industry analysis estimates added laboratory costs to the industry to range from $2.5 million to almost $2.9 million annually.

Response: The Agency has updated the cost analysis using information from the 2013 Pathogen Controls in Beef Operations Survey and used a slightly different approach from the approach used in the earlier estimate. This approach is based on the number of samples tested by the industry and accounts for the added laboratory costs as well. The commenter did not provide information on how the laboratory costs of $2.5 million to $2.9 million were derived. As is explained in the revised cost benefit analysis, FSIS estimates that these costs to industry would be $0.99 million, and these costs to FSIS would be $1.38 million.

Comment: A trade association commented that the Agency's estimate of total beef trimmings production—2.05 billion pounds—is inaccurate. The trade association claimed that, for the year ending June 30, 2010, the industry produced 6.96 billion pounds of ground beef, and that, since ground beef is only produced from raw ground beef components, i.e., trimmings, the more realistic volume of beef trimmings is also approximately 6.96 billion pounds. Additionally, the trade association stated that because the amount of trimmings is approximately 3.4 times greater than the Agency estimate, a more accurate range of the cost of diverted products is approximately $13.24 million to $17.65 million dollars. A foreign government stated that the value of product that is confirmed positive and diverted for cooking will be reduced by approximately 70 to 75 percent.

Response: The Agency has updated the cost analysis and does not use estimated production volume or the value lost for products diverted for cooking in the updated analysis. In examining the 2013 Pathogen Controls in Beef Operations Survey data, we found that 43 percent of the establishments that tested for non-O157 STEC took more than one action, including proceeding to confirmation testing, cooking, destroying, and others, with products that screened positive. The Agency believes that it is not possible to get the total volume of the products disposed under any of the actions, even if we asked that question, because the actions the establishments choose are often based on their particular circumstances. For example, if the establishment is very confident with its screening test methodology, it will probably cook the products that screen positive subject to available cooking capacity. If the establishment is not confident about its screening methodology, and there is not enough cooking capacity, it will probably proceed to confirmation or destroy the products, depending on the relative costs of conducting confirming tests versus destroying the products. Empirical literature on industry behavior shows that industry behaves strategically to maximize profits or minimize losses.

Therefore, establishments' choice of action with regard to product that screened positive will be based on particular circumstances, and whatever actions an establishment takes, the incentive is to avoid recalls and potential outbreaks at the minimum cost. Furthermore, if industry focused more on using the data from the verification testing conducted by the establishment and FSIS to improve the prevention efforts at slaughter, there would be even less contaminated product to be diverted.

Comment: Several industry commenters stated that the Agency improperly calculates the cost of holding tested product and fails to consider the additional time needed to complete the STEC test through the final stage of confirmation and the other costs attendant thereto.

Response: If industry decides to hold product that screened positive in their own testing until confirmed positive results are attained, then this is a business decision not driven by FSIS. Today, establishments do not typically await a confirmed positive result before taking action on the affected production lot. Industry responds to the screen positive result, as stated by another commenter below. The new non-O157 STEC screen method that FSIS uses takes the same amount of time as the method for *E. coli* O157:H7. Agency data for FY2013 showed that the screen positive sample rate for non-O157 STEC in beef manufacturing trimming is only 2 percent. Therefore, the additional cost of holding products because of additional FSIS testing and additional positive samples is likely to be minimal.

Comment: A trade association representing the meat industry stated that there will be more recalls based on testing, and that the Agency's economic analysis failed to consider recalls. The industry, however, estimates that the new testing will result in at least 24 additional recalls annually and perhaps as many as 48 additional recalls. According to the commenter, using Agency data, those added recalls will cost the industry between $72 million and $144 million annually.

Response: For FSIS testing, the establishments have to hold products that screened positive, and therefore there should be no recalls. Recalls should only happen when establishments failed to hold positive products from their own testing. Since FSIS started testing in June 2012, there have been only two Class-I recalls associated with raw beef products with non-O157 STEC, and in both cases products were recalled before any illness was reported. These early-stage recalls actually carried the benefit of preventing potential outbreaks and outbreak-related recalls, which are more costly to the industry as well as the consumers and the government. The goal of the new policy is to better ensure that adulterated product does not enter commerce and, hence, will not have to be recalled.

Comment: A trade association representing the meat industry suggested that there will be significant impact on a significant number of small and very small businesses from increased cost of raw materials, holding tested product, resources needed for supporting documentation, validation, and verification that current control programs for O157 are effective against the six additional STEC strains, and from reassessing HACCP plans.

Response: Any increase in the cost of raw materials would be borne by large establishments as well. The Agency believes that the increased cost from holding the tested product because of additional testing and additional positive samples will not be significant because Agency test data for FY 2013 showed that the screen positive sample rate for non-O157 STEC in beef manufacturing trimming is only 2 percent. The cost of documentation and reassessment of HACCP plans will be minimal too, as the small and very small businesses have to reassess their HACCP plans at least annually. Again, a focus on preventing contamination is likely to be more effective than reliance on testing.

Comment: A trade association representing the meat industry has estimated that the cost per test is $19, plus an additional $9 if the sample is a presumptive positive during the screen. An estimate for final confirmatory testing was not completed by the commenter, as the commenter noted that the beef industry generally makes disposition decisions based upon potential positive results.

Response: The cost per test is more complicated than just one dollar figure. There are many methodologies available to the industry, and some establishments use different methodologies for different time-periods (such as high-prevalence season and other time-periods). For those establishments that are already testing for *E. coli* O157:H7, adding non-O157 will, in most cases, involve switching to new test kits. Market information and Agency expert opinion indicate that the new test kits will only cost about $1 or $2 more per test. If an establishment has to contract out to a different laboratory for non-O157 STEC analysis, we used $30 for average cost per test based on the cost of FSIS testing methodology, which is available in the market for the industry.

Comment: Some countries exporting beef that commented have estimated the direct cost increase to be around $2.4 million per annum for new non-O157 STEC testing. Three commenters from Australia stated that the costs will be significant; two of them said that the cost of testing, storage, and documentation could amount to AUD 1.8 million per annum. One commenter from another country stated that having to test United States-destined trimmings for non-O157 STEC as well as for *E. coli* O157:H7 would impose an additional multi-million dollar cost burden.

Response: FSIS does not require foreign establishments to test, just as we did not require domestic establishments to test. The foreign establishments, as well as the U.S. establishments, have many alternatives to control for non-O157 STECs. It is the foreign establishments' business decision as to what control measure(s) will be the most cost-effective for them to adopt. FSIS testing policy does not create any unfair burden on the foreign establishments.

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Additional Public Notification

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Done, at Washington, DC, November 14, 2014.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2014–27418 Filed 11–18–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

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

AGENCY: National Institute of Food and Agriculture, United States Department of Agriculture (USDA).

ACTION: Notice and solicitation for nominations.

SUMMARY: The National Institute of Food and Agriculture (NIFA) is soliciting nominations of veterinary service shortage situations for the Veterinary Medicine Loan Repayment Program (VMLRP) for fiscal year (FY) 2015, as authorized under the National Veterinary Medical Services Act (NVMSA), 7 U.S.C. 3151a. This notice initiates a 60-day nomination period and prescribes the procedures and criteria to be used by State, Insular Area, DC and Federal Lands to nominate veterinary shortage situations. Each year all eligible nominating entities may submit nominations, up to the maximum indicated for each entity in this notice. NIFA is conducting this solicitation of veterinary shortage situation nominations under a previously approved information collection (OMB Control Number 0524–0046).

DATES: Shortage situation nominations, both new and carry over, must be submitted on or before January 20, 2015.

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

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

SUPPLEMENTARY INFORMATION:

Background and Purpose

A series of three peer-reviewed studies published in 2007 in the Journal of the American Veterinary Medical Association (JAVMA), and sponsored by the Food Supply Veterinary Medicine Coalition (*www.avma.org/KB/Resources/Reference/Pages/about-fsvm-coalition.aspx*), drew considerable attention to an existing and apparent growing shortage of food supply veterinarians, the causes of shortages in this sector, and the consequences to the U.S. food safety infrastructure and to the general public if this trend continues to worsen. Subsequently the Government Accountability Office released a report entitled ''Veterinary Workforce: Actions Are Needed to Ensure Sufficient Capacity for Protecting Public and Animal Health'' (GAO–09–178: Feb 18, 2009). This report was followed by a National Academies of Science report in 2013 entitled ''Workforce needs in Veterinary Medicine''. While the 2013 report concluded that some sectors of the veterinary workforce are not in shortage, the authors affirmed that ''livestock farmers who live far from populated areas have difficulty obtaining veterinary care.'' Furthermore, regarding the largest subgroup of veterinarians serving the food animal industries, the reported stated, ''. . . new graduates are not entering this type of practice anymore, [and therefore] food-animal-predominant veterinarians, as a group, are now composed of rapidly-aging members.''

Food supply veterinary medicine embraces a broad array of veterinary professional activities, specialties and responsibilities, and is defined as the full range of veterinary medical practices contributing to the production of a safe and wholesome food supply and to animal, human, and environmental health. The privately practicing food animal veterinary practitioner population within the U.S. is, numerically, the largest, and arguably the most important single component of the food supply veterinary medical sector. Private practice food animal veterinarians, working closely with livestock producers and State and Federal officials, constitute the first line of defense against spread of endemic and zoonotic diseases, introduction of high consequence foreign animal diseases, and other threats to the health and wellbeing of both animals and humans who consume animal products.

Among the most alarming findings of the Coalition-sponsored studies was that insufficient numbers of veterinary students are selecting food supply veterinary medical careers. This development has led both to current workforce imbalances and to projections for worsening localized shortages over the next 10 years. Burdensome educational debt was the leading concern students listed for opting not to choose a career in food animal practice or other food supply veterinary sectors. According to a survey of veterinary medical graduates conducted by the American Veterinary Medical Association (AVMA) in 2014, the average educational debt for students graduating from veterinary school is approximately $162,000. Such debt loads incentivize students to select other veterinary careers, such as companion animal medicine, which tend to be more financially lucrative and, therefore, enable students to more quickly repay their outstanding educational loans. Furthermore, when this issue was studied in the Coalition report from the perspective of identifying solutions to this workforce imbalance, panelists were asked to rate 18 different strategies for addressing shortages. Responses from the panelists overwhelmingly showed that student debt repayment and scholarship programs were the most important strategies in addressing future shortages (JAVMA 229:57–69). When the VMLRP was first authorized in 2005, the average graduating educational debt of veterinarians was approximately $75,000. Since that time average educational debt burden has more than doubled thereby greatly exacerbating the leading factor promoting the workforce imbalance this program seeks to mitigate.

The VMLRP is aligned with the USDA Strategic Plan for Fiscal Years 2014–2018, particularly with the following strategic goals and objectives: Goal 1—Assist Rural Communities to Create Prosperity so They Are Self-Sustaining, Repopulating, and Economically Thriving, Goal 3—Help America Promote Agricultural Production and Biotechnology Exports as America Works to Increase Food Security, Objective 4.3—Protect Public Health by Ensuring Food is Safe, and Objective 4.4—Protect Agricultural Health by Minimizing Major Diseases and Pests to Ensure Access to Safe, Plentiful, and Nutritious Food. A copy of the USDA Strategic Plan is available at *www.ocfo.usda.gov/usdasp/sp2014/usda-strategic-plan-fy-2014-2018.pdf*.

Paperwork Reduction Act

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

List of Subjects in Guidelines for Veterinary Shortage Situation Nominations

I. Preface and Authority
II. Nomination of Veterinary Shortage Situations
A. General
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Guidelines for Veterinary Shortage Situation Nominations

I. Preface and Authority

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

In FY 2010, NIFA announced the first funding opportunity for the VMLRP. From FY 2010 through FY 2014, NIFA received 858 applications from which 291 VMLRP awards totaling $25,292,341 were issued. Funding for FY 2015 and future years are based on annual appropriations and balances, if any, carried forward from prior years, and may vary from year to year.

Section 7105 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246 (FCEA), amended section 1415A to revise the determination of veterinarian shortage situations to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.

NARETPA section 1415A requires the Secretary, when determining the amount of repayment for a year of service by a veterinarian to consider the ability of USDA to maximize the number of agreements from the amounts appropriated and to provide an incentive to serve in veterinary service shortage areas with the greatest need.

The Secretary delegated the authority to carry out this program to NIFA pursuant to 7 CFR 2.66(a)(141).

Pursuant to the requirements enacted in the NVMSA of 2004 (as revised), and the implementing regulation for this Act, Part 3431 Subpart A of the VMLRP Final Rule [75 FR 20239–20248], NIFA hereby implements guidelines for authorized State Animal Health Officials (SAHO) to nominate veterinary shortage situations for the FY 2015 program cycle:

II. Nomination of Veterinary Shortage Situations

A. General

1. Eligible Shortage Situations

Section 1415A of NARETPA, as amended and revised by Section 7105 of FCEA directs determination of veterinarian shortage situations to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.

While the NVMSA (as amended) specifies priority be given to food animal medicine shortage situations, and that consideration also be given to specialty areas such as public health, epidemiology and food safety, the Act does not identify any areas of veterinary practice as ineligible. Accordingly, all nominated veterinary shortage situations will be considered eligible for submission. However, assessment of submitted nominations by the external review panel convened by NIFA will reflect the intent of Congress that priority be given to certain types of veterinary service shortage situations. NIFA therefore anticipates that the stronger nominations will be those directly addressing food supply veterinary medicine shortage situations.

NIFA has adopted definitions of the practice of veterinary medicine and the practice of food supply medicine that are broadly inclusive of the critical roles veterinarians serve in both public practice and private practice situations. Nominations describing either public or private practice veterinary shortage situations will therefore be eligible for submission.

2. State Respondents and Use of Consultation

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

3. Rationale for Capping Nominations and State Allocation Method

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

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

The second option, limiting all states and insular areas to the same number of nominations suffers from some of the same disadvantages as option one. It has the benefit of limiting administrative burden on both the SAHO and the nomination review process. However, like option one, there would be no correlation between the mapped pattern of certified shortage situations and the actual pattern of need. For example, Guam and Rhode Island would be allowed to submit the same number of nominations as Texas and Nebraska, despite the large difference in the sizes of their respective animal agriculture industries and rural land areas requiring veterinary service coverage.

The third option, to cap the number of nominations in relation to major parameters correlating with veterinary service demand, achieves the goals both of practical control over the administrative burden to the states and NIFA, and of achieving a mapped pattern of certified nominations that approximates the theoretical actual shortage distribution. In addition, this method limits dilution of highest need areas with lower need areas. The disadvantage of this strategy is that there is no validated, unbiased, direct measure of veterinary shortage, and so it is necessary to employ parameters that correlate with the hypothetical cumulative relative need for each state in comparison to other states.

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

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

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

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

4. State Allocation of Nominations

The number of designated shortage situations per state will be limited by NIFA, and this has an impact on the number of new nominations a state may submit each time NIFA solicits shortage nominations. In the 2015 cycle, NIFA is again accepting the number of nominations equivalent to the allowable number of designated shortage areas for each state. All eligible submitting entities will, for the 2015 cycle, have an opportunity to do the following: (1) Retain designated status for any shortage situation successfully designated in 2014 (if there is no change to any information, the nomination will be approved for 2015 without the need for re-review by the merit panel), (2) rescind any nomination officially designated in 2014, and (3) submit new nominations. The total of the number of new nominations plus designated nominations retained (carried over) may not exceed the maximum number of nominations each entity is permitted. Any amendment to an existing shortage nomination is presumed to constitute a significant change. Therefore, an amended nomination must be rescinded and resubmitted to NIFA as a new nomination and it will be evaluated by the 2015 review panel.

The maximum number of nominations (and potential designations) will remain the same in 2015 as they were for the previous five years. Thus, all states have the opportunity to re-establish the maximum number of designated shortage situations. Awards from previous years have no bearing on a state's maximum number of allowable shortage nomination submissions or number of designations for subsequent years. NIFA reserves the right in the future to proportionally adjust the maximum number of designated shortage situations per state to ensure a balance between available funds and the requirement to ensure priority is given to mitigating veterinary shortages corresponding to situations of greatest need. Nomination Allocation tables for FY 2015 are available under the State Animal Health Officials section of the VMLRP Web site at *www.nifa.usda.gov/vmlrp*.

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

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

The maximum number of designated shortage situations for each State in 2015 is shown in Table III.

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

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

5. FY 2015 Shortage Situation Nomination Process

As described in Section 4 above, all SAHOs will, for the FY 2015 cycle, have an opportunity to do the following: (1) Retain (carry over) designated status for any shortage situation successfully designated in 2014 and not revised, without need for reevaluation by merit review panel, (2) rescind any nomination officially designated in 2014, and (3) submit new nominations. The total number of new nominations and designated nominations retained (carried over) may not exceed the maximum number of shortages each state is allocated. An amendment to an existing shortage nomination constitutes a significant change and therefore must be rescinded and resubmitted to NIFA as a new nomination, to be evaluated by the 2015 review panel. The maximum number of nominations (and potential designations) for each state is the same in 2015 as it was in previous years.

The following process is the mechanism by which a SAHO should retain or rescind a designated nomination: NIFA will initiate the process by sending an email to each SAHO with a PDF copy of the nomination form of each designated area that went unfilled in FY 2014. If the SAHO wishes to retain (carry over) one or more designated nomination(s), the SAHO shall copy and paste the prior year information (unrevised) into the current year's nomination form. The

SAHO will then email the carry over nomination(s), along with any new nominations, to *vmlrp@nifa.usda.gov* by the published deadline.

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

6. Submission and Due Date

Shortage situation nominations, both new and carry over, must be submitted on or before January 20, 2015, by email at *vmlrp@nifa.usda.gov* to the Veterinary Medicine Loan Repayment Program; National Institute of Food and Agriculture; U.S. Department of Agriculture. NIFA will examine in the future the feasibility of moving this nomination process from paper-based to an electronic process.

7. Period Covered

Each shortage situation is approved for one program year cycle only. However, any previously approved shortage situation not filled in a given program year may be resubmitted with no changes as a ''carry-over'' shortage in response to the solicitation for shortage nominations the following program year. Content of carry-over shortage nominations must not be changed in any respect, except for providing a revised date of submission and/or the name of a new submitting chief SAHO in the event the person holding that post has changed. Carry-over shortage nominations will not be required to undergo panel merit review and shall therefore be automatically approved. However, by resubmitting a nomination in a following program cycle, the SAHO is affirming that it is his or her professional judgment that the original case made for shortage status, and the original description of needs, are still accurate.

8. Definitions

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

B. Nomination Form and Description of Fields

1. Access to Nomination Form

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

2. Physical Location of Shortage Area or Position

Following conclusion of the nomination and designation process, NIFA will prepare lists and/or maps that include all designated shortage situations for the current program year. This effort requires a physical location that represents the center of the service area for a geographic shortage or the location of the main office or work address for a public practice and/or specialty practice shortage. For example, if the state seeks to certify a tri-county area as a food animal veterinary service (i.e., Type I) shortage situation, a road intersection approximating the center of the tri-county area would constitute a satisfactory physical location for NIFA's listing and mapping purposes. By contrast, if the state is identifying ''veterinary diagnostician'', a Type III nomination, as a shortage situation, then the nominator would complete this field by filling in the address of the location where the diagnostician would work (e.g., State animal disease diagnostic laboratory).

3. Overall Priority of Shortage

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

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

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

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

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

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

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

SAHOs identifying this shortage type must check one or more boxes indicating which specie(s) constitute the veterinary shortage situation. Indicate either ''Must Cover'' or ''May Cover'' to stipulate which species a future awardee must be prepared, willing, and committed to provide services for, versus which species an awardee could treat using a minor percentage of their time obligated under a VMLRP contract. The shortage situation must be in an area satisfying the definition of ''rural.'' The minimum 30 percent-time (12 hours/week) commitment of an awardee to serve in a rural shortage situation is in recognition of the fact that there may be some remote or economically depressed rural areas in need of food animal veterinary services that are unable to support a practitioner predominately serving the food animal sector, yet the need for food animal veterinary services for an existing, relatively small, proportion of available food animal business is nevertheless great. The Type II nomination is therefore intended to address those rural shortage situations where the nominator believes there is a shortage of food supply veterinary services, and that a veterinarian can operate profitably committing 30 to 79 percent to food animal medicine in the designated rural shortage area. The nominator will specify the minimum percent time (between 30 and 79 percent) a veterinarian must commit in order to satisfactorily fill the specific nominated situation. Under the Type II nomination category, the expectation is that the veterinarian may provide veterinary services to other veterinary sectors (e.g., companion animal clientele) as a means of achieving financial viability. As with Type I nominations, the residence of the veterinarian (VMLRP award recipient) and/or the address of veterinary practice employing the veterinarian may or may not fall within the geographic bounds of the designated shortage area. However, the awardee is required to verify the specified minimum percent time commitment (30 percent to 79 percent, based on a standard 40 hour work week) to service within the specified geographic shortage area.

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

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

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

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

7. Written Response Sections

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

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

b. Activities of a Veterinarian Meeting This Shortage Situation

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

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

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

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

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

e. Specifying a Different Service Time Requirement (Optional)

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

f. Affirmation Checkboxes

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

C. NIFA Review of Shortage Situation Nominations

1. Review Panel Composition and Process

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

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

2. Review Criteria

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

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

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

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

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

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

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

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

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

Done in Washington, DC, this 13th day of November, 2014.

Sonny Ramaswamy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2014–27423 Filed 11–18–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of the Census

Federal Economic Statistics Advisory Committee Meeting

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is giving notice of a meeting of the Federal Economic Statistics Advisory Committee (FESAC). The Committee will advise the Directors of the Economics and Statistics Administration's (ESA) two statistical agencies, the Bureau of Economic Analysis (BEA) and the Census Bureau, and the Commissioner of the Department of Labor's Bureau of Labor Statistics (BLS) on statistical methodology and other technical matters related to the collection, tabulation, and analysis of federal economic statistics. Last minute changes to the agenda are possible, which could prevent giving advance public notice of schedule adjustments.

DATES: December 12, 2014. The meeting will begin at approximately 9:00 a.m. and adjourn at approximately 4:30 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau Conference Center, 4600 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: James R. Spletzer, Designated Federal Official, Department of Commerce, U.S. Census Bureau, Research and Methodology Directorate, Room 5K175, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–4069, email: *james.r.spletzer@census.gov.* For TTY callers, please call the Federal Relay Service (FRS) at 1–800–877–8339 and give them the above listed number you would like to call. This service is free and confidential.

SUPPLEMENTARY INFORMATION: Members of the FESAC are appointed by the Secretary of Commerce. The Committee advises the Directors of the BEA, the Census Bureau, and the Commissioner of the Department of Labor's BLS, on statistical methodology and other technical matters related to the collection, tabulation, and analysis of federal economic statistics. The Committee is established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2).

The meeting is open to the public, and a brief period is set aside for public comments and questions. Persons with extensive questions or statements must submit them in writing at least three days before the meeting to the Designated Federal Official named above. If you plan to attend the meeting, please register by Monday, December 1, 2014. You may access the online registration form with the following link: *https://www.regonline.com/fesac_dec2014_meeting.* Seating is available to the public on a first-come, first-served basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Designated Federal Official as soon as known, and preferably two weeks prior to the meeting.

Due to increased security and for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Dated: November 13, 2014.

John H. Thompson,

Director, Bureau of the Census.

[FR Doc. 2014–27438 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

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

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

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

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

[11/4/2014 through 11/13/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
ETM Enterprises I, Inc., d/b/a ETM Enterprises, Inc.	920 N. Clinton Street, Grand Ledge, MI 48837.	11/13/2014	The firm manufactures compression molded fiberglass reinforced plastic parts for heavy-duty transportation vehicles.
Gulf Fish, Inc.	5885 Highway 311, Houma, LA 70360.	11/13/2014	The firm processes shrimp and prawn for consumption.
Ingersoll CM Systems, LLC	3505 Centennial Drive, Midland, MI 48642.	11/12/2014	The firm manufactures machine tool equipment for crankshaft and camshaft machining lines.
Pioneer Service, Inc.	542 W. Factory Road, Addison, IL 33272.	11/12/2014	The firm manufactures machined metal parts and components.

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

[11/4/2014 through 11/13/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
American Standard Company, Inc.	1570 Water Street, Southington, CT 06489.	11/12/2014	The firm manufactures fiber optic wire strippers, dog tags, blades for knives, tree pruning tools, various metal stamped products and various tools assemblies.

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

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

Dated: November 13, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–27371 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–82–2014]

Foreign-Trade Zone 23—Buffalo, New York Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the County of Erie, grantee of FTZ 23, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on November 13, 2014.

FTZ 23 was approved by the FTZ Board on March 31, 1976 (Board Order 110, 41 FR 14824, 4/7/1976) and expanded on November 2, 1979 (Board Order 148, 44 FR 65802, 11/15/1979); April 16, 1982 (Board Order 187, 47 FR 18014, 4/27/1982); February 7, 1985 (Board Order 291, 50 FR 6372, 2/15/1985); October 30, 1989 (Board Order 445, 54 FR 46431, 11/3/1989); and, June 25, 1993 (Board Order 645, 58 FR 36390, 7/7/1993).

The current zone includes the following sites: *Site 1* (225 acres)—Gateway Trade Center, Buffalo Harbor near the Lackawanna Canal, Buffalo and Lackawanna, Erie County, City; *Site 2* (298 acres)—Wehrle International Business Park, adjacent to the Greater Buffalo International Airport, Amherst, Erie County; *Site 3* (13 acres)—Oak-Michigan Industrial Corridor, 225 Oak Street, Buffalo, Erie County; *Site 5* (55 acres)—Grand Island Industrial Park, 353 Lang Boulevard, Grand Island, Erie County; *Site 6* (11 acres)—Speed Transportation, 2299 Kenmore Avenue, Tonawanda, Erie County; *Site 7* (189 acres)—Aero and Airport Business Parks, bounded by Holtz Road, Ellicott Creek, Rein Road, and the New York State Thruway, (immediately adjacent to the Buffalo Niagara International Airport), Cheektowaga, Erie County; *Site 8* (194 acres)—Buffalo Niagara International Airport's Air Cargo Facility and Airport Commerce Center, bounded by Genesee Street, Wehrle Drive, and Cayuga Road, Cheektowaga, Erie County; *Site 9* (5 acres)—Starline U.S.A. Inc., 3036 Alt Boulevard, Grand Island, Erie County; *Site 10* (14.2 acres)—Buffalo Lakeside Commerce Park, 283 and 315 Ship Canal Parkway, Buffalo, Erie County; and, *Site 11* (5.8 acres)—Sonwil Distribution Center, 4900 North America Drive, West Seneca, Erie County.

The grantee's proposed service area under the ASF would be Erie County, New York, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Buffalo Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include Site 1 as a ''magnet'' site and Sites 5, 6, 9, 10 and 11 as ''usage-driven'' sites, as well as to remove Sites 2, 3, 7 and 8. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The application would have no impact on FTZ 23's previously authorized subzones.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is January 20, 2015. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to February 2, 2015.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz*. For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: November 13, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–27406 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 141029907–4907–01]

Impact of the Implementation of the Chemical Weapons Convention (CWC) on Legitimate Commercial Chemical, Biotechnology, and Pharmaceutical Activities Involving ''Schedule 1'' Chemicals (Including Schedule 1 Chemicals Produced as Intermediates) Through Calendar Year 2014

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry.

SUMMARY: The Bureau of Industry and Security (BIS) is seeking public comments on the impact that implementation of the Chemical Weapons Convention (CWC), through the Chemical Weapons Convention Implementation Act (CWCIA) and the Chemical Weapons Convention Regulations (CWCR), has had on commercial activities involving ''Schedule 1'' chemicals during calendar year 2014. The purpose of this notice of inquiry is to collect information to assist BIS in its preparation of the annual certification to the Congress on whether the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms are being harmed by such implementation. This certification is required under Condition 9 of Senate Resolution 75, April 24, 1997, in which the Senate gave its advice and consent to the ratification of the CWC.

DATES: Comments must be received by December 19, 2014.

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

- Email: *willard.fisher@bis.doc.gov.* Include the phrase ''Schedule 1 Notice of Inquiry'' in the subject line;
- Fax: (202) 482–3355 (Attn: Willard Fisher);
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: For questions on the Chemical Weapons Convention requirements for ''Schedule 1'' chemicals, contact Douglas Brown, Treaty Compliance Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482–1001. For questions on the submission of comments, contact Willard Fisher, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

In providing its advice and consent to the ratification of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and Their Destruction, commonly called the Chemical Weapons Convention (CWC or ''the Convention''), the Senate included, in Senate Resolution 75 (S. Res. 75, April 24, 1997), several conditions to its ratification. Condition 9, titled ''Protection of Advanced Biotechnology,'' calls for the President to certify to Congress on an annual basis that ''the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1.'' On July 8, 2004, President Bush, by Executive Order 13346, delegated his authority to make the annual certification to the Secretary of Commerce.

The CWC is an international arms control treaty that contains certain verification provisions. In order to implement these verification provisions, the CWC established the Organization for the Prohibition of Chemical Weapons (OPCW). The CWC imposes certain obligations on countries that have ratified the Convention (i.e., States Parties), among which are the enactment of legislation to prohibit the production, storage, and use of chemical weapons, and the establishment of a National Authority to serve as the national focal point for effective liaison with the OPCW and other States Parties in order to achieve the object and purpose of the Convention and the implementation of its provisions. The CWC also requires each State Party to implement a comprehensive data declaration and inspection regime to provide transparency and to verify that both the public and private sectors of the State Party are not engaged in activities prohibited under the CWC.

''Schedule 1'' chemicals consist of those toxic chemicals and precursors set forth in the CWC ''Annex on Chemicals'' and in Supplement No. 1 to part 712 of the Chemical Weapons Convention Regulations (CWCR) (15 CFR parts 710–722). The CWC identified these toxic chemicals and precursors as posing a high risk to the object and purpose of the Convention.

The CWC (Part VI of the ''Verification Annex'') restricts the production of ''Schedule 1'' chemicals for protective purposes to two facilities per State Party: A single small-scale facility (SSSF) and a facility for production in quantities not exceeding 10 kg per year. The CWC Article-by-Article Analysis submitted to the Senate in Treaty Doc. 103–21 defined the term ''protective purposes'' to mean ''used for determining the adequacy of defense equipment and measures.'' Consistent with this definition and as authorized by Presidential Decision Directive (PDD) 70 (December 17, 1999), which specifies agency and departmental responsibilities as part of the U.S. implementation of the CWC, the Department of Defense (DOD) was assigned the responsibility to operate these two facilities. Although this assignment of responsibility to DOD under PDD–70 effectively precluded commercial production of ''Schedule 1'' chemicals for protective purposes in the United States, it did not establish any limitations on ''Schedule 1'' chemical activities that are not prohibited by the CWC. However, DOD does maintain strict controls on ''Schedule 1'' chemicals produced at its facilities in order to ensure accountability for such chemicals, as well as their proper use, consistent with the object and purpose of the Convention.

The provisions of the CWC that affect commercial activities involving ''Schedule 1'' chemicals are implemented in the CWCR (see 15 CFR part 712) and in the Export Administration Regulations (EAR) (see 15 CFR 742.18 and 15 CFR part 745), both of which are administered by the Bureau of Industry and Security (BIS). Pursuant to CWC requirements, the CWCR restrict commercial production of ''Schedule 1'' chemicals to research, medical, or pharmaceutical purposes (the CWCR prohibit commercial production of ''Schedule 1'' chemicals for ''protective purposes'' because such production is effectively precluded per PDD–70, as described above—see 15 CFR 712.2(a)). The CWCR also contain other requirements and prohibitions that apply to ''Schedule 1'' chemicals and/or ''Schedule 1'' facilities. Specifically, the CWCR:

(1) Prohibit the import of ''Schedule 1'' chemicals from States not Party to the Convention (15 CFR 712.2(b));

(2) Require annual declarations by certain facilities engaged in the production of ''Schedule 1'' chemicals in excess of 100 grams aggregate per calendar year (i.e., declared ''Schedule 1'' facilities) for purposes not prohibited

by the Convention (15 CFR 712.5(a)(1) and (a)(2));

(3) Provide for government approval of ''declared Schedule 1'' facilities (15 CFR 712.5(f));

(4) Provide that ''declared Schedule 1'' facilities are subject to initial and routine inspection by the Organization for the Prohibition of Chemical Weapons (15 CFR 712.5(e) and 716.1(b)(1));

(5) Require 200 days advance notification of establishment of new ''Schedule 1'' production facilities producing greater than 100 grams aggregate of ''Schedule 1'' chemicals per calendar year (15 CFR 712.4);

(6) Require advance notification and annual reporting of all imports and exports of ''Schedule 1'' chemicals to, or from, other States Parties to the Convention (15 CFR 712.6, 742.18(a)(1) and 745.1); and

(7) Prohibit the export of ''Schedule 1'' chemicals to States not Party to the Convention (15 CFR 742.18(a)(1) and (b)(1)(ii)).

For purposes of the CWCR (see 15 CFR 710.1), ''production of a Schedule 1 chemical'' means the formation of ''Schedule 1'' chemicals through chemical synthesis, as well as processing to extract and isolate ''Schedule 1'' chemicals produced biologically. Such production is understood, for CWCR declaration purposes, to include intermediates, by-products, or waste products that are produced and consumed within a defined chemical manufacturing sequence, where such intermediates, by-products, or waste products are chemically stable and therefore exist for a sufficient time to make isolation from the manufacturing stream possible, but where, under normal or design operating conditions, isolation does not occur.

Request for Comments

In order to assist in determining whether the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are significantly harmed by the limitations of the Convention on access to, and production of, ''Schedule 1'' chemicals as described in this notice, BIS is seeking public comments on any effects that implementation of the Chemical Weapons Convention, through the Chemical Weapons Convention Implementation Act and the Chemical Weapons Convention Regulations, has had on commercial activities involving ''Schedule 1'' chemicals during calendar year 2014. To allow BIS to properly evaluate the significance of any harm to commercial activities involving ''Schedule 1'' chemicals, public comments submitted in response to this notice of inquiry should include both a quantitative and qualitative assessment of the impact of the CWC on such activities.

Submission of Comments

All comments must be submitted to one of the addresses indicated in this notice. The Department requires that all comments be submitted in written form.

The Department encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on December 19, 2014. The Department will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them. All comments submitted in response to this notice will be a matter of public record and will be available for public inspection and copying.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration, at (202) 482–1093, for assistance.

Dated: November 14, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–27425 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on small diameter graphite electrodes from the People's Republic of China (PRC), covering the period February 1, 2013, through January 31, 2014. The Department preliminarily determines that during the period of review (POR) one company covered by this review made sales of subject merchandise at less than normal value. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* November 19, 2014.

FOR FURTHER INFORMATION CONTACT: Michael A. Romani, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0198.

Scope of the Order

The merchandise covered by the order includes all small diameter graphite electrodes with a nominal or actual diameter of 400 millimeters (16 inches) or less and graphite pin joining systems for small diameter graphite electrodes. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8545.11.0010, 3801.10, and 8545.11.0020. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[1]

[1] *See* memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of

Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. Except for Henan Sanli Carbon Products Co., Ltd. (Henan Sanli) the petitioners[2] withdrew their request for an administrative review of the remaining 192 companies identified in the *Initiation Notice*.[3] The petitioners were the only party to request a review of these companies. Accordingly, we are rescinding this review, in part, with respect to these entities, in accordance with 19 CFR 351.213(d)(1).

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). The Preliminary Decision Memorandum contains a full description of the methodology underlying our conclusions. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *https://iaaccess.trade.gov*, and is available to all parties in the Department's Central Records Unit, located at room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/index.html*.

Preliminary Results of Review

We determined that Henan Sanli is not entitled to a separate rate and should remain part of the PRC-wide entity. The Preliminary Decision Memorandum contains a full discussion of the rationale underlying our decision.

The Department determined that the following preliminary dumping margin exists for the period February 1, 2013, through January 31, 2014:

Exporter	Margin (percent)
Henan Sanli Carbon Products Co., Ltd.	159.64 †

† The PRC-wide entity rate.

Disclosure and Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[5]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[6] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuing the final results of review, the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[7] For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2).

For the final results, if we continue to treat Henan Sanli as part of the PRC-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 159.64 percent to all entries of subject merchandise during the POR which were produced and/or exported by Henan Sanli.

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, including Henan Sanli, the cash deposit rate will be that for the PRC-wide entity; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Antidumping Duty Administrative Review: Small Diameter Graphite Electrodes from the People's Republic of China'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[2] SGL Carbon LLC and Superior Graphite Co. (collectively, the petitioners)

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 18262 (April 1, 2014) (*Initiation Notice*). No party requested a review of the non-market economy entity. Pursuant to the Department's change in practice, the Department no longer considers the non-market economy entity as an exporter conditionally subject to administrative reviews. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.309(c)(2) and (d)(2); *see also* 19 CFR 351.303 (for general filing requirements).

[6] *See* 19 CFR 351.310(c).

[7] *See* 19 CFR 351.212(b)(1).

Dated: November 7, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

Summary

Background

Scope of the Order

Discussion of Methodology

1. Use of Adverse Facts Available
2. Selection of Adverse Facts Available Rate
3. Corroboration of Secondary Information
4. Separate Rates

Recommendation

[FR Doc. 2014–27404 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–013]

Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of carbon and certain alloy steel wire rod (steel wire rod) from the People's Republic of China (PRC) as provided in section 705 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2013, through December 31, 2013. For information on the estimated subsidy rates, see the ''Suspension of Liquidation'' section of this notice.

DATES: *Effective Date:* November 19, 2014.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Reza Karamloo, Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4007 and (202) 482–4470, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioners in this investigation are ArcelorMittal USA LLC, Charter Steel, Evraz Pueblo (formerly Evraz Rocky Mountain Steel), Gerdau Ameristeel U.S. Inc., Keystone Consolidated Industries, Inc. and Nucor Corporation. In addition to the Government of the PRC, the mandatory respondents in this investigation are Benxi Beiying Iron & Steel Group Import & Export Corp., Benxi Beiying Iron & Steel (Group) Co. Ltd. (collectively, Benxi Steel) and Hebei Iron & Steel Co. Ltd. Tangshan Branch (Hebei Iron & Steel).

The events that have occurred since the Department published the *Preliminary Determination* [1] on July 8, 2014, are discussed in the Issues and Decision Memorandum, which is hereby incorporated in this notice.[2] This memorandum also details the changes we made since the *Preliminary Determination* to the subsidy rates calculated for the mandatory respondents and all other producers/exporters. The Issues and Decision 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 *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The scope of this investigation covers certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately circular cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (i.e., products that contain by weight one or more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, dated concurrently with this notice. A list of the issues that parties have raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix I.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, we continue to rely on facts available and to draw an adverse inference, in accordance with sections 776(a) and (b) of the Act, to determine the subsidy rate for Hebei Iron & Steel, because it failed to participate in this investigation.[3] On July 11, 2014, Benxi Steel notified the Department that it was withdrawing from participation in the investigation. By refusing to participate

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[1] *See Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 79 FR 38490 (July 8, 2014) (*Preliminary Determination*) and accompanying Decision Memorandum (Preliminary Decision Memorandum).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Carbon and Alloy Steel Wire Rod from the People's Republic of China,'' dated concurrently with this notice (Issues and Decision Memorandum).

[3] *See* Preliminary Decision Memorandum at 14–19.

futher in the investigation, Benxi Steel withheld requested information and significantly impeded this proceeding. Thus, for the final determination we are basing the countervailing duty rate for Benxi Steel on facts otherwise available pursuant to sections 776(a)(2)(A), (B), (C), and (D) of the Act. Because Benxi Steel did not cooperate to the best of its ability in this investigation, we further determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. For a full discussion of these issues, see the Issues and Decision Memorandum.

Critical Circumstances

In the *Preliminary Determination,* the Department concluded, in accordance with section 703(e)(1) of the Act, that critical circumstances exist with respect to imports of steel wire rod from the PRC produced and/or exported by Hebei Iron & Steel and all other producers/exporters except for Benxi Steel.[4] For the final determination we have changed our findings with respect to Benxi Steel.[5] Therefore, in accordance with section 705(a)(2) of the Act, we find that critical circumstances exist with respect to imports from Benxi Steel, Hebei Iron & Steel, and all other producers/exporters of steel wire rod from the PRC.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated separate subsidy rates for the individually-investigated producers/exporters of the subject merchandise, Benxi Steel and Hebei Iron & Steel. Section 705(c)(5)(A)(ii) of the Act provides that, if the countervailable subsidy rates established for all individually-investigated exporters and producers are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the rates calculated for the two investigated companies are based entirely on facts available under section 776 of the Act. As there is no other information on the record, we based the all-others rate on the AFA rates calculated for Benxi Steel and Hebei Iron & Steel, consistent with our past practice.[6] We calculated the all-others rate by averaging these two rates.

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy rate (percent)
Benxi Steel[7]	193.31
Hebei Iron & Steel	178.46
All Others	185.89

As a result of our affirmative preliminary critical circumstances determination with respect to all companies other than Benxi Steel, pursuant to section 703(e)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from companies other than Benxi Steel which were entered or withdrawn from warehouse, for consumption on or after April 9, 2014, the date 90 days prior to the date of the publication of the *Preliminary Determination* in the **Federal Register**. As a result of our negative preliminary critical circumstances determination with respect to Benxi Steel, we instructed CBP to suspend liquidation as of July 8, 2014, the publication date of the *Preliminary Determination.*

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered, or withdrawn from warehouse, on or after November 5, 2014, but to continue the suspension of liquidation of all entries from April 9, 2014 through November 4, 2014, as appropriate.

We will issue a countervailing duty order and reinstate the suspension of liquidation in accordance with our final determination and under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, eiher publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: November 12, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary and Issues
  1. Application of Adverse Facts Available (AFA) to Hebei Iron & Steel and Benxi Steel
  2. AFA Rates for Hebei Iron & Steel and Benxi Steel
  3. Calculation of the All-Others Rate
  4. Critical Circumstances

II. Background
III. Application of the Countervailing Duty Law to Imports from the PRC
IV. Use of Facts Otherwise Available and Adverse Inferences
V. Critical Circumstances
VI. Analysis of Comments
VII. Recommendation

[FR Doc. 2014–27410 Filed 11–18–14; 8:45 am]
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[4] *See Preliminary Determination,* 79 FR at 38591.

[5] *See* Issues and Decision Memorandum at ''VI. Critical Circumstances.''

[6] *See Raw Flexible Magnets from the People's Republic of China: Affirmative Countervailing Duty Determination,* 73 FR 39667 (July 10, 2008); *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina,* 66 FR 37007, 37008 (July 16, 2001); *Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India,* 68 FR 68356, 68357 (December 8, 2003).

[7] The companies comprising Benxi Steel are: Benxi Beiying Iron & Steel Group Import & Export Corp.; Benxi Beiying Iron & Steel (Group) Co. Ltd.; Benxi Steel Group Corporation; Beitai Iron & Steel (Group) Co., Ltd.; Benxi Northern Steel Rolling Co., Ltd.; Benxi Beifang Gaosu Steel Wire Rod Co., Ltd.; Benxi Beitai Gaosu Steel Wire Rod Co., Ltd.; Benxi Northern Steel Co., Ltd.; Benxi Beifang Second Rolling Co., Ltd.; Benxi Beitai Ductile Iron Pipes Co., Ltd.; Benxi Iron and Steel (Group) Metallurgy Co., Ltd.; Benxi Iron and Steel (Group) Real Estate Development Co., Ltd.; Bei Tai Iron and Steel Group Imp. and Exp. (Dalian) Co., Ltd.; and Bengang Steel Plate Co., Ltd.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–012]

Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 19, 2014.

SUMMARY: The Department of Commerce (the Department) determines that imports of carbon and certain alloy steel wire rod (steel wire rod) from the People's Republic of China (PRC) are being, or likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation is July 1, 2013, through December 31, 2013. The final weighted-average dumping margins for this investigation are listed in the ''Final Determination Margins'' section below.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Brandon Custard, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1823.

SUPPLEMENTARY INFORMATION:

Background

The Department published the preliminary determination in the LTFV investigation of steel wire rod from the PRC on September 8, 2014.[1] The following events occurred since the *Preliminary Determination* was issued.

We invited parties to comment on the *Preliminary Determination.* No interested party submitted comments.[2] Therefore, the final determination does not differ from the *Preliminary Determination,* except as noted in the ''Continuation of the Suspension of Liquidation'' section, below.

Scope of the Investigation

The product covered by the scope of this investigation is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately circular cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (*i.e.,* products that contain by weight one or more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093; 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Final Determination Margins

The Department determines that the following weighted-average dumping margins exist for the period July 31, 2013, through December 31, 2013.

Exporter	Producer	Weighted-average dumping margin (percent)
Rizhao Steel Wire Co., Ltd	Rizhao Steel Wire Co., Ltd	106.19
Hunan Valin Xiangtan Iron & Steel Co., Ltd	Hunan Valin Xiangtan Iron & Steel Co., Ltd	106.19
Jiangsu Shagang International Trade Co., Ltd	Zhangjiagang Shajing Steel Co. Ltd	106.19
Jiangsu Shagang International Trade Co., Ltd	Zhangjiagang Runzhong Steel Co., Ltd	106.19
Jiangsu Shagang International Trade Co., Ltd	Zhangjiagang Hongxing Gaoxian Co., Ltd	106.19
Jiangsu Shagang International Trade Co., Ltd	Zhangjiagang Rongsheng Steel-Making Co., Ltd	106.19
Jiangsu Shagang International Trade Co., Ltd	Jiangsu Runzhong High-Tech Co., Ltd	106.19
Jiangsu Shagang International Trade Co., Ltd	Zhangjiagang Hongchang Gaoxian Co., Ltd	106.19
PRC-wide Entity*		110.25

* The PRC-wide entity includes, among other companies, Benxi Beiying Iron and Steel Group Imp. and Exp. Corp. Ltd.,[3] Tangshan Iron and Steel Group Co. Ltd., Angang Group International Trade Corporation, Qingdao Iron and Steel Co., Ltd., Jiangsu Yonggang Group Co. Ltd., and Baotou Steel International Economic & Trading Co., Ltd.[4]

[1] *See Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Determination of Critical Circumstances, in Part,* 79 FR 53169 (September 8, 2014) (*Preliminary Determination*).

[2] On October 8, 2014, the petitioners filed a letter indicating that they did not request a hearing, but would participate in a hearing if requested by any of the respondents in this investigation. Given that none of the respondents requested a hearing, no hearing was held.

[3] For the reasons explained in the *Preliminary Determination,* the Department finds it appropriate to consider Bei Tai Iron and Steel Group Imp. and Exp. (Dalian) Co., Ltd. a part of Benxi Beiying Iron and Steel Group Imp. and Exp. Corp. Ltd. *See Preliminary Determination,* and accompanying Preliminary Decision Memorandum at 9.

[4] For the reasons explained in the *Preliminary Determination,* the Department did not find these companies eligible for a separate rate. *See Preliminary Determination,* and accompanying Preliminary Decision Memorandum at 8–11.

Critical Circumstances

In the *Preliminary Determination,*[5] we found that critical circumstances did not exist for entries of subject merchandise from the companies to which we granted a separate rate.[6] In accordance with sections 776(a) and (b) of the Act, we applied facts available with an adverse inference to determine that critical circumstances existed with respect to entries of subject merchandise from the PRC-wide entity. No parties commented on, and we made no changes to, our preliminary critical circumstances analysis,[7] for purposes of the final determination. Therefore, pursuant to section 735(a)(3) of the Act, we continue to find that critical circumstances do not exist for the separate rate companies, but do exist for the PRC-wide entity.

Continuation of Suspension of Liquidation

As noted above, for this final determination, the Department found that critical circumstances exist with respect to imports of the subject merchandise from the PRC-wide entity. Therefore, in accordance with section 735(c)(4)(A) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of the merchandise subject to the investigation from the PRC-wide entity, that were entered or withdrawn from warehouse, for consumption on or after June 10, 2014, 90 days prior to publication of the *Preliminary Determination* in the **Federal Register**, and require a cash deposit for such entries as noted below.

Because we did not find that critical circumstances exist with respect to the separate rate companies, in accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to continue to suspend liquidation of all entries of the subject merchandise from these companies which were entered, or withdrawn from warehouse, for consumption on or after September 8, 2014, the date of publication of the *Preliminary Determination* in the **Federal Register**.

Furthermore, consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty (CVD) investigation, we will instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.[8] In the final determination of the companion CVD investigation on steel wire rod from the PRC, the Department determined that the mandatory respondents and all other companies benefited from export subsidies.[9] Thus, we will offset the estimated weighted-average dumping margin for the PRC-wide entity of 110.25 percent, and for the separate rate companies of 106.19 percent, by the CVD rate attributable to export subsidies (*i.e.*, 13.01 percent[10]) to calculate the cash deposit rate for the PRC-wide entity of 97.24 percent, and for the separate rate companies of 93.18 percent.[11] Consistent with our *Preliminary Determination*, we are not adjusting the final determination rates for estimated domestic subsidy pass through because we have no basis upon which to make such an adjustment.[12]

The Department will instruct CBP to require a cash deposit[13] equal to the weighted-average amount by which the normal value exceeds U.S. price, with the above-noted adjustments, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this final determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate established for the PRC-wide entity; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension of liquidation and cash deposit instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we notified the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that such injury does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of

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[5] *See Preliminary Determination,* 79 FR at 53170.

[6] Rizhao Steel Wire Co., Ltd., Hunan Valin Xiangtan Iron & Steel Co., Ltd., and Jiangsu Shagang International Trade Co., Ltd. (collectively, the separate rate companies).

[7] *See Preliminary Determination,* 79 FR at 53170.

[8] *See* sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department makes an adjustment for export subsidies in an LTFV investigation not in the calculation of the weighted-average dumping margin, but in the cash deposit instructions issued to CBP. *See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[9] *See Carbon and Alloy Steel Wire Rod from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, and accompanying Issues and Decision Memorandum at 9–10 and Attachment entitled "Description of Programs," signed concurrently with this notice.

[10] The following subsidy programs countervailed for all companies in the final determination of the concurrent CVD investigation are export subsidies: Development of Famous Brands and China World Top Brands Programs (0.55 percent), Sub-Central Government Subsidies for Development of Famous Brands and China World Top Brands (0.55 percent), Funds for Outward Expansion of Industries in Guangdong Province (0.55 percent), State Specific Fund for Promoting Key Industries and Innovation Technologies (0.55 percent), Grants for Antidumping Investigations (0.55 percent), Technology to Improve Trade Research and Development (R&D) Fund (0.55 percent), Income Tax Reductions for Export-Oriented Foreign Invested Enterprises (FIEs) (0.00 percent), and Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises (9.71 percent). *See Carbon and Alloy Steel Wire Rod from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, and the accompanying Issues and Decision Memorandum at 9–10 and Attachment entitled "Description of Programs," signed concurrently with this notice.

[11] We did not make any adjustment for export subsidies in the *Preliminary Determination. See Preliminary Determination*, 79 FR at 53171.

[12] *See Preliminary Determination*, and accompanying Preliminary Decision Memorandum at 18.

[13] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: November 12, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–27412 Filed 11–18–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

President's Export Council: Meeting of the President's Export Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The President's Export Council (Council) will hold a meeting to deliberate on recommendations related to promoting the expansion of U.S. exports and to convey a report to the President on the September 2014 fact-finding trip to Poland and Turkey by some members of the Council. Topics may include: the National Export Initiative; trade promotion authority; trade negotiations; reauthorization of the Export-Import Bank of the United States; innovation; education, skills development and workforce readiness; infrastructure; tax reform; and export control reform. The final agenda will be posted at least one week in advance of the meeting on the President's Export Council Web site at *http://trade.gov/pec.*

DATES: December 11, 2014 at 9:30 a.m. (ET).

ADDRESSES: The President's Export Council meeting will be broadcast via live webcast on the Internet at *http://whitehouse.gov/live.*

FOR FURTHER INFORMATION CONTACT: Tricia Van Orden, Executive Secretary, President's Export Council, Room 4043, 1401 Constitution Avenue NW., Washington, DC, 20230, telephone: 202–482–5876, email: *tricia.vanorden@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The President's Export Council was first established by Executive Order on December 20, 1973 to advise the President on matters relating to U.S. export trade and to report to the President on its activities and recommendations for expanding U.S. exports. The President's Export Council was renewed most recently by Executive Order 13652 of September 30, 2013, for the two-year period ending September 30, 2015. This Committee is established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

Public Submissions: The public is invited to submit written statements to the President's Export Council. Statements must be received by C.O.B. December 5, 2014 by either of the following methods:

a. Electronic Submissions

Submit statements electronically to Tricia Van Orden, Executive Secretary, President's Export Council via email: *tricia.vanorden@trade.gov.*

b. Paper Submissions

Send paper statements to Tricia Van Orden, Executive Secretary, President's Export Council, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230.

Statements will be posted on the President's Export Council Web site (*http://trade.gov/pec*) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make publicly available.

Meeting minutes: Copies of the Council's meeting minutes will be available within ninety (90) days of the meeting.

Dated: November 13, 2014.

Tricia Van Orden,

Executive Secretary, President's Export Council.

[FR Doc. 2014–27373 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Ports and Marine Technology Trade Mission to India

February 2–6, 2015.

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Amendment.

SUMMARY: The United States Department of Commerce, International Trade Administration, Industry and Analysis is amending the notice published at 79 FR 24674, May 1, 2014, for the *India Ports and Marine Technology Trade Mission to India* to notify potential U.S. delegates that the trade mission application deadline is extended to November 21, 2014 and to add a second optional stop to an Eastern port, Visakhapatnam (Vizag), India. The fee for the optional stop to Vizag will be $700 per participant for the first representative and $200 for any additional representative, provided there are a number of 5 participants traveling to Vizag.

SUPPLEMENTARY INFORMATION:

Amendment to Revise the Application Deadline and add an optional stop

Background

Recruitment for this Mission began in February 28, 2014.

In addition, since recruitment commenced, new opportunities have been identified for American firms in Vizag, India. Recruitment for the mission will continue, and conclude on November 21, 2014. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis until the maximum of 20 participants is selected. Applications received after November 21, 2014, will be considered only if space and scheduling constraints permit.

Amendments

For the reasons stated above, the last paragraph of the Timeframe for Recruitment and Application section of the notice 79 FR 24674, May 1, 2014, for the *India Ports and Marine Technology Trade Mission to India* is amended to allow for applications to be accepted to November 21, 2014. ''Recruitment for this mission will conclude no later than November 21, 2014. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis until the maximum of 20 participants is selected. Applications received after November 21, 2014, will be considered only if space and scheduling constraints permit.

For the reasons stated above, the Optional Visit to Goa section of the Notice 79 FR 24674, May 1, 2014, for the *India Ports and Marine Technology Trade Mission to India*, are amended as follows:

The header will read: Optional Visit to Goa and Visakhapatnam (Vizag). For an additional fee, participants in the mission can visit the port of Vizag, an Eastern port of India. The port city, often called ''The Jewel of the East Coast'' faces the Bay of Bengal.

For the reason stated above, the Fees and Expenses, section of the Notice 79

FR 24674, May 1, 2014, for the *India Ports and Marine Technology Trade Mission to India*, are amended as follows:

• The fee for the optional stop to Vizag will be $700 per participant for the first representative and $200 for any additional representative, provided there are a number of 5 participants traveling to Vizag.

FOR FURTHER INFORMATION CONTACT:
Hector Rodriguez,
Office of Industry and Analysis,
Trade Promotion Programs,
Phone: 202–482–0629; Fax: 202–482–9000,
Email: *Hector.Rodriguez@trade.gov.*

Frank Spector,

Acting Director—Trade Missions.

[FR Doc. 2014–27401 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Automotive Trade Mission to Bogota, Colombia and Lima, Peru, April 26–30, 2015

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The Commerce Department's International Trade Administration (ITA) and the U.S. Commercial Service (USCS) posts in Bogota, Colombia and Lima, Peru will organize a Business Development Mission April 26–30, 2015.

The Business Development Mission supports the federal government's Look South Initiative, which encourages U.S. companies to explore opportunities in the United States' eleven Free Trade Agreement Partner (FTA) countries in Latin America. Automotive parts and services are in high demand in these high-growth and market-liberalizing countries. *Export.gov/LookSouth* includes ''Best Prospect'' market snapshots on automotive parts and services across eight FTA countries.

The Business Development Mission will include representatives from a variety of U.S. automotive manufacturing companies, service providers and associations/organizations. These mission participants will be introduced to international agents, distributors and end-users whose capabilities are targeted to each U.S. participants' needs in that particular market. Mission participants will also meet with key local industry contacts that can advise on local market conditions and opportunities. In addition to the above-mentioned services, the U.S. Commercial Service industry specialists will be on hand to discuss market trends and opportunities in Colombia and Peru.

Commercial Setting

The Republic of Colombia is the third largest economy in Latin America and has the third largest population with approximately 46 million inhabitants. Aided by major security improvements, steady economic growth, and moderate inflation, Colombia has become a free market economy with major commercial and investment ties to the United States, Europe, Asia and the rest of Latin America. Since the implementation of the U.S.-Colombia Free Trade Agreement (FTA) on May 15, 2012, U.S. exports to Colombia have increased over twenty percent. The past ten years have brought extraordinary change to the country in terms of economic development due to improvements in the national safety and security situation. Strong political stability, a growing middle class (35.3 percent of the population), and improved security have created an economic boom in Colombia that, coupled with the government's conservative fiscal policies, lessened the impact of the global economic crisis. Key economic indicators demonstrating the positive long-term effect of Colombia's political and economic policies include: GDP growth of 4.3 percent in 2013; and foreign direct investment of US$ 16.8 billion in 2013, a record for Colombia, which is an increase over the previous record of US$ 15.3 billion in 2012. These are all signs of a strong and growing economy.

Due to Colombia's close ties to the United States and Colombians' appreciation for the quality and reliability of U.S products, consumers in Colombia often favor U.S. products and services over those of our foreign competitors. Colombia is a major player in the regional automotive market. At the beginning of 2013 there were 9.3 million vehicle units in the country, according to data from the Ministry of Transportation. According to research conducted by the multinational banking group BBVA in 2013, Colombia's vehicle stock will increase by 3.5 million between 2010 and 2020. The same study establishes that the automotive sector contributes to 4 percent of the country's GDP and employs about 3.2 percent of the country's population. Colombia currently ranks as the third largest automobile manufacturer in Latin America. In addition, after Brazil, Colombia is the second largest motorcycle producer in the region, with an annual output of 515,000 motorcycles. A number of international auto manufacturers currently produce vehicles in Colombia. 68 brands and 267 models are found in the market. The high import percentage represents good opportunities for all imported parts and accessories, especially those from the United States, which are very well known and regarded nationwide. The average lifespan of a vehicle in Colombia is fifteen years. Due to this, there are significant opportunities for replacement parts. In addition, with the implementation of the FTA, tariffs for most auto parts made in the United States have been reduced from thirteen to zero percent.

Peru continues to be one of the fastest growing Latin American economies in the past eleven years, while keeping low inflation, as the International Monetary Fund noted in January 2014. The steady economic growth began with the pro-market policies enacted by President Fujimori in the 1990s. All subsequent governments have continued these policies, including the current administration inaugurated in July 2011 for a five-year term.

Although growth slowed down in the last three years, the Peruvian economy has grown at an average of 6.3% per year since 2002, reaching a $207 billion GDP in 2013. The trend is expected to continue with a projected GDP growth of 5.2% in 2014 and 5.7% to 6.0% in 2015. Private investment and consumption are anticipated to be the main driving forces of this growth. Projections for 2014 are that gross fixed investment growth will exceed 7% in real terms to reach US$55.3 billion. Public investment is increasingly important as in 2013 it was $11.6 billion (5.3% of GDP), while in 2001 it was $1.7 billion (3.1% of GDP). The Ministry of Economy and Finance (MEF) foresees that public investment will increase 17% in dollar terms to US$13.4 billion. As the economy has grown, poverty in Peru has steadily decreased, to 23.9% in 2013. In its November 2012 Peru Handbook, HSBC states that Peru is ''the third-fastest growing consumer market globally, and set to be a bigger economy than Chile, Colombia, or even South Africa in the long term''.

The Peruvian Government has encouraged integration with the global economy by signing a number of free trade agreements, including the United States-Peru Trade Promotion Agreement (PTPA), which entered into force in

2009. The strong economic growth in Peru has increased consumer buying power in the country and, as a result, the demand for automobiles. The establishment of free trade agreements and reduction on tariffs increased the automobile industry demand, which also boosted the demand for more auto parts.

The auto parts industry grew 4.5 percent from 2012 to 2013—a total of over US$1.5 billion—with tires being the main import item for both light and heavy vehicles, followed by the segments for lubricants, engine parts, filters, transmission systems and body parts. The United States is a major exporter of auto parts to Peru, though increasing exports from Asian countries, particularly China, provide for a high level of competition. U.S. products are widely accepted and understood to be of high quality. Marketing strategies should emphasize product's quality and valuable post-sale service provisions. Furthermore, formal and personal connections should be formed with potential partners in Peru to foster trust in the agreement. Peru's automobile market has ample space to grow, as the number of cars is small compared with other countries in the region with similar income levels. Furthermore, the higher average age of vehicles creates a context which is envisioned to encourage vehicle renewal.

Companies that intend to export Aftermarket Parts & Accessories; Chemicals and Lubricants; Parts and Components; Mobile Electronics and Components; Tools and Testing Equipment; and Services Consulting possess great potential for success. Other companies will be considered as well based on their market potential in both countries.

Mission Goals

The goal of the Automotive Trade Mission is to facilitate an effective presence for small and medium sized companies to export to companies in Colombia and Peru. The mission will enable U.S. companies and associations/organizations to familiarize themselves with these important markets, to conduct market research, and to explore export opportunities through pre-arranged meetings with potential partners. The companies and associations/organizations will be able to network with government and industry professionals, providing them with an enhanced image and level of engagement. Knowledgeable Commercial Service Specialists who are familiar with the firms' objectives will support the mission participants.

Proposed Timetable

Day of week	Date	Activity
Sunday	April 26, Bogota, Colombia	Arrive in Bogota, Colombia.
Monday	April 27, Bogota, Colombia	Business Breakfast Briefing. One-on-One Business Meetings. Luncheon. Evening Welcome Reception.
Tuesday	April 28, Bogota, Colombia	One-on-One Business Meetings. or Follow-up meetings or site visits. Travel to and arrival in Lima, Peru.
Wednesday	April 29, Lima, Peru	Business Breakfast Briefing. One-on-One Business Meetings. Luncheon. Evening Welcome Reception.
Thursday	April 30, Lima, Peru	One-on-One Business Meetings. Follow-up meetings or site visits.
Thursday/Friday	April 30/May 1, Lima, Peru	Check out hotel. Return to the United States.

Participation Requirements

All persons and associations/organizations interested in participating in the Automotive Trade Mission to Colombia and Peru must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. Target recruitment for the Trade Mission is minimum 12 and maximum 20 companies. After an applicant has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked.

Fees and Expenses

SME Participation Fee $3,124

Large Company Participation Fee $4,477

Participation fee for third company representative $500

Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the U.S. Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

A company's products or services must be either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content of the value of the finished product/service.

Criteria for Participant Selection: Each applicant to the program will be screened for the following:

• Relevance of the company's or association's/organization's business line to the mission's goals.

• Timeliness of company's or association's/organization's signed application.

• Timely and adequate provision of company and product/service information and literature, in order to enable communication of company's objectives and scheduling of business appointments.

* An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingo opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing schedule reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (for additional information see *http://www.export.gov/newsletter/march2008/initiatives.html*).

• Provision of adequate information on company's or association's/organization's products and/or services, and primary market objectives, in order to facilitate appropriate matching with potential business partners.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Expenses for lodging, some meals, incidentals, and travel (except for transportation to and from airport) will be the responsibility of each mission participant.

Timeframe for Recruitment and Applications

Recruitment for the mission is to begin immediately and conclude no later than March 1, 2015. The U.S. Department of Commerce will review all applications immediately after the deadline. We will inform applicants of selection decisions as soon as possible after March 1, 2015. Applications received after that date will be considered only if space and scheduling constraints permit.

ITA Trade Specialists will promote the Trade Mission. This promotion will take place nation-wide and will largely be handled by the Global Automotive Team. Those interested in the mission will apply to the program, and once accepted will work with the mission leader(s) to develop their business goals in Colombia and Peru. If the participation fee is not paid within the designated timeframe, the offer to participate on the mission may be withdrawn.

U.S. Export Assistance Center trade specialists and particularly members of the Global Automotive Team will recruit and counsel prospective participants for the trade mission. Company information and literature will be forwarded by the companies to CS Bogota and CS Lima. The two offices will then begin the partner search, and will provide management and logistical coordination of the program.

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade missions calendar—*http://www.ita.doc.gov/doctm/tmcal.html*—and other Internet Web sites, publication in domestic trade publications and association newsletters, mailings from internal mailing lists, emails to internal database of clients, email to sector distribution lists, through posting in the **Federal Register**, and at industry meetings, symposia, conferences, trade shows, etc. The Trade Mission will also be promoted by USCS and by team members of the Global Automotive Team.

Contacts

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Frank Spector,
Acting Director—Trade Missions.

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BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Trade Mission to Angola, Ethiopia, Ghana, Kenya, Mozambique, Nigeria, South Africa and Tanzania in Conjunction With Trade Winds—Sub-Sahara Africa, September 14–21, 2015

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration is organizing a trade mission to Angola, Ethiopia, Ghana, Kenya, Mozambique, Nigeria, South Africa and Tanzania that will include the Trade Winds—Sub-Sahara Africa business forum in Johannesburg, South Africa on September 16–18, 2015. U.S. trade mission members will participate in the Trade Winds—Sub-Sahara Africa business forum in Johannesburg, South Africa, which is also open to U.S. companies not participating in the trade mission. Trade mission participants may also choose to participate in their choice of trade mission stops based on recommendations from the USFCS, including in Angola, Ethiopia, Ghana, Kenya, Mozambique, Nigeria, South Africa and Tanzania. Each trade mission stop will include one-on-one business appointments with pre-screened potential buyers, agents, distributors or joint-venture partners. Trade mission participants participating in the Trade Winds—Sub-Sahara Africa business forum may attend regional and industry-specific sessions and consultations with USFCS Senior Commercial Officers and other government officials representing the Sub-Sahara Africa region during the business forum in Johannesburg, South Africa on September 16–18, 2015.

This mission is open to U.S. companies and trade associations from a cross-section of industries with growth potential in Angola, Ethiopia, Ghana, Kenya, Mozambique, Nigeria, South Africa and Tanzania, including, but not limited to the following industries: Power generation, transmission and distribution technology and equipment; oil and gas equipment and technology; mining and construction equipment; building products; agricultural equipment and technology; information communications technology and equipment; healthcare and medical products, equipment, and services; rail, air and port technology, products and services; environmental technologies; consumer products; and safety and security products and services.

Commercial Setting

Sub-Saharan Africa Economic Outlook

Africa is the world's fastest growing continent, with excellent ground-level business opportunities for U.S. exporters across an array of sectors. Macroeconomic indicators continue to strengthen, as poverty declines and education and health outcomes continue to improve. Economic growth on the sub-continent is now projected to rise from 4.9% in 2013 to about 5.5% this year. In fact, robust economic activity, underpinned by large investments in infrastructure and mining and an expanding agricultural segment, continues in all three sub-regions of East Africa, West Africa and Southern Africa. Foreign investment has now fully recovered from the effects of the global crisis, and will reach a record US$80 billion in 2014, with manufacturing and services (vice oil and gas) attracting an increasing share of the continent's greenfield-investment projects. An increasing number of U.S. multi-national companies have recently made significant investments in the region, including Marriott, Walmart, FedEx and Proctor and Gamble.

With a population of 1.07 billion and a geography as large as China; India; Western Europe; Mexico; and the United States combined, rising wages, an emerging middle class and consumerism are diversifying demand for U.S. products and services. While, infrastructure opportunities (energy, minerals, transportation, and ICT) and agricultural production continue to expand, continent-wide consumer spending is on a growth path that is expected to reach $1.4 trillion in 2020 (from a base of $860 billion in 2008).

U.S. goods and services exports to Africa continue to grow by 6–8 percent annually, having reached a record high of $50.2 billion in 2013. Sub-Saharan Africa is thus poised to become world's next economic success story.

Market Overview and Top Prospects for U.S. Goods and Service Exports in the Following Markets

Angola

Angola is the third-largest economy in Sub-Saharan Africa with a GDP of over US$124 billion, and average annual growth of 5%. The Angolan economy is driven by the oil and gas industry, but is rapidly diversifying as the country's growth has fueled consumption and attracted foreign investors. The cost of doing business in Angola is high, but the rewards are commensurate. Areas with the best potential for U.S. exporters include: health & medical supplies, franchising, infrastructure (airports, ports, highways, roads, sewage systems, power generation), oil & gas suppliers and services, safety & security, agribusiness (fertilizers, machinery, and irrigation), food processing, mining, telecoms, construction, and environmental technologies.

Ethiopia

Ethiopia's population of over 90 million makes it one of the largest growing markets in Africa. GDP growth for the past five years has averaged between 7%–12% annually, and Moody's has rated Ethiopia's credit worthiness a 'B+', reflecting the economy's stable outlook and prospects for continued growth in the short and medium-term.

Now is an opportune time for U.S. companies to enter the Ethiopian market, as the government is revising its five-year Growth and Transformation Plan for 2015–2020 to charter the development path in key sectors—Renewable Energy (wind, geothermal, solar), ICT and other infrastructure related projects, agro-business, education, and tourism. Due to its strategic location to GCC (Gulf Cooperation Council) countries, stable security, low corruption and unprecedented growth, Ethiopia is a prime location for U.S. exports and investment.

Ghana

Ghana has a vibrant democratic government and has witnessed strong economic growth (7.5% over the last decade, surging to 15% in 2011 as offshore petroleum reserves become available) due to prudent macroeconomic management, a competitive business environment, an increasingly diversified economy and sustained reductions in poverty levels.

One of Ghana's most promising sectors is energy—both oil & gas exploration and power production. Ghana has far less production capacity than needed to grow its economy. Thermal power production has been hampered by inadequate and inconsistent sources of gas. Reliance on the West Africa Gas Pipeline to supply gas from Nigeria is one solution; a more sustainable and reliable solution to utilize gas from Ghana's offshore energy fields is in development as are plans to source renewable sources of energy. In other sectors, significant opportunities exist for U.S. companies with the ability to provide comprehensive solutions—often including financing—for port development, airport expansions, road construction, rail projects and more.

Kenya

Kenya has an estimated population of 44.3 million with a market-based economy and a well-educated, multilingual professional workforce, particularly in Nairobi, the country capital. Kenya is generally considered the economic, commercial, and logistics hub of East Africa. With the strongest industrial base in East Africa, Kenya has been successful in attracting private equity capital. U.S. companies continue to invest in Kenya and are setting up local and regional operations to take advantage of Kenya's strategic location, comprehensive air routes, and status as a regional financial center.

Major opportunities for U.S. exporters lie in agribusiness, particularly horticulture, which relies heavily on the importation of fertilizers, pesticides and equipment to boost local productivity. Similar opportunities lie in Kenya's floriculture industry, a leading exporter of fresh cut flowers to the flower auction in Holland. Energy presents another opportunity, particularly in geothermal and wind technology applications. Other sectors that show lucrative U.S. export potential are medical devices, infrastructure (roads, bridges, rail, air- and seaports) and ICT products and services (Cloud, web-hosting, accounting, payroll).

Mozambique

Mozambique, with a population of 24 million, grew its economy on average by 8% annually from 1994–2009, a result of prudent macroeconomic reforms and large foreign investment projects. Real opportunities exist in developing transport infrastructure (rail and ports) and related equipment, as infrastructure projects will be key to Mozambique's near- and long-term future. The government is investing heavily in expanding rail- and port capacity to manage the rising production of mineral resources. Regular new discoveries in oil and gas present excellent U.S. export prospects for construction and infrastructure projects and U.S. investment in the energy sector, particularly off-shore natural gas, is expected to grow tremendously in the next several years. Other infrastructure and equipment opportunities include telecommunications, energy (natural gas, hydropower and bio-diesel); mining (tantalum, graphite and coal); tourism (hotels, sports and leisure resorts); water supply and sanitation, medical equipment and consumables.

Nigeria

Nigeria has the largest economy in Sub-Saharan Africa and is one of the world's fastest growing economies, with an annual GDP growth rate of about 7%. It is also Africa's most populous country, with approximately 170 million inhabitants. Oil revenue currently accounts for almost 20% of Nigeria's GDP and over 90% of its foreign exchange earnings.

In recent years, the country's long-neglected non-oil sectors have been growing faster than the oil sector itself. This means significant opportunities for U.S. business in a wide range of sectors—not only in energy (oil and gas), but also in mining, power (generation and distribution), infrastructure (roads, buildings, and bridges), health (hospital care and medical equipment), transportation (aerospace, railroads, automobiles, and trucks), information and communications technology, agricultural technology, environmental technology, safety and security, education and training, franchising, and financial services. There is also considerable potential for American consumer goods in Nigeria's expanding market.

South Africa

With a population of 51 million and GDP at US$350.6 billion, South Africa is a middle-income country, with relative macroeconomic stability, a mature and diverse economy, urban infrastructure that resembles OECD standards and a largely pro-business environment. The banking and financial services sector is stable and the Johannesburg Stock Exchange (JSE) ranks amongst the top emerging market exchanges in the world.

The U.S. is a critical trading partner of South Africa, and good U.S. export opportunities exist across a range of sectors. Much of South Africa's infrastructure is in need of an overhaul—with the government looking to invest in improving and expanding rail lines, locomotives and network lines. Opportunities also exist in energy efficient solutions for power generation and smart-grid technologies, as well as medical devices, particularly in high-tech equipment and diagnostics, green technologies, green building technologies, automotive aftermarket (specialty products), water management, air pollution control and monitoring equipment and agricultural equipment.

Tanzania

Real GDP for Tanzania's population of 48 million grew by 7% in 2013, the fifth consecutive year that Tanzania has enjoyed a growth rate that ranks it among the 20 fastest growing in the world. This growth is due to a strengthening manufacturing sector, continued investment in the natural gas sector, increased energy production, and robust growth in construction activities. While U.S. exports to Tanzania amounted to just over $400 million last year, this represents 70% year on year growth. Tanzania's strategic location makes it a natural East African hub for investors seeking to capitalize not only on its vast resources but also a growing market of 527 million consumers in East and Southern Africa.

Best prospect sectors and opportunities for U.S. exporters include petroleum, gas and energy; agribusiness and food processing equipment; mining equipment, IT and telecommunication equipment, construction and real estate development and aviation infrastructure. In addition, U.S. consumer goods and franchise concepts are increasingly attractive to the Tanzanian market.

Mission Goals

The goal of the trade mission is to help participating firms gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports to Angola, Ethiopia, Ghana, Kenya, Mozambique, Nigeria, South Africa and Tanzania and the region. The delegation will also have access to USFCS Senior Commercial Officers and Commercial Specialists during the mission, learn about the many business opportunities in Sub-Sahara Africa, and gain first-hand market exposure. U.S. trade mission participants already doing business in Sub-Sahara Africa will have opportunities to further advance business relationships and projects in those markets.

Scenario & Timetable

September 13, 2014	Arrive in Luanda, Angola or Addis Ababa, Ethiopia or Accra, Ghana or Dar es Salaam, Tanzania or Maputo, Mozambique (if electing to participate in one of these mission stops).
September 14, 2015	Luanda, Angola or Addis Ababa, Ethiopia or Accra, Ghana or Dar es Salaam, Tanzania or Maputo, Mozambique (choice of one mission stop).
	Business to Business meetings and networking with government and business officials.
September 15, 2015	Arrive in Johannesburg, South Africa.
September 16–18, 2015	Johannesburg, South Africa: Trade Winds Business Forum and SCO Consultations.
	Market Briefings, Business to Business meetings, Consultations with U.S. government trade representatives and networking with U.S. and foreign government and business officials.
September 20, 2015	Arrive in Lagos, Nigeria or Nairobi, Kenya.
September 21, 2015	Lagos, Nigeria or Nairobi, Kenya (choice of one mission stop).
	Business to Business meetings and networking with government and business officials.

Participation Requirements

All parties interested in participating in the trade mission to Angola, Ethiopia, Ghana, Kenya, Mozambique, Nigeria, South Africa and Tanzania must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below.

A minimum of 55 companies and/or trade associations will be selected to participate in the mission from the applicant pool on a first-come, first-served basis. Mission stop participation will be limited as follows: The Ethiopia mission stop is limited to 5 companies; the Tanzania mission stop is limited to 5 companies; the Mozambique mission stop is limited to 5 companies; the Angola mission stop is limited to 5 companies; the Kenya mission stop is limited to 15 companies; the South Africa mission stop is limited to 50 companies; the Nigeria mission stop is limited to 20 companies; and the Ghana mission stop is limited to 5 companies.

Additional delegates may be accepted based on available space. U.S. companies and/or trade associations already doing business in or seeking business in Angola, Ethiopia, Ghana, Kenya, Mozambique, Nigeria, South Africa and Tanzania for the first time may apply.

Fees and Expenses

After a company has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required.

- For one mission stop, the participation fee will be $2,500 for a small or medium-sized enterprise (SME) and $3,500 for large firms.
- For two mission stops, the participation fee will be $3,300 for a small or medium-sized enterprise (SME) and $4,300 for large firms.
- For three mission stops, the participation fee will be $4,100 for a small or medium-sized enterprise (SME) and $5,100 for large firms.

The above trade mission fees include the $500 participation fee for the Trade Winds business forum to be held in Johannesburg, South Africa on September 16–18, 2015.

An additional representative for both SMEs and large firms will require an additional fee of $500 for one mission stop, $1,000 for two mission stops, or $1,500 for three mission stops

Expenses for travel, lodging, meals, and incidentals such as local transportation and interpreters will be the responsibility of each mission participant.

Conditions for Participation:

• An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. Applicant should specify in their application and supplemental materials which trade mission stops they are interested in participating in. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

• Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the U.S., or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content of the value of the finished product or service. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content.

Selection Criteria for Participation: Selection will be based on the following criteria:

• Suitability of the company's (or, in the case of a trade association or trade organization, represented companies') products or services to each of the markets the company or trade association/organization has expressed an interest in visiting as part of this trade mission.

• Company's (or, in the case of a trade association or trade organization, represented companies') potential for business in each of the markets the company or trade association/organization has expressed an interest in visiting as part of this trade mission.

• Consistency of the applicant's goals and objectives with the stated scope of the mission.

Diversity of company size, sector or subsector, and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar, and other Internet Web sites, press releases to the general and trade media, direct mail and broadcast fax, notices by industry trade associations and other multiplier groups and announcements at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than June 15, 2015. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning December 3, 2014, until the minimum of 55 participants is selected. After June 15, 2015, applications will be considered only if space and scheduling constraints permit.

U.S. Contact Information

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Frank Spector,

Acting Director—Trade Missions.

[FR Doc. 2014–27400 Filed 11–18–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD621

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a meeting of its Coral Working Group.

DATES: The meeting will convene at 9 a.m. (E.S.T.) on Thursday, December 4, 2014 until 5 p.m. on Friday, December 5, 2014.

ADDRESSES: The meeting will be held at the Gulf of Mexico Fishery Management Council office, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Morgan Kilgour, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *morgan.kilgour@gulfcouncil.org*

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are as follows:

Coral Working Group Agenda, Thursday, December 4, 2014, 9 a.m. E.S.T. until Friday, December 5, 2014, 5 p.m.

1. Review Council charge—''to determine the criteria and boundaries, and other specifics for potential sites, and once that has been determined, that this group meet with representatives of any potentially impacted fisheries and members of law enforcement.''
2. Discuss individual sites identified in the September webinar
   a. Review data available
   b. Evaluate appropriate boundaries or areas
   c. Make recommendations on appropriate areas
3. Other Business

This is the focus of the working group. Individual working group members may choose to present supplementary material to enhance our understanding of these areas and improve the discussion.

Adjourn

The Agenda is subject to change, and the latest version will be posted on the Council's file server, which can be accessed by going to the Council Web site at *http://www.gulfcouncil.org* and clicking on FTP Server under Quick Links. For meeting materials see folder ''Coral Workshop meeting—2014–10'' on Gulf Council file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's Web site and click on the FTP link in the lower left of the Council Web site (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 14, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–27376 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Advisory Committee on Commercial Remote Sensing Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Advisory Committee on Commercial Remote Sensing (ACCRES) will meet December 5, 2014.

DATES: The meeting is scheduled as follows: December 5, 2014, 9:00 a.m.–4:00 p.m. The meeting will be open to the public.

ADDRESSES: The meeting will be held at the George Washington University Elliott School of International Affairs, Room 505, 1957 E St. NW., Washington, DC 20052.

FOR FURTHER INFORMATION CONTACT: Tahara Dawkins, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8260, Silver Spring, Maryland 20910; telephone (301) 713–3385, fax (301) 713–1249, email *Tahara.Dawkins@noaa.gov,* or Thomas Smith at telephone (301) 713–0573, email *Thomas.Smith@noaa.gov.*

SUPPLEMENTARY INFORMATION: As required by section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of the meeting of ACCRES. ACCRES was established by the Secretary of Commerce (Secretary) on May 21, 2002, to advise the Secretary through the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for the licensing of commercial remote sensing satellite systems.

Matters To Be Considered

The meeting will be open to the public pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended by Section 5(c) of the Government in Sunshine Act, Public Law 94–409 and in accordance with Section 552b(c)(1) of Title 5, United States Code.

The Committee will receive a presentation on commercial remote sensing issues and updates of NOAA's licensing activities. The committee will also receive comments on its activities.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed to ACCRES, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8260, Silver Spring, Maryland 20910.

Additional Information and Public Comments

Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Tahara Dawkins, Designated Federal Officer for ACCRES, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8260, Silver Spring, Maryland 20910. Copies of the draft meeting agenda can be obtained from Thomas Smith at (301) 713–0573, fax (301) 713–1249, or email *Thomas.Smith@noaa.gov.*

The ACCRES expects that public statements presented at its meetings will not be repetitive of previously-submitted oral or written statements. In general, each individual or group making an oral presentation may be limited to a total time of five minutes. Written comments (please provide at least 15 copies) received in the NOAA/NESDIS/CRSRA on or before April 30, 2014, will be provided to Committee members in advance of the meeting. Comments received too close to the meeting date will normally be provided to Committee members at the meeting.

Tahara Dawkins,

Director, Commercial Remote Sensing and Regulatory Affairs.

[FR Doc. 2014–27329 Filed 11–18–14; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before December 19, 2014.

ADDRESSES: Comments may be submitted to OMB within 30 days of the notice's publication. Comments, identified by ''Large Trader Reporting for Physical Commodity Swaps'' (OMB Control No. 3038–0095), can be submitted by email at *OIRAsubmissions@omb.eop.gov.* Please provide the Commission with a copy of all submitted comments at the address listed below. Please refer to OMB Reference No. 3038–0095, found on *http://reginfo.gov.* Comments may also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503, and Dana Brown, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

Comments may also be submitted, regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, identified by ''Large Trader Reporting for Physical Commodity Swaps'' (OMB Control No.

3038–0095), by any of the following methods:

- *Agency Web site, via its Comments Online process: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures set forth in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of this matter will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Dana Brown, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5093; email: *dbrown@cftc.gov.* This contact can also provide a copy of the ICR.

SUPPLEMENTARY INFORMATION:

Title: ''Large Trader Reporting for Physical Commodity Swaps,'' OMB Control No. 3038–0095—Extension. This is a request for extension of a currently approved information collection.

Abstract: This collection is in the public interest and is necessary for market surveillance. Part 20 of the Commission's regulations requires clearing organizations and any persons that are ''reporting entities'' to file swaps position data with the Commission. The Reporting Rules collect clearing member reports from clearing organizations. The Reporting Rules also require position reports from reporting entities for principal and counterparty positions in cleared and uncleared physical commodity swaps. Reporting entities are those persons that are either ''clearing members'' or ''swap dealers'' that are otherwise not clearing members. For purposes of Part 20, reporting parties are required to submit data on positions on a futures equivalent basis so as to allow the Commission to assess a trader's market impact across differently structured but linked derivatives instruments and markets. The Commission initially estimated that approximately 705 entities would be affected by this rule. This number was based on the then estimated number of reporting firms. Because the Commission had not regulated the swap market, it has not previously collected data to support its estimate. Accordingly, the initial estimate of 705 affected entities has been revised to 3,998. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on September 17, 2014 (79 FR 55759).

Burden Statement: The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR §	Annual number of respondents	Total annual responses	Hours per response	Total hours
20	3,998	3,998	1.58	6,317

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

Dated: November 14, 2014.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2014–27402 Filed 11–18–14; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Market Risk Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is inviting comments on topics for discussion at future Market Risk Advisory Committee (MRAC or Committee) meetings and also calling for the submission of nominations to this newly established Committee. The MRAC is a discretionary advisory committee and was established by the Commission in accordance with the Federal Advisory Committee Act.

DATES: The deadline for comments and nominations is December 3, 2014.

ADDRESSES: Comments on topics for discussion at future MRAC meetings and nominations should be emailed to *MRAC_Comments@cftc.gov.* Comments and nominations may also be mailed to Petal Walker, Chief Counsel to Commissioner Bowen, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Please use the title ''Market Risk Advisory Committee'' in any comments or nominations you submit.

FOR FURTHER INFORMATION CONTACT: Petal Walker, (202) 418–5794; email: *pwalker@cftc.gov.*

SUPPLEMENTARY INFORMATION: The MRAC was established to conduct public meetings and submit reports and recommendations to the Commission on matters of public concern to clearinghouses, exchanges, intermediaries, market makers, end-users (e.g., consumers) and the Commission regarding systemic issues that threaten the stability of the derivatives markets and other financial markets, and to otherwise assist the Commission in identifying and understanding the impact and implications of an evolving market structure and movement of risk across clearinghouses, intermediaries, market makers and end-users. The duties of the MRAC are solely advisory and will

[1] Commission regulations referred to herein are found at 17 CFR Ch. 1 (2014).

include monitoring and advising the Commission with respect to the effects that developments in the structure of the derivatives markets have on the systemic issues that threaten the stability of the derivatives markets and other financial markets. The MRAC will also make recommendations to the Commission on how to improve market structure and mitigate risk to support the Commission's mission of ensuring the integrity of the derivatives markets and monitoring and managing systemic risk. Determinations of actions to be taken and policy to be expressed with respect to the reports or recommendations of the MRAC shall be made solely by the Commission.

MRAC members will generally serve as representatives in order to provide advice reflecting the views of organizations and entities that constitute the structure of the derivatives and financial markets. The MRAC may also include regular government employees when doing so furthers purposes of the MRAC. Though the precise number of members in any category may vary over time, the Commission expects the MRAC to have approximately 20–25 members with the following types of entities with interests in the derivatives markets and systemic risk being represented (and their approximate number): (i) Exchanges (3–5), (ii) clearinghouses (1–3), (iii) intermediaries (1–4), (iv) market makers (5–8), (v) end-users (4–6), (vi) academia (1–2) and (vii) regulators (1–2). The MRAC will hold approximately 2–4 meetings per year and members will serve at the pleasure of the Commission. MRAC members will not receive compensation or honoraria for their services, and they will not be reimbursed for travel and per diem expenses.

The Commission seeks members who represent organizations or groups with an interest in the MRAC's mission and function and reflect a wide range of perspectives and interests, including those that may be conflicting, related to the derivatives markets and other financial markets. To advise the Commission effectively, MRAC members must have a high-level of expertise and experience in the derivatives and financial markets and the Commission's regulation of such markets, including from a historical perspective. To the extent practicable, the Commission will strive to select members reflecting wide ethnic, racial, gender, and age representation. MRAC members should be open to participating in a public forum.

The Commission invites comments from the public on the topics on which MRAC should focus. In other words, topics that:

(a) Reflect matters of public concern to clearinghouses, exchanges, intermediaries, market makers, end-users and the Commission regarding systemic issues that threaten the stability of the derivatives markets and other financial markets; and/or

(b) are important to otherwise assist the Commission in identifying and understanding the impact and implications of an evolving market structure and movement of risk across clearinghouses, exchanges, intermediaries, market makers and end-users.

Each comment should include the commenter's name and email or mailing address.

In addition, the Commission also invites the submission of nominations to the MRAC. Each nomination submission should include relevant information about the proposed member, such as the individual's name, title, and organizational affiliation as well as information that supports the individual's qualifications to serve on the MRAC. The submission should also include the name and email or mailing address of the person nominating the proposed member.

Submission of nomination is not a guarantee of selection as a member of the MRAC. As noted in the MRAC's Membership Balance Plan, the CFTC identifies members for the MRAC based on Commissioners' and Commission staff professional knowledge of the derivatives and other financial markets, consultation with knowledgeable persons outside the CFTC, and requests to be represented received from organizations. The office of the Commissioner primarily responsible for the MRAC plays a primary, but not exclusive, role in this process and makes recommendations regarding membership to the Commission. The Commission, by vote, authorizes members to serve on the MRAC.

Authority: 5 U.S.C. App. II.

Dated: November 13, 2014.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2014–27279 Filed 11–18–14; 8:45 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled CNCS Application Instructions for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Amy Borgstrom, at 202–606–6930 or email to *aborgstrom@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on September 2, 2014. This comment period ended November 3, 2014. No public comments were received from this Notice.

Description: These application instructions are designed to be used for grant competitions which CNCS sponsors when appropriations are available. These application instructions will be used for CNCS competitions focused on strategic initiatives, partnerships, or other priorities that are not addressed through regular CNCS grant competitions.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: CNCS Application Instructions.

OMB Number: 3045–0129.

Agency Number: None.

Affected Public: Potential applicants.

Total Respondents: 2,200.

Frequency: Annual.

Average Time per Response: 8 hours.

Estimated Total Burden Hours: 17,600 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: November 12, 2014.

Kim Mansaray,

Chief of Program Operations.

[FR Doc. 2014–27411 Filed 11–18–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–HA–0153]

Privacy Act of 1974; System of Records

AGENCY: Defense Health Agency, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Defense Health Agency proposes to alter an existing system of records, EDHA 11, entitled ''Defense Medical Human Resources System internet (DMHRSi)'' in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system consolidates all of the human resources functions, including readiness, manpower, labor cost assignment, education, and training, for personnel across the DoD medical enterprise, thereby providing a single database source of instant query/access for all personnel types and the readiness posture of all DoD medical personnel. This system of records permits ready access to essential manpower, personnel, labor cost assignment, education and training, and personnel readiness information across the DoD medical enterprise.

DATES: Comments will be accepted on or before December 19, 2014. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other 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.

FOR FURTHER INFORMATION CONTACT: Ms. Linda S. Thomas, Chief, Defense Health Agency Privacy and Civil Liberties Office, Defense Health Agency, Defense Health Headquarters, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101, or by phone at (703) 681–7500.

SUPPLEMENTARY INFORMATION: The Defense Health Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/.* The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 12, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

EDHA 11

SYSTEM NAME:

Defense Medical Human Resources System internet (DMHRSi) (November 18, 2013, 78 FR 69076).

Changes

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Defense Health Agency, Defense Health Headquarters, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Active Duty Military, Reserve, National Guard, civilian employees who are assigned to or are part of the Military Health System or the DHA, and includes non-appropriated fund employees and foreign nationals, DoD contractors, and volunteers.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's name, gender, work address and telephone number, DoD ID Number and/or Social Security Number (SSN), work assignment, National Provider Identifier, medical training information including class names and class dates, and personnel readiness documentation that includes immunization and other health information required to determine an individual's fitness to perform their duties.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; E.O. 12656, Assignment of Emergency Preparedness Responsibilities; DoD Directive 5136.01, Assistant Secretary of Defense for Health Affairs (ASD(HA)); DoDI 1322.24, Medical Readiness Training; DoD 6010.13–M, Medical Expense Performance Reporting System for Fixed Military Medical Treatment Facilities Manual; and E.O. 9397 (SSN), as amended.''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the

Privacy Act of 1974, as amended, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses may apply to this system of records.''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Systems are maintained in a controlled area accessible only to authorized personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, passwords which are changed periodically, and administrative procedures.

Users must have a Common Access Control card and an active user account in DMHRSi in order to access. Access to personal information is restricted to those who require the data in the performance of their official duties. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Chief/Deputy Program Manager, Resources Division, Defense Health Services Systems, Defense Health Agency, Defense Health Headquarters, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Chief, Freedom of Information Act (FOIA) Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Written requests should contain the individual's full name, SSN and/or DoD ID Number.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief, FOIA Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Written requests for information should include the individual's full name, SSN and/or DoD ID number.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The Office of the Secretary of Defense (OSD) rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81, 32 CFR Part 311, or may be obtained from the system manager.''

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[FR Doc. 2014–27366 Filed 11–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0155]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice, S500.55, entitled ''Information Technology Access and Control Records'' in its inventory of record systems subject to the Privacy Act of 1974, as amended.

DATES: Comments will be accepted on or before December 19, 2014. This proposed action will be effective on the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

• Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other 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.

FOR FURTHER INFORMATION CONTACT: John Lockwood, AMPS Program Manager, Defense Logistics Agency, Headquarters McNamara Complex 8725 John J. Kingman Rd, Suite 3533, Fort Belvoir, VA 22060.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/.* The proposed system report, as required by the Privacy Act of 1974, as amended, was submitted on November 12, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S500.55

SYSTEM NAME:

Information Technology Access and Control Records (March 5, 2013, 78 FR 14283).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''System contains documents relating to requests for and grants of access to DLA computer networks, systems, or databases. The records contain the individual's name; date of birth, Electronic Data Interchange Personal Identifier (EDIPI) (DoD Identification Number), social security number; citizenship; physical and electronic addresses; work telephone numbers; office symbol; contractor/employee status; computer logon addresses, passwords, and user identification codes; type of access/permissions required; verification of need to know; dates of mandatory information assurance awareness training; and security clearance data. The system also captures details about programs, databases, functions, and sites accessed and/or used; dates and times of use; and information products created, received, or altered during use. The records may also contain details about access or functionality problems telephoned in for technical support along with resolution. For individuals who telecommute from home or a telework center, the records may contain the electronic address and telephone number at that location. For contractors, the system also contains the company name, contract number, and contract expiration date.''

* * * * *

[FR Doc. 2014–27389 Filed 11–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–HA–0154]

Privacy Act of 1974; System of Records

AGENCY: Defense Health Agency, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Defense Health Agency proposes to alter an existing system of records, EDTMA 03, entitled ''Legal Opinion Files'' in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system uses records to address and resolve legal issues and for research, precedent, historical, and record purposes.

DATES: Comments will be accepted on or before December 19, 2014. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this Federal Register document. The general policy for comments and other 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.

FOR FURTHER INFORMATION CONTACT: Ms. Linda S. Thomas, Chief, Defense Health Agency Privacy and Civil Liberties Office, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101, or by phone at (703) 681–7500.

SUPPLEMENTARY INFORMATION: The Defense Health Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 12, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

EDTMA 03

Legal Opinion Files (November 18, 2013, 78 FR 69076)

CHANGES

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SYSTEM LOCATION:

Delete entry and replace with ''Office of the General Counsel, Defense Health Agency, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

Office of the General Counsel, Defense Health Agency Headquarters, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Individuals who have contacted or corresponded with Defense Health Agency regarding any matter requiring legal clarification or resolution.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Inquiries received from individuals, attorneys, fiscal administrators, hospital contractors, other government agencies, Health Care Advice Nurse records, and Congressional offices. Files contain legal opinions, ethics opinions, correspondence, memoranda for the record, and similar documents. Medical/dental treatment records, authorizations and pre-authorizations, care and claims inquiry documents, medical/dental history files, the name, Social Security Number (SSN) and/or DoD Identification Number (DoD ID Number) of the sponsor and/or beneficiary; and beneficiary's relationship to sponsor may be included in these records, as appropriate, to document TRICARE legal determinations.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. Chapter 55, Medical and Dental Care; 38 U.S.C. Chapter 17, Hospital, Nursing Home, Domiciliary, and Medical Care; 32 CFR Part 199, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''Defense Health Agency uses these records to address and resolve legal issues and for research, precedent, historical, and record purposes.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Departments of Health and Human Services and Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE and the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) pursuant to 10 U.S.C. Chapter 55 and 38 U.S.C. Chapter 17.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE.

Disclosure to the Department of Justice and the United States Attorneys in situations where the matter directly or indirectly involves the TRICARE program.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The DoD Blanket Routine Uses may apply to this system of records.

NOTE 1: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) or any successor DoD issuances implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 45 CFR Parts 160 and 164, Health and Human Services, General Administrative Requirements and Security & Privacy, respectively, applies to most such health information. DoD 6025.18–R or a successor issuance may place additional procedural requirements on uses and disclosures of such information beyond those found in the Privacy Act of 1974, as amended, or mentioned in this system of records notice.

NOTE 2: Except as provided under 42 U.S.C. 290dd–2, records of identity, diagnosis, prognosis or treatment information of any patient maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by a department or agency of the United States will be treated as confidential and disclosed only for the purposes and under the circumstances expressly authorized under 42 U.S.C. 290dd–2.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records and/or electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Information is retrieved by subject matter with cross-reference by the individual's name, SSN, and/or DoD ID Number.''

SAFEGUARDS:

Delete entry and replace with ''Electronic media, data and/or electronic records are maintained in a controlled area. Records are maintained in a secure, limited access, or monitored area. The computer system is accessible only to authorized personnel. Entry into these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, passwords which are changed periodically, and administrative procedures.

The system provides two-factor authentication through user IDs/passwords. Access to personal information is restricted to those who require the data in the performance of their official duties. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

All of the records must be properly secured for the duration of their life cycle. The safeguards in place for the paper records include placing the documents in locked file cabinets and storage rooms with limited access and electronic security measures. In addition, some of the records are housed in secure facilities monitored by security guards and video surveillance.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Permanent. Retire to Denver Federal Records Center (FRC) when superseded or obsolete.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Paralegal Specialist, Office of General Counsel, Defense Health Agency, 16401 East Centretech Parkway, Aurora, CO 80011–9066.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Chief, Freedom of Information Act (FOIA) Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Requests should contain the full name and signature of the sponsor or beneficiary.

If requesting information about a minor or legally incompetent person, the request must be made by the custodial parent, legal guardian, or party acting in loco parentis of such individual. Written proof of that status may be required before the existence of any information will be confirmed.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief, FOIA Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Written requests for information should include the full name and signature of the sponsor or beneficiary.

If requesting records about a minor or legally incompetent person, the request must be made by the custodial parent, legal guardian, or party acting in loco parentis of such individual. Written proof of that status may be required before any records will be provided.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The Office of the Secretary of Defense (OSD) rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81, 32 CFR Part 311, or may be obtained from the system manager.''

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individuals (TRICARE and CHAMPVA beneficiaries, sponsors, or others), attorneys, fiscal administrators, hospital contractors, managed care support contractors, providers of care, medical records, other government agencies (Federal, state, local, and foreign), and Congressional offices.''

* * * * *

[FR Doc. 2014–27383 Filed 11–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2014–0031]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Air Force proposes to alter a system of records notice, F032 AFCES A, entitled ''Civil Engineer System-Fire Department Records'' in its existing inventory of records systems subject to the Privacy Act of 1974, as amended. This system will be used to assist in protecting installation resources, equipment, and personnel that require emergency services. Operate emergency dispatch centers to support fire emergency operations. In addition, it will track fire prevention and protection, firefighting, rescue, and Hazardous Materials (HazMat) response and after action reports.

DATES: Comments will be accepted on or before December 19, 2014. This proposed action will be effective on the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

* Mail: Federal Docket Management System Office, 4800 Mark Center Drive East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other 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.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/CIO A6, 1800 Air Force Pentagon, Washington, DC 20330–1800, or by phone at (571)256–2515.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/.*

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, were submitted on November 12, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: November 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F032 AFCES A

SYSTEM NAME:

Civil Engineer System-Fire Department Records (December 4, 2008, 73 FR 73924).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Delete entry and replace with ''F032 AF CE H''.

SYSTEM NAME:

Delete entry and replace with ''Automated Civil Engineer System—Fire Department Records.''

SYSTEM LOCATION:

Delete entry and replace with ''Defense Information Systems Agency (DISA), Systems Management Center, Montgomery, 401 East Moore Drive, Building 857, Gunter AFB, AL 36114–3001.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Any individual who places a call to the Air Force installation emergency 911 dispatcher and/or fire department for emergency assistance; Air Force fire department civilian employees.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Callers' name and phone number from which they are calling; and Air Force fire department employee's name, grade/rank, DoD Identification Number DoD ID Number, home/mobile/office telephone number, home address, duty title, and duty station.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 8013, Secretary of the Air Force; delegation by; 10 U.S.C. 9832, Property accountability: Regulations; 15 U.S.C. 2227, Fire Safety Systems in Federal Assisted Buildings: Regulations; Pre-fire Plans; 15 U.S.C. 2229, Firefighter assistance.''

PURPOSE(S):

Delete entry and replace with ''To protect installation resources, equipment, and personnel that require emergency services. Operate emergency dispatch centers to support fire emergency operations. In addition, it will track fire prevention and protection, firefighting, rescue, and Hazardous Materials (HazMat) response and after action reports.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses published at the beginning of the Air Force's compilation of record system notices may apply to this system.''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Individual's name and duty station.''

SAFEGUARDS:

Delete entry and replace with ''Steps have been taken to limit the access to the Privacy data to only those users with the appropriate roles. Access to records is limited to persons responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to the application is restricted by Department of Defense (DoD) Common Access Card (CAC).''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Automated Civil Engineer System/Interim Work Management System Program Manager, Headquarters (HQ) A7CRT, 139 Barnes Drive, Suite 1, Tyndall AFB, FL 32403–5319.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about them is contained in this system should address written inquiries to the Civil Engineer System/Interim Work Management System Program Manager, Headquarters (HQ) A7CRT, 139 Barnes Drive, Suite 1, Tyndall AFB, FL 32403–5319.

For verification purposes, individual should provide their full name, and/or DoD ID Number, any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system should address written inquiries to the Civil Engineer System/Interim Work Management System Program Manager, Headquarters (HQ) A7CRT, 139 Barnes Drive, Suite 1, Tyndall AFB, FL 32403–5319.

For verification purposes, individual should provide their full name, and/or DoD ID Number, any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

* * * * *

[FR Doc. 2014–27395 Filed 11–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0126]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2015–2016 Federal Student Aid Application

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before December 19, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID ED–2014–ICCD–0126 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when regulations.gov is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please contact Douglas Pineda Robles, 202–377–4578.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2015–2016 Federal Student Aid Application.

OMB Control Number: 1845–0001.

Type of Review: Revision of an existing collection of information.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 44,992,857.

Total Estimated Number of Annual Burden Hours: 24,083,155.

Abstract:

Section 483 of the Higher Education Act of 1965, as amended (HEA), mandates that the Secretary of Education ''. . . shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance . . .''.

The determination of need and eligibility are for the following Title IV, HEA, federal student financial assistance programs: The Federal Pell Grant Program; the Campus-Based programs (Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), and the Federal Perkins Loan Program); the William D. Ford Federal Direct Loan Program; the Teacher Education Assistance for College and Higher Education (TEACH) Grant; and the Iraq and Afghanistan Service Grant.

Federal Student Aid, an office of the U.S. Department of Education (hereafter ''the Department''), subsequently developed an application process to collect and process the data necessary to determine a student's eligibility to receive Title IV, HEA program assistance. The application process involves an applicant's submission of the Free Application for Federal Student Aid (FAFSA). After submission and processing of the FAFSA, an applicant receives a Student Aid Report (SAR), which is a summary of the processed data they submitted on the FAFSA. The applicant reviews the SAR, and, if necessary, will make corrections or updates to their submitted FAFSA data. Institutions of higher education listed by the applicant on the FAFSA also receive a summary of processed data submitted on the FAFSA which is called the Institutional Student Information Record (ISIR).

The Department seeks OMB approval of all application components as a single ''collection of information''. The aggregate burden will be accounted for under OMB Control Number 1845–0001. The specific application components, descriptions and submission methods for each are listed in the following Table.

Table Provided Below

Component	Description	Submission method
Initial Submission of FAFSA		
FAFSA on the Web (FOTW)	Online FAFSA that offers applicants a customized experience.	Submitted by the applicant via *www.fafsa.gov*.
FOTW—Renewal	Online FAFSA for applicants who have previously completed the FAFSA.	
FOTW—EZ	Online FAFSA for applicants who qualify for the Simplified Needs Test (SNT) or Automatic Zero (Auto Zero) needs analysis formulas.	
FOTW—EZ Renewal	Online FAFSA for applicants who have previously completed the FAFSA and who qualify for the SNT or Auto Zero needs analysis formulas.	
FAFSA on the Phone (FOTP).	The Federal Student Aid Information Center (FSAIC) representatives assist applicants by filing the FAFSA on their behalf through FOTW.	Submitted through *www.fafsa.gov* for applicants who call 1–800–4–FED–AID.
FOTP—EZ	FSAIC representatives assist applicants who qualify for the SNT or Auto Zero needs analysis formulas by filing the FAFSA on their behalf through FOTW.	
FAA Access	Online tool that a financial aid administrator (FAA) utilizes to submit a FAFSA.	Submitted through *www.faaacess.ed.gov* by a FAA on behalf of an applicant.
FAA Access—Renewal	Online tool that a FAA can utilize to submit a Renewal FAFSA.	
FAA Access—EZ	Online tool that a FAA can utilize to submit a FAFSA for applicants who qualify for the SNT or Auto Zero needs analysis formulas.	
FAA Access—EZ Renewal	Online tool that a FAA can utilize to submit a FAFSA for applicants who have previously completed the FAFSA and who qualify for the SNT or Auto Zero needs analysis formulas.	
Electronic Other	This is a submission done by a FAA, on behalf of the applicant, using the Electronic Data Exchange (EDE).	The FAA may be using their mainframe computer or software to facilitate the EDE process.
PDF FAFSA or Paper FAFSA.	The paper version of the FAFSA printed by the Department for applicants who are unable to access the Internet or the online PDF FAFSA for applicants who can access the Internet but are unable to complete the form using FOTW.	Mailed by the applicant.
Correcting Submitted FAFSA Information and Reviewing FAFSA Information		
FOTW—Corrections	Any applicant who has a Federal Student Aid PIN (FSA PIN)—regardless of how they originally applied—may make corrections using FOTW Corrections.	Submitted by the applicant via *www.fafsa.gov*.
Electronic Other—Corrections.	With the applicant's permission, corrections can be made by a FAA using the EDE.	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Paper SAR—This is a SAR and an option for corrections.	The full paper summary that is mailed to paper applicants who did not provide an e-mail address and to applicants whose records were rejected due to critical errors during processing. Applicants can write corrections directly on the paper SAR and mail for processing.	Mailed by the applicant.
FAA Access—Corrections	An institution can use FAA Access to correct the FAFSA.	Submitted through *www.faaacess.ed.gov* by a FAA on behalf of an applicant.
Internal Department Corrections.	The Department will submit an applicant's record for system-generated corrections.	There is no burden to the applicants under this correction type as these are system-based corrections.
FSAIC Corrections	Any applicant, with their Data Release Number (DRN), can change the postsecondary institutions listed on their FAFSA or change their address by calling FSAIC.	These changes are made directly in the CPS system by a FSAIC representative.
SAR Electronic (eSAR)	The eSAR is an online version of the SAR that is available on FOTW to all applicants with a PIN. Notifications for the eSAR are sent to students who applied electronically or by paper and provided an e-mail address. These notifications are sent by e-mail and include a secure hyperlink that takes the user to the FOTW site.	Cannot be submitted for processing.

This information collection also documents an estimate of the annual public burden as it relates to the application process for federal student aid. The Applicant Burden Model (ABM), measures applicant burden through an assessment of the activities each applicant conducts in conjunction with other applicant characteristics and in terms of burden, the average applicant's experience. Key determinants of the ABM include:

- The total number of applicants that will potentially apply for federal student aid;
- How the applicant chooses to complete and submit the FAFSA (e.g., by paper or electronically via FOTW);
- How the applicant chooses to submit any corrections and/or updates (e.g., the paper SAR or electronically via FOTW Corrections);
- The type of SAR document the applicant receives (eSAR, SAR acknowledgment, or paper SAR);
- The formula applied to determine the applicant's EFC (full need analysis formula, Simplified Needs Test or Automatic Zero); and
- The average amount of time involved in preparing to complete the application.

The ABM is largely driven by the number of potential applicants for the application cycle. The total application projection for 2015–2016 is based upon two factors—estimates of the total enrollment in all degree-granting institutions and the percentage change in FAFSA submissions for the last completed or almost completed application cycle. The ABM is also based on the application options available to students and parents. The Department accounts for each application component based on Web trending tools, survey information, and other Department data sources.

For 2015–2016, the Department is reporting a net burden decrease of 2,081,212 hours.

In response to the 60-day comment period, the Department has made some changes to the application explained in the *2015–2016 Federal Student Aid Application Comments Tracking Summary.* We project that these changes will not substantively impact burden.

Dated: November 14, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–27393 Filed 11–18–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0151]

Agency Information Collection Activities; Comment Request; High School Longitudinal Study of 2009 (HSLS:09) Second Follow-Up Field Test and Main Study Panel Maintenance 2015

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 20, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0151 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–502–7411.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: High School Longitudinal Study of 2009 (HSLS:09) Second Follow-up Field Test and Main Study Panel Maintenance 2015.

OMB Control Number: 1850–0852.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 5,417.

Total Estimated Number of Annual Burden Hours: 808.

Abstract: The High School Longitudinal Study of 2009 (HSLS:09) is a nationally representative, longitudinal study of more than 20,000 9th graders in 944 schools in 2009 who are being followed through their secondary and postsecondary years. The study focuses on understanding students' trajectories from the beginning of high school into postsecondary education or the workforce and beyond. What students decide to pursue when, why, and how are crucial questions for HSLS:09, especially, but not solely, in regards to science, technology, engineering, and math (STEM) courses, majors, and careers. To date, HSLS:09 measured math achievement gains in the first 3 years of high school and, like past studies, surveyed students, their parents, school administrators, school counselors, and teachers. After the initial 2009 data collection, the main study students were re-surveyed in 2012 when most were high school 11th-graders, and again in 2013 when most had just graduated from high school. The second follow-up data collection will take place in early 2016, and will consist of a survey, postsecondary transcript collection, financial aid records collection, and file matching to extant data sources. The second follow-up focuses on postsecondary attendance patterns, field of study selection processes with particular emphasis on STEM, the postsecondary academic and social experience, education financing, employment history including instances of unemployment and underemployment, job characteristics including income and benefits, job values, family formation, and civic engagement. The HSLS:09 data elements are designed to support research that speaks to the underlying dynamics and education processes that influence student achievement, growth, and personal development over time. This request is to conduct the HSLS:09 Second Follow-up Field Test data collections (April–August 2015) and main study panel maintenance. The field test will inform the survey and data collection procedures for the 2016 main study.

Dated: November 14, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division Privacy, Information and Records Management Services Office of Management.

[FR Doc. 2014–27381 Filed 11–18–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2246–067]

Yuba County Water Agency; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Application for Temporary Variance of Minimum Flow Requirement.

b. *Project No.:* 2246–067.

c. *Date Filed:* November 10, 2014.

d. *Applicant:* Yuba County Water Agency (licensee).

e. *Name of Project:* Yuba River Project.

f. *Location:* North Yuba River, Middle Yuba River, and Oregon Creek in Yuba, Nevada, and Sierra counties, CA.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Curt Aikens, General Manager, Yuba County Water Agency, 1200 F Street, Marysville, CA 95901–4740, (530) 741–5015.

i. *FERC Contact:* Mr. John Aedo, (415) 369–3335, or *john.aedo@ferc.gov.*

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the issuance date of this notice by the Commission (December 12, 2014). The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2246–067) on any comments, motions to intervene, protests, or recommendations filed.

k. Description of Request: The licensee requests a temporary variance of the minimum flow requirements in the lower Yuba River below Englebright Dam, which requires a minimum flow of 600 cubic feet per second (cfs) from October 16 through December 31 and from January 16 through March 31. In order to conserve water resources during the current drought and make best biological use of a limited water supply, the licensee proposes to instead, release 550 cfs from December 1 to 31, 2014 and from January 16 through March 31, 2015. In addition, the licensee requests that minimum flow compliance during this period be based on a 5-day running average of average daily streamflows, with instantaneous flows never less than 90 percent of the specified 550 cfs minimum flow and never less than 550 cfs for more than 48 hours.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: November 12, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27326 Filed 11–18–14; 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 corporate filings:

Docket Numbers: EC15–29–000.

Applicants: Burley Butte Wind Park, LLC, Golden Valley Wind Park, LLC, Milner Dam Wind Park, LLC, Oregon Trail Wind Park, LLC, Pilgrim Stage Station Wind Park, LLC, Thousand Springs Wind Park, LLC, Tuana Gulch Wind Park, LLC, Camp Reed Wind Park, LLC, Payne's Ferry Wind Park, LLC, Salmon Falls Wind Park, LLC, Yahoo Creek Wind Park, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action and Abbreviated Comment Period of Burley Butte Wind Park, LLC, et. al.

Filed Date: 11/10/14.

Accession Number: 20141110–5278.

Comments Due: 5 p.m. ET 12/1/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2480–003; ER10–2924–004; ER10–2964–005; ER11–2041–005; ER11–2042–005; ER10–3193–004; ER10–2959–005; ER10–2934–004; ER10–2961–004; ER10–2950–004; ER12–281–006; ER13–821–006.

Applicants: Berkshire Power Company, LLC, Kleen Energy Systems, LLC, Selkirk Cogen Partners, L.P., Innovative Energy Systems, LLC, Seneca Energy II, LLC, Brooklyn Navy Yard Cogeneration Partners, L.P., Chambers Cogeneration, Limited Partnership, Logan Generating Company, L.P., Edgecombe Genco, LLC, Spruance Genco, LLC, Northampton Generating Company, L.P., Scrubgrass Generating Company, L.P.

Description: Supplement to June 30, 2014 Order No. 697 Triennial Compliance Filing of Berkshire Power Company, LLC, et. al.

Filed Date: 11/10/14.

Accession Number: 20141110–5089.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER14–2679–001.

Applicants: Southern California Edison Company.

Description: Tariff Amendment per 35.17(b): SCE's Response to Deficiency re Service Agmt with City of Moreno Valley to be effective 8/21/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5226.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–372–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 1141; Queue No. Y2–054 to be effective 10/10/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5270.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–373–000.

Applicants: PacifiCorp.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): USBR NITSA Rev 2 to be effective 11/1/2014.

Filed Date: 11/12/14.

Accession Number: 20141112–5022.

Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–374–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 4039; Queue No. S37 to be effective 10/14/2014.

Filed Date: 11/12/14.

Accession Number: 20141112–5028.

Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–374–000.

Applicants: PJM Interconnection, L.L.C.

Description: Report Filing: Errata to Transmittal Letter for SA No. 4039; Queue No. S37 to be effective N/A.

Filed Date: 11/12/14.

Accession Number: 20141112–5031.

Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–375–000.

Applicants: AEP Texas Central Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): TCC-Apex Midway Wind First Amended & Restated IA to be effective 10/20/2014.

Filed Date: 11/12/14.

Accession Number: 20141112–5156.

Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–376–000.

Applicants: Calpine Energy Services, L.P.

Description: Request for Limited Waiver of Calpine Energy Services, L.P.

Filed Date: 11/12/14.

Accession Number: 20141112–5166.

Comments Due: 5 p.m. ET 12/3/14.

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: November 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27387 Filed 11–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–30–000.

Applicants: DTE Electric Company, Renaissance Power, L.L.C.

Description: Application for Authorization for Disposition of Jurisdictional Facilities of DTE Electric Company and Renaissance Power, L.L.C.

Filed Date: 11/12/14.

Accession Number: 20141112–5352.

Comments Due: 5 p.m. ET 12/3/14.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–13–000.

Applicants: Iberdrola Arizona Renewables, LLC.

Description: Self-Certification of EWG Status of Iberdrola Arizona Renewables, LLC.

Filed Date: 11/12/14.

Accession Number: 20141112–5363.

Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: EG15–14–000.

Applicants: Iberdrola Texas Renewables, LLC.

Description: Self-Certification of EWG Status of Iberdrola Texas Renewables, LLC.

Filed Date: 11/12/14.

Accession Number: 20141112–5392.

Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: EG15–15–000.

Applicants: Chief Conemaugh Power, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Chief Conemaugh Power, LLC.
Filed Date: 11/12/14.
Accession Number: 20141112–5393.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: EG15–16–000.
Applicants: Chief Keystone Power, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Chief Keystone Power, LLC.
Filed Date: 11/12/14.
Accession Number: 20141112–5394.
Comments Due: 5 p.m. ET 12/3/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–371–000.
Applicants: Alabama Power Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Georgia SNF Development I LGIA Filing to be effective 10/31/2014.
Filed Date: 11/10/14.
Accession Number: 20141110–5269.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–377–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2236R4 Golden Spread Electric Cooperative, Inc. NITSA to be effective 9/1/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5207.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–378–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits Notice of Termination of Generator Interconnection Agreement No. 1135 for Project G117.
Filed Date: 11/12/14.
Accession Number: 20141112–5237.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–379–000.
Applicants: PacifiCorp.
Description: Tariff Withdrawal per 35.15: Termination of IPCo Communications Replacement Agreement to be effective 1/28/2015.
Filed Date: 11/12/14.
Accession Number: 20141112–5269.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–380–000.
Applicants: Lower Mount Bethel Energy, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5309.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–381–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–11–12_SA 2713 OTP–CPEC Turtle Lake T–L IA to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5324.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–382–000.
Applicants: PPL Brunner Island, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 12 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5330.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–383–000.
Applicants: PPL Colstrip I, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5329.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–384–000.
Applicants: PPL Colstrip II, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5335.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–385–000.
Applicants: PPL Electric Utilities Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5336.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–386–000.
Applicants: PPL EnergyPlus, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5342.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–387–000.
Applicants: PPL Holtwood, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5343.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–388–000.
Applicants: PPL Martins Creek, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5350.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–389–000.
Applicants: PPL Montana, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5351.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–390–000.
Applicants: PPL New Jersey Biogas, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5355.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–391–000.
Applicants: PPL New Jersey Solar, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5361.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–392–000.
Applicants: PPL Renewable Energy, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5362.
Comments Due: 5 p.m. ET 12/3/14.

Docket Numbers: ER15–393–000.
Applicants: PPL Susquehanna, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5365.
Comments Due: 5 p.m. ET 12/3/14.

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: November 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27388 Filed 11–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–20–000]

Departing Kentucky Municipals v. Kentucky Utilities Company; Notice of Complaint

Take notice that on November 10, 2014, pursuant to section 306 of the Federal Power Act, 16 U.S.C. 824e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Departing Kentucky Municipals (Departing Kentucky Municipals or Complainant), filed a formal complaint against Kentucky Utilities Company (Kentucky Utilities Company or Respondent), alleging that Kentucky Utilities Company has failed to comply with Section 4.1.3.4 of its wholesale requirements contracts with the Departing Kentucky Municipals, which requires it to file for Commission approval to stop collecting in its rates to Departing Kentucky Municipals the costs associated with construction work in progress after receiving the Departing Kentucky Municipals' notices of termination, as more fully explained in the complaint.

Departing Kentucky Municipals certify that copies of the complaint were served on the contacts for Kentucky Utilities Company as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on December 1, 2014.

Dated: November 12, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27327 Filed 11–18–14; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 15, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Olney Bancshares of Texas, Inc.,* Olney, Texas; to acquire 100 percent of the voting shares of HBank Texas, Grapevine, Texas.

Board of Governors of the Federal Reserve System, November 14, 2014.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2014–27370 Filed 11–18–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990–0422–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for extending the use of the approved information collection assigned OMB control number 0990–0422, which expires on August 31, 2015. Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before January 20, 2015.

ADDRESSES: Submit your comments to *Sherrette.funn@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–0990–0422–60D for reference.

Information Collection Request Title: Education and Training of Healthcare Providers as a Coordinated Public Health Response to Violence Against Women

Abstract: The Office on Women's Health (OWH) recently received an approval by OMB 0990–0422 which expires August 31, 2015; however OWH is now requesting a one year extension to further conduct the pilot and evaluation of an eLearning course developed as part of the ''Education and Training of Healthcare Providers as a Coordinated Public Health Response to Violence Against Women Project''. The purpose of this data collection is to gather data from healthcare providers who have volunteered to participate in the pilot and evaluation of an e-learning course designed to educate and train healthcare providers on how to respond to intimate partner violence (IPV) against women. Information obtained from this data collection will be used to identify areas of improvement and measure the effectiveness of the e-learning course in educating healthcare providers about IPV, addressing attitudinal barriers to IPV screening, and increasing IPV screening in clinical practice. This data will also help identify any problems in the navigation and functioning of the e-learning course. The results of this evaluation will assist OWH in making revisions to the course and subsequently coordinating a national launch, making the e-learning course available to healthcare providers across the U.S. All data collection forms and activities will be used within a year time frame.

Likely Respondents: The respondents for this pilot and evaluation are healthcare providers (physicians, nurses, and social workers) who are members of professional associations and who provide services in Nevada, Oklahoma, and South Carolina.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Pre-Assessment	1600	1	25/60	667
Post-Assessment	1600	1	25/60	667
Follow-up Assessment	1600	1	25/60	667
Total				2001

Office of the Secretary specifically requests comments on (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.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2014–27338 Filed 11–18–14; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Chronic Fatigue Syndrome Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services (DHHS) is hereby giving notice that a meeting of the Chronic Fatigue Syndrome Advisory Committee (CFSAC) will take place via webinar. This webinar will be open to the public. Registration is required for those who wish to provide public testimony.

DATES: The CFSAC webinar will be held Wednesday, December 3, 2014, from 12:30 p.m. to 5:00 p.m. (ET) and Thursday, December 4, 2014, from 12:30 p.m. to 5:00 p.m. (ET).

ADDRESSES: The meeting will be conducted by webinar.

FOR FURTHER INFORMATION CONTACT: Barbara James, Senior Public Health Advisor, Chronic Fatigue Syndrome Advisory Committee, Department of Health and Human Services, Office on Women's Health, 200 Independence Avenue SW., Room 728F, Washington, DC 20201. Phone: 202–690–7650; Fax: 202–260–6537. *cfsac@hhs.gov.*

SUPPLEMENTARY INFORMATION: The CFSAC is authorized under 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended. The purpose of the CFSAC is to provide advice and recommendations to the Secretary of Health and Human Services, through the Assistant Secretary for Health, on issues related to myalgic encephalomyelitis/chronic fatigue syndrome (ME/CFS). The issues can include factors affecting access and care for persons with ME/CFS; the science and definition of ME/CFS; and broader public health, clinical, research and educational issues related to ME/CFS.

The agenda for this meeting and instructions to access the webinar will be posted on the CFSAC Web site *www.hhs.gov/advcomcfs/*. The webinar will use Adobe Acrobat Connect Pro Meeting. Please test your computer prior to participation at *http://admin.adobeconnect.com/common/help/en/support/meeting_test.htm.* Oral public comment will be scheduled for this webinar. Registration and instructions for scheduling public comments and submitting public testimony are available at *www.blsmeetings.net/cfsac.*

Dated: November 14, 2014.

Nancy C. Lee,

Designated Federal Officer, Chronic Fatigue Syndrome Advisory Committee, U.S. Department of Health and Human Service.

[FR Doc. 2014–27440 Filed 11–18–14; 8:45 am]

BILLING CODE 4150–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Performance Review Board Members

Title 5, U.S.C. Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board Members be published in the **Federal Register**.

The following persons may be named to serve on the Performance Review Boards or Panels, which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services.

Employee last name	Employee first name
Downing	Gregory
Foster	Robert
Gabriel	Edward
Gentile	John
Gibson	Ventris
Gill	John
Gracia	Nadine
Gunderson	Nancy
Haseltine	Amy
McCabe	William
McDaniel	Eileen
Novy	Steve
Potts	Oliver
Seshamani	Meena
Teti	Catherine
Weber	Mark
Ziegler-Ragland	Cheryl

Date: November 14, 2014.

John W. Gill,

Deputy Assistant Secretary for Human Resources.

[FR Doc. 2014–27405 Filed 11–17–14; 11:15 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–14ARJ]

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

Clinic Context Matters Study—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The daily use of specific antiretroviral medications by persons without HIV infection, but at high risk of sexual or injection exposure to HIV, has been shown to be a safe and effective HIV prevention method. The Food and Drug Administration approved the use of Truvada® for preexposure prophylaxis PrEP) in July 2012 and CDC has issued Public Health Service clinical practice guidelines for its use.

Because approximately 50,000 new HIV infections continue to occur in the U.S. each year, with rates of HIV infection increasing most rapidly for young MSM and because severe disparities in HIV infection continue among African-American men and women, incorporation of PrEP into HIV prevention is important. However, as a prevention tool in very early stages of introduction and use, there is much we need to learn about how to implement PrEP in real-world settings.

CDC is requesting OMB approval to collect data over a 3-year period that will be used to conduct research among clinicians about their knowledge, attitudes, and practices related to a new intervention (PrEP) over the period of its initial introduction in their clinics. The knowledge gained will be used to refine measurement instruments and methods (for example, identify modifications to questions in the current surveys that are unclear to participants), develop training and educational resources and tools for use by CDC/DHAP (Division of HIV/AIDS Prevention)-funded partners, and other organizations supporting delivery of PrEP in clinical settings. The project will be conducted in clinics in each of four cities (Houston, Newark, Chicago, and Philadelphia) where PrEP has recently become available at local community health centers. Once per year for 3 years, CDC will conduct an online survey of clinicians at participating clinics to collect data on the demographics of the respondents and their knowledge, attitudes, practices, and organizational factors related to PrEP and its delivery in their clinics. Surveys will be administered through an online survey Web site.

There are no costs to respondents other than their time. The total annual burden hours are 88.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average hours per response
Clinician	Clinician Consent and Interview	175	1	30/60

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. 2014–27351 Filed 11–18–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0234]

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 agencyies 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 Ambulatory Medical Care Survey (NAMCS), (OMB No. 0920–0234 exp. 12/31/2014)—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, acting through NCHS, shall collect statistics on the utilization of health care provided by non-federal office-based physicians in the United States. On December 13, 2011, the OMB approved data collection for three years from 2012 to 2014. This revision is to request approval to continue NAMCS data collection activities for three years from 2015–2017, make minor modifications to survey content, and to collect additional questions on alcohol screening practices and on provider cultural and linguistic competence. This notice also covers potential increases in sample size that might result due to other future budget allocations.

The National Ambulatory Medical Care Survey (NAMCS) has been conducted intermittently from 1973 through 1985, and annually since 1989. The purpose of NAMCS, a voluntary survey, is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments.

The NAMCS target universe consists of all office visits made by ambulatory patients to non-Federal office-based physicians (excluding those in the specialties of anesthesiology, radiology, and pathology) who are engaged in direct patient care. In 2006, physicians and mid-level providers (i.e., nurse practitioners, physician assistants, and nurse midwives) practicing in community health centers (CHCs) were added to the NAMCS sample, and these data will continue to be collected.

To complement NAMCS data, NCHS initiated the National Hospital Ambulatory Medical Care Survey (NHAMCS, OMB No. 0920–0278) in 1992 to provide data concerning patient visits to hospital outpatient and emergency departments. NAMCS and NHAMCS are the principal sources of data on ambulatory care provided in the United States.

The annualized estimated burden of time is 25,311 hours. There is no cost to the 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 hours)
Office-based physicians (Core plus Expansion Sample).	Physician Induction Interview (NAMCS–1)	5,656	1	45/60
	Patient Record form (NAMCS–30) (Physician abstracts on Web).	1,131	30	14/60
	Pulling, re-filing medical record forms (FR abstracts).	4,525	30	1/60
Community Health Centers (Core plus Expansion Sample).	Induction Interview—service delivery site (NAMCS–201).	1,780	1	20/60
	Induction Interview—Providers	4,005	1	45/60
	Patient Record form (NAMCS–30) (Provider abstracts).	801	30	14/60
	Pulling, re-filing medical record forms (FR abstracts).	3,204	30	1/60
Re-abstraction study	Pulling, re-filing medical record forms (FR abstracts).	500	10	1/60

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. 2014–27352 Filed 11–18–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-15–14APM]

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

Surveillance of Health-Related Workplace Absenteeism—[New]—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

There is currently a high global human health risk from emerging novel influenza, coronavirus and similar evolving pathogens, which is prompting the Centers for Disease Control and Prevention (CDC) to enhance situational awareness capacity for emergency preparedness and response.

During the 2009 influenza A (H1N1) virus pandemic, NIOSH/CDC did a pilot study to test the feasibility of using national surveillance of workplace absenteeism to assess the pandemic's impact on the workplace to plan for preparedness and continuity of operations and to contribute to health awareness during the emergency response. As part of this emergency effort, CDC contracted with the American College of Occupational and Environmental Medicine (ACOEM), which has access to a large network of affiliated medical directors and corporate health units that routinely compile absenteeism data, to conduct enhanced passive surveillance of absenteeism using weekly data from a convenience sample of sentinel worksites.

Due the emergency situation at that time, OMB approval was erroneously not requested for the data collection activities associated with the pilot study. The current request seeks to build off of the data collected from the pilot and accounts for the burden involving all of the participants.

From September 28, 2009, through March 31, 2010, 79 sentinel worksites representing 16 different employers participated in the pilot study. Each week, ACOEM collected reports of aggregated absenteeism data from the medical directors of the participating companies using an emailed, standardized form. ACOEM replaced company names with coded unique identifiers, and sent the aggregated data to CDC/NIOSH for analysis.

The major strengths of the sentinel worksite approach to absenteeism surveillance were the use of existing, routinely collected data and timeliness. The use of existing, routinely collected data made the burden on participating companies negligible. Data were routinely compiled and thus could be collected and analyzed in near real time, making this approach useful, in principle, for providing current situational awareness and actionable intelligence that could be used to inform, prioritize, and evaluate intervention efforts during the pandemic. On the other hand, there were several limitations to the sentinel worksite surveillance done in 2009–2010, and the activity was not maintained after the H1N1 pandemic ended.

At present, two new emerging infectious diseases, novel H7N9 influenza virus and a coronavirus circulating in the Middle East, have demonstrated the need to build additional capacity for national surveillance for health-related workplace absenteeism so that it can be used to monitor the impact of these or any other disease that might reach pandemic potential and spread to the U.S.

NIOSH/CDC requests permission to collect company absenteeism data, to be able to assess the impact of disease on a company and to identify trends in the spread of influenza or other novel disease states. This will provide an additional monitoring system to CDC. The proposed project builds on the 2009/10 initiative and modifies the reporting format to collect information on a daily versus weekly basis. The companies in the program will be those that routinely collect absenteeism data thus the burden will be minimal. We will be asking companies to record their daily absenteeism numbers into an excel file which can be emailed to ACOEM on a weekly or monthly basis. The excel file will be pre-populated with company name, site and dates to ease the reporting burden on companies.

ACOEM will transmit de-identified information on a weekly or monthly basis to NIOSH/CDC who will in turn conduct analysis on an aggregate basis. Data will be compiled by state and HHS region, as well as nationally to allow for trend analysis.

The initial 16 respondents in the 2009/10 study will be asked to participate and an additional 12 companies have indicated an interest in participating in the data collection activity. The employee population among these 28 companies is approximately 293,000.

The annualized estimated burden of time is 607 hours for the 28 respondents in the study. Respondents will complete the form daily; no more than 5 minutes per day/per respondent which translates to 25 minutes per week/per respondent or 700 minutes per week for all respondents. This results in an annualized burden of 607 hours per year.

There are no costs to participants other than the time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Private companies	EXCEL data template	28	260	5/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–27350 Filed 11–18–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Numbers: 93.592]

Announcing the Award of a Single-Source Program Expansion Supplement Grant to the National Resource Center on Domestic Violence (NRCDV) in Harrisburg, PA

AGENCY: Family and Youth Services Bureau, ACYF, ACF, HHS.

ACTION: Notice of the award of a single-source program expansion supplement grant under the Family Violence Prevention and Services Act (FVPSA) Technical Assistance (TA) Project to the National Resource Center on Domestic Violence to support training and technical assistance activities.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF), Family and Youth Services Bureau (FYSB), Division of Family Violence and Prevention Services (DFVPS) announces the award of $236,000 as a single-source program expansion supplement to the National Resource Center on Domestic Violence in Harrisburg, PA. The grantee, funded under the Family Violence Protection and Services Act (FVPSA) program, is a technical assistance (TA) provider that assists FVPSA service providers to build the capacity of domestic violence programs.

DATES: The period of support for the single-source program expansion supplement is September 30, 2014 through September 29, 2015.

FOR FURTHER INFORMATION CONTACT: Shawndell Dawson, Senior Program Specialist, Family Violence Prevention and Services Program, 1250 Maryland Avenue SW., Suite 8219, Washington, DC 20024. Telephone: 202–205–1476; Email: *Shawndell.Dawson@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION: Supplemental award funds will support the grantee in providing training and technical assistance to domestic violence service providers. A portion of the supplemental award is contributed by the Centers for Disease Control (CDC) and Prevention's National Center for Injury Prevention and Control (NCIPC), Division of Violence Prevention (DVP).

This award will expand the scope of the NRCDV's technical assistance activities to include additional activities concerning the prevention of intimate partner violence (IPV) by: (1) Coordinating engagement with national-level partners, including foundations, for the purpose of enhancing communication related to IPV prevention; 2) engaging in planning to facilitate dialogue that will include the sharing of tools and lessons learned among state domestic violence coalitions engaged in IPV primary prevention efforts; 3) continuing to identify and disseminate information on lessons learned and key findings from state domestic violence coalitions that have implemented IPV primary prevention activities through *www.PreventIPVorg*, and other means; 4) maintaining a virtual workspace to assist in the sharing of resources among state and territorial domestic violence coalitions that are engaged in IPV primary prevention activities; and 5) facilitating regular, ongoing communication between the IPV Prevention Council, ACF/DFVPS, and CDC/DVP.

In addition to the prevention activities, the grantee will coordinate an accessibility and sustainability peer-to-peer technical assistance collaborative with three to five state domestic violence coalitions, which may involve activities such as: (1) Identifying state coalitions with experience in addressing organizational accessibility challenges (i.e. mental health, substance use, men, and adolescent boys), or sustainability challenges (i.e. fiscal management or board management); (2) coordinating support to domestic violence organizations or coalitions experiencing accessibility or sustainability challenges; and (3) developing peer-informed accessibility and sustainability tools and resources, and a discussion forum, for use by all domestic violence coalitions.

Statutory Authority: Section 310 of the Family Violence Prevention and Services Act, as amended by Section 201 of the CAPTA Reauthorization Act of 2010, Pub. L. 111–320. The statutory authority for the additional funds from the Centers for Disease Control and Prevention is 42 U.S.C. 247b(k)(2) and 42 USC 280b–1 of the Public Health Service Act.

Christopher Beach,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2014–27390 Filed 11–18–14; 8:45 am]

BILLING CODE 4184–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1855]

Agency Information Collection Activities; Proposed Collection; Comment Request: Experimental Studies on Consumer Perceptions of Modified Risk Tobacco Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on Experimental Studies on Consumer Perceptions of Modified Risk Tobacco Products (MRTPs).

DATES: Submit either electronic or written comments on the collection of information by January 20, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Experimental Studies on Consumer Perceptions of Modified Risk Tobacco Products—(OMB Control Number 0910–NEW)

FDA's Center for Tobacco Products proposes to conduct experimental studies to develop generalizable scientific knowledge to help inform its implementation of section 911 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 387k), wherein FDA will be evaluating information submitted to the Agency about how consumers understand and perceive tobacco products marketed as MRTPs. Section 911 of the FD&C Act authorizes FDA to grant orders to persons to allow the marketing of MRTPs. The term ''modified risk tobacco product'' means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products. FDA must issue an order authorizing the marketing of an MRTP if the Agency determines that the product, as it is actually used by consumers, will significantly reduce harm and the risk of tobacco-related disease to individual tobacco users and benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products (section 911(g)(1) of the FD&C Act).

FDA may also issue an order authorizing the marketing of an MRTP that reduces or eliminates exposure to a harmful substance if, among other requirements, the Agency determines that the order would be appropriate to promote the public health, the issuance of the order is expected to benefit the population as a whole taking into account both users and nonusers of tobacco products, and the existing evidence demonstrates that a measurable and substantial reduction in morbidity and mortality among individual tobacco users is reasonably likely to be shown in subsequent studies (section 911(g)(2) of the FD&C Act). In addition, section 911 requires that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health related conditions associated with the use of tobacco products (section 911(h)(1) of the FD&C Act). The proposed research will inform the Agency's efforts to implement the provisions of the FD&C Act related to MRTPs.

FDA proposes to conduct experimental studies in order to develop generalizable scientific information to better understand how consumers perceive and understand these products, how exposure to claims about modified risk or exposure influence intentions to try or purchase the product (i.e., product adoption), and how individual characteristics such as current tobacco use and/or brand loyalty might influence these outcomes. Moreover, information from the experimental studies may assist FDA to determine the appropriate methods and measures for gathering such information from consumers.

The impact of different claims pertaining to modified risk or exposure on understanding, perceptions, and potential product adoption (i.e., intention to try) will be evaluated by conducting a series of three studies that, in turn, will examine: The impact of claims about cigarette (Study 1) or smokeless tobacco products (Study 2) among young adult and adult current, former, or never users of tobacco; and the impact of claims on adolescents currently using, or susceptible to using, tobacco (Study 3). All three studies will assess individual-level factors that might influence the impact of claims on consumer responses, including: Brand loyalty, tobacco use history and behavior, concerns about health risks, and openness to new products.

Across all studies, participants will be randomized to either see modified risk claims or not (control condition). In Studies 1 and 2, modified risk claims will be displayed on mock tobacco product packages and ads. For ethical reasons, adolescents (Study 3) will see modified risk claims displayed as statements alone, not attached to product packaging or ads. Consumer reactions to claims will be evaluated by measuring constructs such as: Comprehension of the modified risk information in the claims, perceived benefits of the product, perceptions of harm and risk, misbeliefs about the product, quit intentions, and willingness to try or purchase the product.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Adult Screener	24,000	1	24,000	0.03 (2 minutes)	720
Study 1 (Adults)	1,800	1	1,800	0.333 (20 minutes)	599
Study 2 (Adults)	600	1	600	0.333 (20 minutes)	200
Total adult hours					1,519
Youth Screener	6,000	1	6,000	0.03 (2 minutes)	180
Study 3 (Youth)	600	1	600	0.333 (20 minutes)	200
Total youth hours					380
Total Hours					1,899

FDA's burden estimate is based on prior experience with research that is similar to this proposed study. Approximately 30,000 respondents will complete a screener to determine eligibility for participation in a study, estimated to take approximately 2 minutes (0.03 hours), for a total of 900 hours for screening activities. Three thousand respondents will complete a full study, estimated to last 20 minutes (0.333 hours), for a total of 999 hours for completion of both adult studies and one youth study. The estimated total hour burden of the collection of information is 1,899 hours.

Dated: November 12, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–27283 Filed 11–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1840]

Electronic Study Data Submission; Data Standards; Validation Rules for Study Data Tabulation Model Formatted Studies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA) Center for Drug Evaluation and Research (CDER) is announcing the availability of a document entitled ''Validation Rules for Study Data Tabulation Model (SDTM) Formatted Studies.'' CDER is making this document available to improve the standardization and quality of clinical data submitted to CDER, as well as to improve the predictability of data quality and usefulness.

FOR FURTHER INFORMATION CONTACT: Office of Strategic Programs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1192, Silver Spring, MD 20993, email: *edata@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: CDER supports the regulatory submission of standardized clinical study data based on the Clinical Data Interchange Standards Consortium SDTM. Upon receipt of the data, CDER validates the data using a set of validation rules. The ''Validation Rules for SDTM Formatted Studies'' is an Excel file that provides a human readable description of a rule set for validation. Submitters of clinical study data can use this information to understand how FDA validates the data. The file is available on FDA's Study Data Standards Resources Web page at *http://www.fda.gov/ForIndustry/DataStandards/StudyDataStandards/default.htm.* It contains a combination of conformance rules (i.e., how well the data conform to the standard) and business rules (i.e., quality checks; how well the data may support useful analysis). The rules may be updated periodically as new or updated validation rules are developed. The Change History tab will provide a descriptive change history of the document.

Dated: November 14, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–27384 Filed 11–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–1120]

Vaginal Microbicides: Development for the Prevention of Human Immunodeficiency Virus Infection; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Vaginal Microbicides: Development for the Prevention of HIV Infection.'' The purpose of this guidance is to assist sponsors in all phases of development of vaginal microbicides, defined as vaginal drug products that prevent human immunodeficiency virus (HIV) acquisition. The guidance outlines the types of nonclinical studies and clinical trials recommended throughout the drug development process to support approval of vaginal microbicides. This guidance finalizes the draft guidance issued on November 23, 2012.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance 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.

FOR FURTHER INFORMATION CONTACT: Charu Mullick, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6365, Silver Spring, MD 20993–0002, 301–796–1500.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Vaginal Microbicides: Development for the Prevention of HIV Infection.'' This guidance addresses nonclinical development, early phases of clinical development, phase 3 trial considerations, and safety considerations in vaginal microbicide development including safety considerations in adolescent and pregnant populations. The guidance also outlines development of combination microbicide products such as drug-drug combinations, drug-device combinations, or combination products that include microbicide and are intended for multiple indications. This guidance finalizes the draft guidance issued on November 23, 2012 (77 FR 70167). The majority of public comments submitted to the docket were related to clinical trial considerations and nonclinical pharmacology/toxicology issues. This guidance incorporates FDA responses to the public comments.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on developing vaginal microbicides for preventing HIV transmission. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under 0910–0014, and the collections of information referred to in the guidance for clinical trial sponsors entitled ''Establishment and Operation of Clinical Trial Data Monitoring Committees'' have been approved under 0910–0581.

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*.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: November 13, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–27287 Filed 11–18–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1741]

Proposed Criteria for ''First Generic'' Submissions for Purposes of Abbreviated New Drug Application Review Prioritization Under the Generic Drug User Fee Amendments; Establishment of a Public Docket

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the opening of a public docket and requesting comments on proposed criteria for ''first generic'' abbreviated new drug application (ANDA) submissions. The purpose is to facilitate FDA's establishment of review prioritization under the Generic Drug User Fee Amendments of 2012 (GDUFA). Establishing clear criteria for this review prioritization category will allow FDA to appropriately prioritize ANDA submissions and track them in a manner consistent with the review prioritization commitments FDA made under GDUFA. Clear criteria for this category will also lead to less industry confusion and more consistent identification of ''first generic'' submissions.

DATES: Submit either electronic or written comments by December 19, 2014.

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

Electronic Submissions

Submit electronic comments as follows:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written comments as follows:

- Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions must include the Docket No. found in brackets in the heading of this document. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Maryll Toufanian, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1682, Silver Spring, MD 20993–0002, 240–402–7944.

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, GDUFA (Title III of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144)) was signed into law by the President. GDUFA is designed to speed the delivery of safe and effective generic drugs to the public and to reduce costs to industry. GDUFA is based on an agreement negotiated by FDA and representatives of the generic drug industry to address a growing number of regulatory challenges. An attendant commitment letter enumerates the performance efficiencies, metric goals, and procedures to which FDA agreed for the GDUFA program (Commitment Letter).[1] In a portion of the Commitment Letter relevant to this notice, FDA agreed to: (1) Expedite review of ANDAs in the year 1 and year 2 cohorts (i.e., those ANDAs submitted in fiscal year (FY) 2013 and FY2014, respectively) that are submitted on the first day that any valid paragraph IV application for the drug in question is submitted (first-to-file ANDA); (2) strive to review and act on all first-to-file ANDAs within 30 months of submission to avoid inadvertent forfeiture of 180-day exclusivity eligibility under section 505(j)(5)(D)(i)(IV) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(IV)); and (3) expedite review of ''first generic'' ANDAs for which there are no blocking patents or exclusivities.

To help meet the goals in the Commitment Letter, FDA will prioritize ANDA reviews in conformance with the recently issued Manual of Policies and Procedures (MAPP) 5240.3 Rev. I: Prioritization of the Review of Original ANDAs, Amendments, and Supplements; and MAPP 5200.4: Criteria and Procedures for Managing the Review of Original ANDAs, Amendments and Supplements.[2] These MAPPs contemplate FDA prioritizing its ANDA reviews in a manner consistent with the provisions of the Commitment Letter, which identify certain types of submissions, including ''first generic'' ANDA submissions, as representing public health priorities that will receive expedited review. The MAPPs also expressly describe prioritization of the ANDA types described previously.

Subsequent to enactment of GDUFA, FDA has received informal comments on the Commitment Letter from several stakeholders that conveyed different understandings of the criteria for the ''first generic'' review prioritization category. For example, stakeholders have characterized a ''first generic'' as the first ANDA submitted, the first ANDA approved, the first ANDA marketed, all first-to-file ANDAs, and a company's ''top priority'' ANDA. Without clear criteria for this category, there is the potential for confusion and inconsistent review prioritization.

On September 17, 2014, FDA's Office of Generic Drugs held a public hearing to solicit public comment on certain topics related to implementation of GDUFA.[3] The hearing provided an opportunity for public input on future policy priorities. At that hearing, FDA solicited comment on the specific criteria FDA should apply to identify an ANDA as a ''first generic'' eligible for expedited review. FDA has considered comments provided at that hearing and submitted to the related public docket. Today, FDA is announcing proposed criteria for the review prioritization category of ''first generic'' ANDA submissions.

II. Request for Comments and Supporting Information

FDA is requesting comments and supporting information on the following criteria for a ''first generic'' ANDA for the purposes of review prioritization. A first generic application is any received ANDA[4]: (1) That is a first-to-file ANDA eligible for 180-day exclusivity, or for which there are no blocking patents or exclusivities; and (2) for which there is no previously-approved ANDA for the drug product.

FDA believes that these proposed criteria appropriately focus FDA's resources on approving as quickly as possible, new safe and effective generic drug products for patient use. The Agency also believes that these criteria are consistent with the broad scope of the Commitment Letter, and generally reflect industry intent. Finally, these criteria enable FDA to prioritize review of a *pending* ANDA when the date on which the ANDA can be approved alters due to changes in the patent or exclusivity landscape.

We note that under these proposed criteria, ''first generic'' status is predicated largely on circumstances outside Agency control, and ones that may change while the ANDA is pending, for example, developments related to the disposition of related patent litigation. Accordingly, FDA also is seeking comments and supporting information on mechanisms the Agency could put in place to facilitate ANDA sponsor submission of such relevant information in a timely manner, in addition to that already required under the regulations.

We also note that as a result of such developments, ANDA submissions that originally met the criteria for a ''first generic'' submission may no longer meet those criteria; for example, the validity of a patent may be upheld in litigation, thereby blocking approval until patent expiry.

We thus are seeking comment on whether FDA should change the review prioritization for an ANDA that no longer meets the ''first generic'' criteria during its review.

III. 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: November 13, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–27385 Filed 11–18–14; 8:45 am]

BILLING CODE 4164–01–P

[1] *http://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM282505.pdf.*

[2] *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDER/ManualofPoliciesProcedures/.*

[3] *https://www.federalregister.gov/articles/2014/08/19/2014-19632/generic-drug-user-fee-amendments-of-2012-public-hearing-on-policy-development-request-for-comments#footnote-4.*

[4] FDA evaluates each submitted ANDA individually to determine whether the ANDA can be received. The *receipt* of an ANDA means that FDA made a threshold determination that the ANDA is sufficiently complete to permit a substantive review.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Detection of Infectious Prion Protein by Seeded Conversion of Recombinant Prion Protein

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR Part 404, that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive patent license to Amprion, Inc. located in Houston Texas, USA, to practice the inventions embodied in the following Patents and Patent Applications, each entitled ''Detection of Infectious Prion Protein by Seeded Conversion of Recombinant Prion Protein'':

1. US provisional Application 60/961,364 filed July 20, 2007 [HHS Ref. No. E–109–2007/0–US–01]
2. PCT/US2008/070656, filed July 21, 2008; [HHS Ref. No E–109–2007/1–PCT–01]
3. EPC application No 08796382.3 filed July 21, 2008 [HHS Ref. No E–109–2007/1–EP–03]

4. US Application No. 12/177,012, filed July 21, 2008 and issued as US patent 8,216,788 on July 10, 2012 [HHS Ref. No E–109–2007/1–US–02];

5. US Application No. 13/489,321, filed June 5, 2012 [E–109–2007/1–US–04];

6. US Application No. 14/263,703, filed April 28, 2014 [E–109–2007/1–US–011]

The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive licensed territory may be worldwide and the field of use may be limited to in vitro diagnostics of prion-associated diseases requiring FDA premarket approval, or the equivalent thereof outside of the United States, and USDA licensed veterinary diagnostics, or the equivalents thereof outside of the United States.

DATES: Only written comments and/or application for a license that are received by the NIH Office of Technology Transfer on or before 11:59 p.m. Eastern Time on December 19, 2014 will be considered.

ADDRESSES: Requests for a copy of the patents and applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Tedd Fenn, Senior Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: *fennea@mail.nih.gov;* Telephone: 424–297–0336; Facsimile: 301–402–0220.

SUPPLEMENTARY INFORMATION: The invention relates to methods and compositions for the detection of infectious prions and diagnosis of prion related diseases. Currently, available tests for disease-causing prions are incapable of detecting low concentrations and must be confirmed post-mortem. This technology enables rapid and economical detection of sub-lethal concentrations of prions by using recombinant protein (rPrP-sen) as a marker. A seeded sample polymerizes rPrP-sen, which is detected as an amplified indicator of prions in the sample. This assay does not require multiple amplification cycles unless a higher degree of sensitivity is required. This technology potentially may be combined with additional prion-detection technologies to further improve the sensitivity of the assay.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404. The prospective exclusive license may be granted unless within thirty (30) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR Part 404.

Any additional applications for a license in the field of use, filed in response to this notice, will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 10, 2014.

Richard U. Rodriguez,

Acting Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–27342 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Targeting Latently Infected Cells Without Reactivation (RO1).

Date: December 8–9, 2014.

Time: December 8, 2014, 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 4H100, MSC 9823, 5601 Fishers Lane, Bethesda, MD 20817 (Telephone Conference Call).

Time: December 9, 2014, 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3F100, MSC 9823, 5601 Fishers Lane, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, Room 3F40B, MSC 9823, Rockville, Maryland 20892, 240–669–5035, *unferrc@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27340 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: February 10, 2015.

Open: 8:00 a.m. to 1:00 p.m.

Agenda: To discuss program polices and issues, including the Asthma Guidelines Needs Assessment Report. This report can be found at *http://www.nhlbi.nih.gov/health/resources/lung/nhlbac-asthma-report.htm* and comments may be submitted to *Asthma_Needs_Assessment_Comments@nhlbi.nih.gov* by January 5, 2015.

Place: National Institutes of Health, Building 31, 6th Floor, C-Wing, 31 Center Drive, Bethesda, MD 20892.

Closed: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 6th Floor, C-Wing, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Stephen C. Mockrin, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260, *mockrins@nhlbi.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/nhlbac/index.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 13, 2014

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27348 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: December 3–4, 2014.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166 *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Plasticity and Neural Connections.

Date: December 3, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biological Chemistry and Macromolecular Biophysics.

Date: December 10, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Development, Differentiation and Modulation of Immune Responses.

Date: December 11, 2014.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health ,6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Diabetes and Obesity.

Date: December 16, 2014.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Reed A. Graves, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR13–309–311: Translational Research in Pediatric and Obstetric Pharmacology and Therapeutics.

Date: December 17, 2014.

Time: 12:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: November 13, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27343 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel;

Basic Research in HIV-Related Heart, Lung, and Blood Diseases (R01).

Date: December 8, 2014.

Time: 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Washington, DC/Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Basic Research in HIV-Related Heart, Lung and Blood Diseases (R21).

Date: December 8, 2014.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Washington, DC/Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov*.

Name of Committee: Clinical Trials and Pilot Studies Review.

Date: December 10, 2014.

Time: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0287, *carolko@mail.nih.gov*.

Name of Committee: Heart, Lung, and Blood Initial Review Group; NHLBI Institutional Training Mechanism Review Committee.

Date: December 12, 2014.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Charles Joyce, Ph.D,. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; SBIR Topic 80: Developing Fluorescent Nanodiamonds for In Vitro and In Vivo Biological Imaging.

Date: December 12, 2014.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National, Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892, *sunnarborgsw@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: November 13, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27346 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: December 12, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fisher Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jane K. Battles, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fisher's Lane, Room 3F30B, Rockville, MD 20852, 240–669–5029, *battlesja@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: November 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27341 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NICHD, December 5, 2014, 08:00 a.m. to December 5, 2014, 04:00 p.m., National Institutes of Health, Building 31A, Conference Room 2A48, 31 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on October 30, 2014, 79 FR 210, page 64608.

The meeting notice is amended to add an open session and agenda from December 5, 2014, 08:00 a.m. to December 5, 2014, 12:30 p.m. as follows below. The closed session commences immediately afterward.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: December 5, 2014.

Open: 8:00 a.m. to 12:30 p.m.

Agenda: A report by the Scientific Director, NICHD, on the status of the NICHD Division of Intramural Research, and seminars by various intramural scientists.

Place: National Institutes of Health, Building 31A, Conference Room 2A48, 31 Center Drive, Bethesda, MD 20892.

Closed: 12:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31A, Conference Room 2A48, 31 Center Drive, Bethesda, MD 20892.

Dated: November 13, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27347 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Virology.

Date: December 3, 2014.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27339 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism, Nutrition, and Reproductive Sciences.

Date: November 14, 2014.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations, imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: November 13, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27344 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Bacteriology and Pathogenesis.

Date: December 2, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth M Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular Biology and Hematology Areas.

Date: December 15–16, 2014.

Time: 11:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: November 13, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27345 Filed 11–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2014–0033; OMB No. 1660–0132]

Agency Information Collection Activities: Proposed Collection; Comment Request, Level 1 Assessment Form, Level 3 Evaluation Form for Students, and Level 3 Evaluation Form for Supervisors

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In

accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning course evaluation surveys at the Center for Domestic Preparedness.

DATES: Comments must be submitted on or before January 20, 2015.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2014–XXXX. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 8, NE., Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (202) 212–4701.

(4) *Email.* Submit comments to *FEMA–POLICY@dhs.gov.* Include Docket ID FEMA–2014–0033 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda S. Pressley Instructional Systems Specialist, Center for Domestic Preparedness, 256–231–0112 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 212–4701 or email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The CDP is required by Congress to ''identify, develop, test, and deliver training to State, local, and tribal emergency response providers, provide on-site and mobile training at the performance and management and planning levels, and facilitate the delivery of training by the training partners of the Department'' pursuant to Section 1204 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, 121 Stat. 266, August 3, 2007 (codified at 6 U.S.C. 1102). The collection of this data will help facilitate that Congressional mandate.

Collection of Information

Title: Level 1 Assessment Form, Level 3 Evaluation Form for Students, and Level 3 Evaluation Form for Supervisors.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: OMB No. 1660–0132.

Form Titles and Numbers: FEMA Form 092–0–2; Level 1 Assessment Form. FEMA Form 092–0–2A; Level 3 Evaluation Form for Students. FEMA Form 092–0–2B; Level 3 Evaluation Form for Supervisors.

Abstract: The forms will be used to survey the Center for Domestic Preparedness (CDP) students (and their supervisors) enrolled in CDP courses. The survey will collect information regarding quality of instruction, course material, and impact of training on their professional employment.

Affected Public: Local, State or Tribal governments

ESTIMATED TOTAL ANNUAL BURDEN HOURS

Data collection activity/instrument	Number of respondents (A)	Frequency of responses (B)	Hour burden per response (C)	Annual responses (D) = (A × B)	Total annual burden hours (C × D)
Level 1 Assessment Form, FEMA Form 092–02	38,000	1	0.25	38,000	9,500
Level 3 Evaluation Form for Students FEMA Form–092–02A	6,000	1	0.25	6,000	1,500
Level 3 Evaluation Form for Supervisors, FEMA Form–092–02B	600	1	0.25	600	150
Total	44,600	1	0.25	44,600	11,150

Estimated Cost: $403,795.25

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (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.

Dated: November 12, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–27397 Filed 11–18–14; 8:45 am]

BILLING CODE 9111–53–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0022]

Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Federal Emergency Management Agency (FEMA) Technical Mapping Advisory Council (TMAC) will meet in person on December 4–5, 2014, in Arlington, Virginia. The meeting will be open to the public.

DATES: The TMAC will meet on Thursday, December 4, 2014, from 8:00

a.m.–5:00 p.m. Eastern Standard Time (EST), and on Friday, December 5, from 8:00 a.m.–12:30 p.m. EST. Please note that the meeting will close early if the TMAC has completed its business.

ADDRESSES: The meeting will be held in room 803 of FEMA's office located at 1800 South Bell Street, Arlington, Virginia 20598. Members of the public who wish to attend the meeting must send an email to *FEMA–TMAC@fema.dhs.gov* (attention Mark Crowell) by 11 p.m. EST on Tuesday, December 2, 2014 and indicate the meeting dates they plan to attend. On Thursday, December 4, 2014, visitors must report to the 4th floor security desk between 7:30 and 7:45 a.m. EST, or between 12:15 and 12:30 p.m. EST, to be escorted to the meeting room. On Friday, December 5, 2014 visitors must report to the security desk between 7:30 and 7:45 a.m. EST to be escorted to the meeting room. Photo identification is required.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in ''For Further Information Contact:'' below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the TMAC, as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated meeting materials will be available at *www.fema.gov/TMAC* for review by November 19, 2014. Written comments to be considered by the committee at the time of the meeting must be submitted and received by November 25, 2014, identified by Docket ID FEMA–2014–0022, and submitted by one of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

• Email: Address the email TO: *FEMA–RULES@fema.dhs.gov* and CC: *FEMA–TMAC@fema.dhs.gov.* Include the docket number in the subject line of the message. Include name and contact detail in the body of the email.

• Mail: Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' 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 TMAC, go to *http://www.regulations.gov* and search for the Docket ID FEMA–2014–0022.

Public comment periods will be held during the open portion of the meeting on December 4, 2014, from 11:15 a.m.–11:45 a.m., and on December 5, 2014, from 9:45 a.m.–10:15 a.m., and speakers are requested to limit their comments to no more than three minutes. The public comment period will not exceed thirty minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the individual listed below to register as a speaker by close of business on November 25, 2014.

FOR FURTHER INFORMATION CONTACT: Mark Crowell, Designated Federal Officer for the TMAC, FEMA, 1800 South Bell Street Arlington, VA 22202, telephone (202) 646–3432, and email *mark.crowell@fema.dhs.gov.* The TMAC Web site is: *http://www.fema.gov/TMAC.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

As required by the *Biggert-Waters Flood Insurance Reform Act of 2012,* the TMAC makes recommendations to the FEMA Administrator on: (1) How to improve, in a cost-effective manner, the (a) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and (b) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States; (2) mapping standards and guidelines for (a) flood insurance rate maps; and (b) data accuracy, data quality, data currency, and data eligibility; (3) how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification; (4) procedures for delegating mapping activities to State and local mapping partners; and (5) (a) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination; and (b) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies. Furthermore, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) a description of the activities of the Council; (2) an evaluation of the status and performance of Flood Insurance Rate Maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

In accordance with the *Biggert-Waters Flood Insurance Reform Act of 2012,* the TMAC must also develop recommendations on how to ensure that Flood Insurance Rate Maps (FIRMs) incorporate the best available climate science to assess flood risks and ensure that FEMA uses the best available methodology to consider the impact of the rise in sea level and future development on flood risk. The TMAC must collect these recommendations and present them to the FEMA Administrator in a future conditions risk assessment and modeling report.

Further, in accordance with the *Homeowner Flood Insurance Affordability Act of 2014,* the TMAC must develop a review report related to flood mapping in support of the National Flood Insurance Program (NFIP).

Agenda: On Thursday, December 4, the TMAC members will discuss (1) the Council's work process regarding data and associated recommendations that will be needed in preparation of the reports, (2) the vision statement, and (3) work group assignments. In addition, invited subject matter experts will brief TMAC members on (1) the overall production of mapping components, (2) future conditions flooding and climate change, and (3) examples of current next generation mapping. Furthermore, invited subject matter experts will discuss current and future possibilities regarding: (1) Data acquisitions, maintenance, and dissemination; (2) map production; (3) display/dissemination/distribution; (4) risk assessment; and (5) risk to mitigation. On Friday, December 5, invited subject matter experts will discuss current and future possibilities regarding (1) program performance metrics; and (2) delegation. The full agenda and related briefing materials will be available at *http://www.fema.gov/TMAC.*

Dated: November 14, 2014.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–27396 Filed 11–18–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0009]

Simplified Procedures Project Thresholds for the Public Assistance Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: On February 26, 2014, the Federal Emergency Management Agency (FEMA) published a final rule (79 FR 10685) revising the monetary thresholds for when FEMA will process an application using simplified procedures under its Public Assistance Program. FEMA based the revised thresholds on an analysis it completed pursuant to the Sandy Recovery Improvement Act of 2013. The findings of the analysis were submitted in a Report to Congress on January 29, 2014. FEMA is seeking comment on the findings in this Report to inform any future revisions to the project thresholds.

DATES: Comments must be received by January 20, 2015.

ADDRESSES: Comments must be identified by docket ID FEMA–2014–0009 and may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, Room 8NE, 500 C Street SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Liza Davis, Associate Chief Counsel, Regulatory Affairs, Office of Chief Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202–646–4046, *liza.davis@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the ''Privacy Notice'' link in the footer of *www.regulations.gov.*

You may submit your comments and material by the methods specified in the **ADDRESSES** section of this Notice. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

Docket: The Report to Congress and the final rule are available in docket ID FEMA–2014–0009. For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for the docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, Room 8NE, 500 C Street SW., Washington, DC 20472.

II. Background

FEMA's Public Assistance program provides grants to State, Tribal, and local governments, as well as eligible private nonprofit organizations, for debris removal, emergency protective measures, and the repair, replacement, or restoration of disaster-damaged facilities after a Presidentially-declared emergency or major disaster.[1] Each grant award is categorized as either a large or small project, which is determined by a monetary threshold set each year by FEMA pursuant to statute.[2] The Sandy Recovery Improvement Act of 2013 (SRIA) [3] required FEMA to analyze the thresholds, and, based on its findings, to implement new thresholds immediately. FEMA submitted a Report to Congress, ''Determination of the Public Assistance Simplified Procedures Thresholds,'' on January 29, 2014.[4] The report included a summary of FEMA's analysis and findings. FEMA implemented the new thresholds based on those findings on February 26, 2014 via a final rule.[5] FEMA raised the maximum threshold from $68,500 to $120,000; all projects below this amount are categorized as small projects, and all projects at or above this amount are categorized as large projects. FEMA raised the minimum threshold from $1,000 to $3,000.[6] Both the maximum and minimum threshold will be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers (CPI) published by the U.S. Department of Labor.

FEMA is seeking comment on the findings that are included in its Report to Congress, ''Determination on the Public Assistance Simplified Procedures Thresholds,'' to inform possible future revisions to the maximum and minimum thresholds.

III. Public Comment

FEMA welcomes comments on all aspects of the report. In general, FEMA expects that comments will be most useful if accompanied by supportive data and a recommendation for future action. FEMA is particularly interested in responses to the following questions:

1. How will the revised thresholds impact your State, Tribe, jurisdiction, or community? For example, please consider how the revised thresholds might impact the administrative costs of processing grants, the timeliness of receiving recovery funds, and the ability to ensure proper use of Public Assistance grant funding. Please provide data to support your statement, if available.

If available please provide input on the following:

a. How does the process to administer and close out Public Assistance grants vary between large and small projects in your State, Tribe, and/or local jurisdiction? (i.e., for both large and small projects, how does your State, Tribe, and/or local jurisdiction manage grants, disburse funds, conduct final projects inspections, verify the completion of the proposed scope of work, close out the projects, or require any other procedures for closing out a project)?

b. For large projects, how much time is typically spent per request for disbursement of additional funds based on completed work?

c. Since small project grants can be awarded based on the estimates, will the increase in the maximum threshold save time for subgrantees and grantees? If so, will this time be saved from:

i. Reducing requests for additional funds for large projects as work progresses?

[1] The Public Assistance program is authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5170a, 5170b, 5172, 5173, 5192.

[2] See 42 U.S.C. 5189; 44 CFR 206.203(c), 206.205. FEMA obligates money for a small project based on an estimate of the project cost; FEMA obligates money for a large project based on actual project costs as the project progresses and cost documentation is provided to FEMA. See 44 CFR 206.203(c); Public Assistance Guide, FEMA 322 (June 2007), Chapter 3, ''Applying for Public Assistance,'' ''Project Formulation'' available at *http://www.fema.gov/public-assistance-local-state-tribal-and-non-profit/public-assistance-guide-3.*

[3] Public Law 113–2, section 1107, codified in relevant part at 42 U.S.C. 5189.

[4] Both the Report to Congress and the Final Rule are included in the docket for this Notice on *www.regulations.gov* under Docket ID FEMA–2014–0009. A copy of the report is also available at *http://www.fema.gov/media-library/assets/documents/90458.*

[5] See 79 FR 10685 (Feb. 26, 2014).

[6] *See id.*

ii. The need to track and reconcile actual costs?

iii. Other savings?

d. Does your State, Tribe, or jurisdiction reconcile actual costs for both small and large projects regardless of Federal requirements?

e. What is the average amount of time spent on reconciling (if applicable and assuming the subgrantee is not requesting a net small project overrun) and closing a project, considering project amounts near the previous and current maximum thresholds, for example:

i. Between $40,000 and $68,500?

ii. Between $68,500 and $120,000?

iii. Between $120,000 and $200,000?

f. Will there be a reduction in the number of final site inspections for projects between $68,500 and $120,000?

g. What is the average amount of time spent on a final site inspection for a project between $68,500 and $120,000?

h. If the increased maximum threshold would decrease the number of final site inspections, will that create grantee and/or subgrantees cost savings on transportation, lodging, per diem, travel time and other associated final inspection costs? If so, what are the estimated savings?

i. Are there impacts to other processes and/or savings generated by the change in the maximum threshold for the grantees and/or subgrantees? If so, what are these impacts and savings?

j. Will the maximum threshold change cause challenges to the grantees and subgrantees? If available, please provide any solutions to the identified challenges.

k. What processes does your State, Tribe or jurisdiction have in place to alleviate waste, fraud and abuse?

l. As a grantee, does your State, Tribe, or jurisdiction perform audits on small projects? If so, can you estimate how much it costs to complete the audit?

m. Does your State, Tribe, or jurisdiction foresee or plan to change your policies, procedures, laws, or regulations in response to the new maximum threshold? For example:

i. Grantee/subgrantee cost shares for large or small projects (if so, can you estimate how much or by what percentage change)?

ii. Reconciliation for large or small projects?

iii. Audits for large or small projects?

iv. Additional consolidation of work on small projects?

2. How will the change to the minimum threshold impact your State, Tribe, jurisdiction, or community? For example, please consider how it might impact the administrative costs of processing grants, the timeliness of receiving recovery funds, and the ability to ensure proper use of Public Assistance grant funding. Please provide data to support your statement, if available.

a. How many projects between $1,000 and $3,000 would be consolidated into a single project worksheet over $3,000 based on a logical grouping of work (which is the current standard)? If not many, why?

b. Are there obstacles to project consolidation that FEMA needs to consider? If so, please provide solutions to the identified obstacles.

c. Is there a way to track the number of projects that will be consolidated? Would your State, Tribe, jurisdiction, or community be willing to submit data to support an estimate of the number of consolidated projects and/or participate in a survey to collect data?

d. Is there a way to track the number of projects that did not meet the minimum threshold and will not be consolidated? Would your State, Tribe, jurisdiction, or community be willing to submit data to support an estimate of the number of consolidated project and/or participate in a survey to collect data?

e. Will greater consolidation of projects based on a logical grouping of work under the minimum threshold save time in the closeout of a small project? For example, will closing one consolidated project worksheet save time compared to closing three separate project worksheets?

f. Does your State, Tribe, or jurisdiction foresee or plan to change your policies, procedures, laws, or regulations in response to the new minimum threshold? For example:

i. Training and policies for project consolidation and logical grouping.

ii. Change to disaster assistance minimum thresholds in your State, Tribe, or jurisdiction, if applicable.

3. Do you have other comments or recommendations related to this subject that you would like to share for FEMA's consideration?

Authority: 42 U.S.C. 5189.

Dated: November 7, 2014.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–27470 Filed 11–18–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0064]

Agency Information Collection Activities: OMB–25, Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters; Extension, Without Change, of a Currently Approved Collection

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on August 21, 2014, at 79 FR 49529, allowing for a 60-day public comment period. USCIS did not receive any comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 19, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0064.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Comments

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; File No. OMB–25; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* The information collected via the submitted supplemental documentation (as contained in 8 CFR 204.13(d)) will be used by the USCIS to determine eligibility for the requested classification as fourth preference Employment-based immigrant broadcasters.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection OMB–25 is 100 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 200 hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2134; Telephone 202–272–8377.

Dated: November 13, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–27332 Filed 11–18–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0125]

Agency Information Collection Activities: Secondary Inspections Tool, Form M–1061; Extension, Without Change, of a Currently Approved Collection

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on September 4, 2014, at 79 FR 52739, allowing for a 60-day public comment period. USCIS did not receive any comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 19, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0125.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Comments

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Secondary Inspections Tool.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form M–1061; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The Secondary Inspections Tool (SIT) is an internet-based tool that processes, displays, and retrieves biometric and biographic data from the Automated Biometric Identification System (IDENT) within the US-Visitor and Immigrant Status Indicator Technology (US–VISIT) system. USCIS officers in USCIS District/Field Offices

will be instructed to use SIT at the time of a required interview in connection with an immigration or naturalization benefit request, or an individual's appearance at a USCIS District/Field Office to receive a document evidencing an immigration benefit, following a required appearance at an Application Support Center (ASC) for fingerprinting. This information collection is necessary for USCIS to collect and process the required biometric and biographic data from an applicant, petitioner, sponsor, beneficiary, or other individual residing in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,363,141 responses at 5 minutes (.083 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 113,140 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2134; Telephone 202–272–8377.

Dated: November 13, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–27331 Filed 11–18–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0004]

Agency Information Collection Activities: Filing Instructions for V Nonimmigrant Status Applicants, Supplement A to Form I–539; Extension, Without Change, of a Currently Approved Collection

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on August 13, 2014, at 79 FR 47471, allowing for a 60-day public comment period. USCIS did not receive any comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 19, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0004.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Comments

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Filing Instructions for V Nonimmigrant Status Applicants.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Supplement A to Form I–539; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This form will be used for nonimmigrants to apply for an extension of stay, for a change to another nonimmigrant classification, or for obtaining V nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Supplement A to Form I–539 is 200 and the estimated hour burden per response is 30 minutes (.50 hours).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 100 hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2134; Telephone 202–272–8377.

Dated: November 12, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–27333 Filed 11–18–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–93]

30-Day Notice of Proposed Information Collection: Emergency Homeownership Loan Program—Data Requirements

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 19, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 3, 2014.

A. Overview of Information Collection

Title of Information Collection: Emergency Homeownership Loan Program—Data Requirements.

OMB Approval Number: 2502–0597.

Type of Request: Extension.

Form Number: HUD–96020, HUD–96021a, HUD–96021b, HUD–96022, HUD–96023a, HUD–96023b, HUD–96024, HUD–96023, HUD–96025a, HUD–96025b, HUD–96026.

Description of the need for the information and proposed use: This information collection is necessary to determine applicant eligibility to receive mortgage relief assistance under the Emergency Homeowners' Loan Program. This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, an information collection package with respect to implementing the Emergency Homeowners' Loan Program targeted to borrowers facing foreclosure.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, 2010 (Pub. L. 111–203, approved July 21, 2010, Sec 1496) appropriated $1billion to HUD to establish an Emergency Homeowner's Relief Fund, pursuant to section 107 of the Emergency Housing Act of 1975, that will provide emergency mortgage assistance to homeowners that are at risk of foreclosure due to involuntary unemployment or underemployment due to an adverse economic or medical condition. Accordingly, HUD is implementing the Emergency Homeowners Loan Program (EHLP) that is designed to offer a declining balance, deferred payment ''bridge loan'' (non-recourse, subordinate loan with zero interest) for up to $50,000 to assist eligible homeowners with payments of arrearages, including delinquent taxes and insurance. Additionally, EHLP may be used to assist eligible homeowners with up to 24 months of monthly payments on their mortgage principal, interest, mortgage insurance premiums, taxes, and hazard insurance. Assistance will not exceed $50,000 per eligible homeowner.

HUD will use two approaches to implement EHLP: (1) Provide allocations to States that currently have substantially similar programs to administer their mortgage relief funds directly; and (2) delegate key administrative functions to third party entities that will assist HUD with program implementation. The third party entities will be primarily responsible for application intake, eligibility screening, funds control, payment distribution, and note processing.

Homeowners' (borrowers') participation in the program is voluntary. However, to help determine eligibility for assistance borrowers must submit the required application information and loan documentation to demonstrate that they meet program eligibility guidelines to receive mortgage relief assistance through EHLP.

Respondents (i.e. affected public): Application for benefits.

Estimated Number of Respondents: 36,264.

Estimated Number of Responses: 244,520.

Frequency of Response: Annually.

Average Hours per Response: 3.

Total Estimated Burdens: 229,304.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 12, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–27297 Filed 11–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–95]

30-Day Notice of Proposed Information Collection: Regional Analysis of Impediments Guidance for Sustainable Communities Grantees

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 19, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 18, 2014.

A. Overview of Information Collection

Title of Information Collection: Regional Analysis of Impediments Guidance for Sustainable Communities Grantees.

OMB Approval Number: 2501–0031.

Type of Request: Extension of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: HUD's Office of Sustainable Housing and Communities presently requires all Sustainable Communities Initiative (SCI) Regional Planning grantees to complete a Fair Housing Equity Assessment. The grantees each have the option of choosing to develop a Regional Analysis of Impediments (AI) in lieu of the FHEA, which (if prepared in accordance with the standards set forth below and in the Fair Housing Planning Guide) would fulfill the FHEA requirement as well as the HUD AFFH regulatory requirement for any participating jurisdiction or state that signed on. The option to prepare a regional AI also offers SCI grantees an opportunity to develop more meaningful deliverables while conserving resources and reducing duplication. This guidance, a written product reflecting the information shared in the 2012 online webinars, will assist grantees in structuring their fair housing analyses.

Respondents: Sustainable Communities Regional Planning Grantees.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	40	Every 5 years	8	200	1,600	$40	$64,000

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 13, 2014.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–27455 Filed 11–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–94]

30-Day Notice of Proposed Information Collection: HOPE VI Public Housing Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 19, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 17, 2014.

A. Overview of Information Collection

Title of Information Collection: HOPE VI Public Housing Program.

OMB Approval Number: 2577–0208.

Type of Request: Reinstatement with change of a previously approved collection.

Form Number: HUD–52774, HUD–52780, HUD 52785, HUD–52787, HUD–52798, HUD–52790, HUD–52797, HUD–52799, HUD–52800, HUD–52825–A, HUD–52860–A, HUD–52861, HUD–53001–A, HUD 96010, and HUD 96011.

Description of the need for the information and proposed use: Section 24 of the U.S. Housing Act of 1937, as added by section 535 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, 112 Stat. 2461, approved October 21, 1998) and revised by the HOPE VI Program Reauthorization and Small Community Main Street Rejuvenation and Housing Act of 2003 (Pub. L. 108–186, 117 Stat. 2685, approved December 16, 2003), establishes the HOPE VI program for the purpose of making assistance available on a competitive basis to public housing agencies (PHAs) in improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of severely distressed public housing projects (or portions thereof); in revitalizing areas in which public housing sites are located, and contributing to the improvement of the surrounding community; in providing housing that avoids or decreases the concentration of very low-income families; and in building sustainable communities. In addition, the HOPE VI Program Reauthorization and Small Community Main Street Rejuvenation and Housing Act of 2003 added to the HOPE VI program the purpose of making assistance available on a competitive basis to small units of local government to develop affordable housing as part of Main Street rejuvenation projects. The program authorization was renewed by the Consolidated Appropriations Act, 2010 (Pub. L. 111–117, approved December 16, 2009), which extends the program until September 30, 2011. Under this requirement, the Department only has a few months to award and obligate the 2011 funds or they will be returned to the Treasury. These information collections are required in connection with the annual publication in the **Federal Register** of Notices of Funding Availability (NOFAs), contingent upon available funding and authorization, which announce the availability of funds provided in annual appropriations for HOPE VI Revitalization, Demolition grants, and HOPE VI Main Street grants.

Eligible public housing agencies (PHAs) (for HOPE VI Revitalization and Demolition) and eligible local units of government (for HOPE VI Main Street) interested in obtaining HOPE VI grants are required to submit applications to HUD, as explained in each program NOFA. The information collection conducted in the applications enables HUD to conduct a comprehensive, merit-based selection process in order to identify and select the applications to receive funding. With the use of HUD-prescribed forms, the information collection provides HUD with sufficient information to approve or disapprove applications.

Applicants that are awarded HOPE VI grants are required to report on a quarterly basis on the sources and uses of all amounts expended for revitalization, demolition, or Main Street activities. HOPE VI Revitalization grantees use a fully-automated, Internet-based process for the submission of quarterly reporting information. HUD reviews and evaluates the collected information and uses it as a primary tool with which to monitor the status of HOPE VI Revitalization projects and the HOPE VI Revitalization program.

Members of affected public: Public Housing Agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

For HOPE VI Revitalization Application: 30 respondents, once annually, 195.5 hours average per response results in a total annual reporting burden of 5,865.0 hours.

For HOPE VI Demolition Applications: 34 respondents, once annually, 40.25 hours average per response results in a total annual reporting burden of 1,368.50 hours.

For HOPE VI Main Street Applications: 15 respondents, once annually, 48.67 hours average per response results in a total annual reporting burden of 675.0 hours.

For HOPE VI Revitalization Quarterly Reporting: 207 respondents, 4 times annually, 20 hours average per response results in a total annual reporting burden of 16,560 hours.

Grand total: These information collections, along with other Non-NOFA information collection items required in connection with the HOPE VI program including budget updates, supportive services and relocation plans, and cost certificates result in an annual total reporting burden of 26,516.00 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 13, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–27457 Filed 11–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–96]

30-Day Notice of Proposed Information Collection: Office of Economic Resilience Progress Report Template

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 19, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 17, 2014.

A. Overview of Information Collection

Title of Information Collection: Office of Economic Resilience Progress Report Template.

OMB Approval Number: 2501–0030.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–40105.

Description of the need for the information and proposed use: The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (Appropriations Act), provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and $30,000,000 is available for the Community Challenge Planning Grant Program.

The Consolidated Appropriations Act, 2010 (Pub. L. 111–117, December 16, 2009), provided a total of $150 million in fiscal year 2010 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning.

This information collection is necessary to fulfill the reporting requirements of the Department of Housing and Urban Development's Sustainable Communities Initiative (SCI) Planning Grant Programs, which comprise of the Sustainable Communities Regional Planning Grant Program, the Community Challenge Planning Grant Program, and the Capacity Building for Sustainable Communities Grant Program. All grant programs require progress reporting by grantees on a semi-annual basis (i.e., Twice per year: January 30th and July 30th). The grant program terms and conditions require the grantee to submit a semi-annual progress report which reflects activities undertaken, obstacles encountered and solutions achieved, and accomplishments. Progress reports that show progress of the program in meeting approved work plan goals, objectives are to be submitted.

Respondents: Sustainable Communities Initiative (SCI) grantees.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	56	Semi-annually	112	1.5	168	$40.00	$6,720.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 13, 2014.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–27454 Filed 11–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–92]

30-Day Notice of Proposed Information Collection: Annual Adjustment Factors (AAF) Rent Increase Requirement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 19, 2014

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 11, 2014.

A. Overview of Information Collection

Title of Information Collection: Annual Adjustment Factors (AAF) Rent Increase Requirement.

OMB Approval Number: 2502–0507.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–92273–S8.

Description of the need for the information and proposed use: Owners of project-based section 8 contracts that utilize the AAF as the method of rent adjustment provide this information which is necessary to determine whether or not the subject properties' rents are to be adjusted and, if so, the amount of the adjustment.

Respondents: (i.e. affected public): Business, Not for profit institutions.

Estimated Number of Respondents: 1,080.

Estimated Number of Responses: 8.

Frequency of Response: On occasion.

Average Hours per Response: 1.5 Hour.

Total Estimated Burdens: 12.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 12, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–27305 Filed 11–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–91]

30-Day Notice of Proposed Information Collection: Continuum of Care Homeless Assistance Grant Application—Continuum of Care Registration

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 19, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 11, 2014.

A. Overview of Information Collection

Title of Information Collection: Continuum of Care Homeless Assistance Grant Application—Continuum of Care Registration.

OMB Approval Number: 2506–0182.

Type of Request: Revision of a currently approved collection.

Form Number: Not Applicable.

Description of the need for the information and proposed use: The regulatory authority to collect this information is contained in 24 CFR part 579, and the HEARTH Act. The CoC Homeless Assistance Application Registration (OMB 2506–0182) is the first part of the information collection process to be used in HUD's annual competitive homeless assistance program, the CoC Program, authorized by the HEARTH Act. It is separate from the annual CoC Homeless Assistance Consolidated Application, which contains the CoC Application and the Project Applications that are covered under the approved PRA package 2506–0112. This separation is necessary due in to the fact that the CoC Registration occurs several months before collection of the CoC Homeless Assistance Consolidated Application and that the information collected during CoC Registration does not frequently change.

The annual CoC Registration comprises the first phase of the combined CoC Homeless Assistance information collection form. During this phase, HUD collects the contact information of the collaborative applicant for the CoC, and the HMIS Lead Agency as well as the geographic areas served by the CoC applicant. Additionally, CoCs approve their preliminary pro-rata need and affirm their annual renewal demand, and HUD collects information regarding the CoC's board structure and the capacity of the CoC to carry out the various activities outlined in the program regulations. The registration information is necessary to assist in the selection of project proposals submitted to HUD (by State and local governments, public housing authorities, and nonprofit organizations) for the awarded funds during the annual CoC competition because it provides vital information about the CoC applicants.

All collaborative applicants are required to register their CoCs in the e-snaps electronic grants management system prior to the opening of the CoC Homeless Assistance competition. The registration requirements include a basic description of the CoC's lead organization, contact information, and geographic area. The information to be collected by HUD will be used to determine eligibility for CoC Homeless Assistance and establish grant amounts. To determine the total amount a CoC may request for renewal funding, collaborative applicants will list their Continuum's programs on a Grant Inventory Worksheet (GIW) that will allow HUD to accurately assess individual project applications during the CoC Application process. The information from the GIW is essential for operation of the CoC competition. For the CoC, the GIW allows each CoC to see all the project grants side-by-side that will be eligible for competition in the annual competition. This then allows them to determine, in communication with HUD, the total amount of funding (the annual renewal demand or ARD) that their CoC has available in a given competition year, which then allows them to make informed planning decisions about which project grants they want to prioritize, reduce or eliminate in the actual CoC Homeless Assistance Program Application. In turn, the program details in the GIW allow HUD to conduct an accurate assessment of renewal project applications and to determine in the aggregate what the total renewal demand for all CoCs will likely be. HUD can then determine how much of the annual appropriation will be available for new projects (once all the funding for renewals is covered), or in years of budget shortages, how much CoCs will be advised to cut from their total funding to meet the amount of funds available.

The optional board requirement questions in the registration forms are an important part of the registration process. To meet the performance goals established by statute, CoCs will need to significantly increase their capacity for strategy, planning, monitoring, and evaluation. In addition, the HEARTH Act and the 24 CFR part 578 allow for the development of United Funding Agencies (UFAs), a significant change to the structure of the CoC and the relationship between HUD and grantees. For the CoCs that seek UFA status, they must demonstrate that they have the operational capacity and a high functioning CoC Board that can serve as the sole manager of their projects, in order to qualify. With UFA established by statute and regulation, HUD needs as much information as possible regarding the baseline operational readiness of CoCs, and the few CoCs that may apply as a UFA will need to provide more information during the Registration process. As recently as the FY2013 competition, only 16 CoCs applied for UFA status, three were conditionally approved, and ultimately only two met the high standards of management and organizational capacity needed to serve this function. Providing all CoCs with the option of reporting their Board status will allow HUD to prepare for UFA applications and estimate how our program resources will need to be allocated over the next few years of program implementation.

Respondents: (i.e. affected public): States, local governments, private nonprofit organizations, public housing authorities, and community mental health associations that are public nonprofit organizations.

Estimated Number of Respondents: 410 Respondents.

Estimated Number of Responses: 410 responses per year.

Frequency of Response: Once a year.

Average Hours per Response: Two to three hours per response (two for most applicants and three for UFA applicants).

Total Estimated Burdens: 840 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 12, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–27306 Filed 11–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[145A2100DD/AAK3000000/A0H501010/241A00]

Revision of Agency Information Collection for Indian Child Welfare Quarterly and Annual Report

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is submitting to the Office of Management and Budget (OMB) a request for approval for the revision of collection of information for the Indian Child Welfare Quarterly and Annual Report. The information collection is currently authorized by OMB Control Number 1076–0131, which expires November 30, 2014.

DATES: Interested persons are invited to submit comments on or before December 19, 2014.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to: Ms. Evangeline Campbell, Chief, Division of Human Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW., MS–4513–MIB, Washington, DC 20240; facsimile: (202) 208–5113; email: *Evangeline.Campbell@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Evangeline Campbell, (202) 513–7621. You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The BIA is seeking to revise the information collection conducted under 25 CFR part 23, related to the Indian Child Welfare Act (ICWA). BIA collects information using a consolidated caseload form, which tribal ICWA program directors fill out. BIA uses the information to determine the extent of service needs in local Indian communities, assess ICWA program effectiveness, and provide date for the annual program budget justification. The aggregated report is not considered confidential. A response is required to obtain and/or retain a benefit.

The revision includes changes to the existing form, reducing which is now, Part A—Indian Child Welfare Act (ICWA) Data, and adds a new section, Part B—Tribal Child Abuse Neglect Data. Part A—ICWA Data has been simplified, including fewer categories that were no longer considered useful for planning purposes, based on feedback received from BIA Regional staff. Part B—Tribal Child Abuse and Neglect Data is a new section. Part B only applies to tribes that operate child protection programs.

Copies of the forms are available on the Web site at *http://www.bia.gov/WhoWeAre/BIA/OIS/HumanServices/index.htm* for review and comment. We estimate the hourly burden for Part A—ICWA Data will be reduced, from 30 minutes to 15 minutes, and when applicable, Part B—Tribal Child Abuse and Neglect Data is estimated to take approximately 15 minutes to complete.

II. Request for Comments

On September 8, 2014, BIA published a notice announcing the revision of this information collection and provided a 60-day comment period in the **Federal Register** (79 FR 53206). There were no comments received in response to this notice.

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection 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 (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0131.

Title: Indian Child Welfare Quarterly and Annual Report.

Brief Description of Collection: The BIA is seeking to revise the information collection conducted under 25 CFR part 23, related to the Indian Child Welfare Act (ICWA). The revisions includes changing the name of the collection (previously identified as Indian Child Welfare Assistance Report, 25 CFR part 83) to ''Indian Child Welfare Quarterly and Annual Report.'' BIA simplified the previous form, which is now Part A—Indian Child Welfare Act (ICWA) Data. The changes includes few categories that are no longer considered useful for planning purposes, based on feedback received from BIA regional staff. In addition, a new form has been added, Part B—Tribal Child Abuse and Neglect Data. This form must completed by tribes that operate child protection programs.

Submission of this information by Indian tribes allows BIA to consolidate and review selected data on Indian child welfare cases. The data is useful on a local level, to the tribes and tribal entities that collect it, for case management purposes. The data are useful on a nationwide basis for planning and budget purposes.

Response is required to obtain or retain a benefit.

Type of Review: Revision of currently approved collection.

Respondents: Indian tribes or tribal entities that are operating programs for Indian tribes.

Number of Respondents: Approximately 536 per year, on average, for Part A—ICWA Data; approximately 200 per year, on average, for Part B—Tribal Child Abuse Neglect Data.

Frequency of Response: Four times per year for the Part A—ICWA Data; if applicable, four times per year for Part B—Tribal Child Abuse Neglect Data.

Estimated Time per Response: Approximately 15 minutes for Part A—ICWA Data; approximately 15 minutes for Part B—Tribal Child Abuse and Neglect Data.

Estimated Total Annual Hour Burden: 736 hours, on average.

Estimated Total Annual Non-Hour Dollar Cost: $0.

Dated: November 13, 2014.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2014–27375 Filed 11–18–14; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[AAK6006201 145A2100DD AOR3030.999900]

Intent To Prepare an Environmental Impact Statement for the Snow Mountain Solar Project on the Las Vegas Paiute Indian Reservation, Clark County, Nevada

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In order to comply with the National Environmental Policy Act (NEPA), the Bureau of Indian Affairs (BIA), as lead agency in cooperation with the Las Vegas Paiute Tribe (Tribe), the Bureau of Land Management (BLM), and other Federal agencies, intend to prepare an environmental impact statement (EIS) that will evaluate a proposed photovoltaic (PV) solar energy generation project on the Las Vegas Paiute Indian Reservation and a transmission line located on tribal lands, private lands and/or Federal lands administered and managed by BLM in Clark County, Nevada.

This notice announces the beginning of the scoping process to solicit public comments and identify potential issues related to the EIS. It also announces that public scoping meetings will be held in Nevada to identify potential issues, alternatives, and mitigation to be considered in the EIS.

DATES: The date and location of the public scoping meeting will be published in the *Las Vegas Sun and Las Vegas Review-Journal* at least 15 days before the scoping meeting. Written comments on the scope of the EIS or implementation of the proposal must arrive by December 19, 2014.

ADDRESSES: You may mail, email, or hand carry written comments to either Mr. Paul Schlafly, Natural Resource Specialist, Bureau of Indian Affairs, Southern Paiute Agency, 180 North 200 East, Suite 111, P.O. Box 720, St. George, Utah 84770; telephone: (435) 674–9720; email: *paul.schlafly@bia.gov,* or Mr. Chip Lewis, BIA Western Regional Office, 2600 North Central Avenue, 4th Floor Mailroom, Phoenix, Arizona 85004; telephone: (602) 379–6782; email: c*hip.lewis@bia.gov.*

SUPPLEMENTARY INFORMATION: The proposed Federal action, taken under 25 U.S.C. 415, is BIA's approval of a solar energy ground lease and associated agreements entered into by the Las Vegas Paiute Tribe with a subsidiary of First Solar, Inc. (First Solar) to provide for construction and operation of an up-to 100 megawatt (MW) alternating current solar photovoltaic (PV) electricity generation facility located entirely on the Las Vegas Paiute Snow Mountain Reservation and specifically on lands held in trust by the United States for the Tribe. The Project would interconnect to an adjacent substation via a short 138 kilovolt or 230 kilovolt (kV) line that may be located on Tribal lands, private lands and/or Federal lands administered and managed by BLM. First Solar has accordingly requested that the BIA and BLM additionally approve right-of-ways (ROWs) authorizing the construction and operation of the transmission line. Together, the proposed solar energy facility, transmission line, and other associated facilities will make up the proposed Snow Mountain Solar Project (Project).

The Project would be located in Township 18 South, Range 59 East, Sections 34, 35, and 36 Mount Diablo Meridian, Nevada, and access to the Project would be provided by U.S. Highway 95, Paiute Drive, and/or an upgrade to an existing road that crosses next to the proposed Project site. The generation facility would generate electricity using First Solar's solar PV panels. Also included would be inverters, a collection system, an on-site substation to step-up the voltage to transmission-level voltage at 138 or 230kV, an operations and maintenance building, and other related facilities. A short single overhead 138 or 230 kV generation-tie transmission line would connect the solar project to the adjacent Northwest Substation.

Construction of the Project is expected to take approximately 12 to 15 months. First Solar is expected to operate the energy facility for 30 years, with two options to renew the lease for an additional 10 years, if mutually acceptable to the Tribe and First Solar. The Project is expected to be built in one phase of up to 100 MW, per the demand of potential off-takers or utilities. During construction, the PV panels will be placed on top of fixed-tilt and/or single-axis tracking mounting systems that are set on steel posts embedded in the ground. Other foundation design techniques may be used depending on the site topography and conditions. No water will be used to generate electricity during operations. Water will be needed during construction for dust control and a minimal amount will be needed during operations for administrative and sanitary water use on-site. The water supply required for the Project would be leased from the Tribe and the EIS will consider the impacts of alternative sources and delivery methods.

The purposes of the proposed actions are to: (1) Help to provide long-term, diverse, and viable economic revenue base and job opportunities for the Tribe; (2) help Nevada and neighboring States to meet their State renewable energy needs; and (3) allow the Tribe, in partnership with First Solar, to optimize the use of the lease site while maximizing the potential economic benefit to the Tribe.

The BIA will prepare the EIS in cooperation with the Tribe, BLM, and possibly the U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA), and the Department of Defense (DOD). In addition, the U.S. Fish and Wildlife Service (USFWS) will provide input on the analysis. The resulting EIS will aim to: (1) Provide agency decision makers, the Tribe, and the general public with a comprehensive understanding of the impacts of the proposed Project and alternatives on the Reservation; (2) describe the cumulative impacts of increased development on the Reservation; and (3) identify and propose mitigation measures that would minimize or prevent significant adverse impacts. Consistent with these objectives, the EIS will analyze the proposed Project and appurtenant features, viable alternatives including other interconnection options, modified footprint alternatives, alternate routing for Project ROWs, and the No Action alternative. Other alternatives may be identified in response to issues raised during the scoping process.

The EIS will provide a framework for BIA and BLM to make determinations and to decide whether to take the aforementioned Federal actions. In addition, BIA will use and coordinate the NEPA commenting process to satisfy its obligations under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3). Tribal consultations will be conducted in accordance with policy and tribal concerns will be given due consideration, including impacts on Indian trust assets. Other Federal agencies may rely on the EIS to make decisions under their authority and the Tribe may also use the EIS to make decisions. The USFWS will review the EIS for consistency with the Endangered Species Act, as amended, and other implementing acts, and may rely on the EIS to support its decisions and opinions regarding the Project's impact on federally listed species.

Issues to be covered during the scoping process may include, but would not be limited to, Project impacts on air quality, geology and soils, surface and groundwater resources, biological resources, threatened and endangered species, cultural resources, socioeconomic conditions, land use, aesthetics, environmental justice, and Indian trust resources. In addition to those already identified above, other Federal, State, and local agencies, along with other stakeholders that may be interested or affected by the BIA's decision on the proposed Project, are invited to participate in the scoping process.

Submission of Public Comments

Please include your name, return address, and the caption "EIS, Snow Mountain Solar Project," on the first page of any written comments. You may also submit comments at the public scoping meeting.

A public scoping meeting will be held on the Reservation to further describe the Project and identify potential issues and alternatives to be considered in the EIS. The date of the public scoping meeting will be included in notices to be posted in the *Las Vegas Sun and Las Vegas Review-Journal* at least 15 days before the meeting.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the mailing address shown in the **ADDRESSES** section during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

Authority

This notice is published in accordance with 40 CFR 1501.7 of the Council of Environmental Quality regulations and 43 CFR 46.235 of the Department of the Interior Regulations implementing the procedural requirements of the NEPA (42 U.S.C. 4321 *et seq.*), and in accordance with the exercise of authority delegated to the Assistant Secretary—Indian Affairs by part 209 of the Department Manual.

Dated: November 10, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–27379 Filed 11–18–14; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B711.IA000815]

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal-State Class III Gaming Compact taking effect.

SUMMARY: This notice publishes the Class III Gaming Compact between the Karuk Tribe and the State of California taking effect.

DATES: *Effective Date:* November 19, 2014.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Compact between the State of California and the Karuk Tribe allows for one gaming facility and authorizes the Tribe to operate up to

1500 gaming devices, any banking or percentage card games, and any devices or games authorized under State law to the State lottery. The Tribe will make revenue sharing payments for operating more than 350 gaming devices. Finally, the term of the compact is until December 31, 2034. The Secretary took no action on the Compact within 45 days of its submission by the Tribe and the State. Therefore, the compact is considered to have been approved, but only to the extent that the Compact is consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(C).

Dated: November 12, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–27377 Filed 11–18–14; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–CAKR–KOVA–WRST–17030; PPAKAKROR4; PPMPRLE1Y.LS0000]

Cape Krusenstern National Monument Subsistence Resource Commission (SRC), Kobuk Valley National Park SRC, and Wrangell-St. Elias National Park SRC; Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting Notice.

SUMMARY: As required by the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), the National Park Service (NPS) is hereby giving notice that the Cape Krusenstern National Monument Subsistence Resource Commission (SRC), Kobuk Valley National Park SRC, and Wrangell-St. Elias National Park SRC will hold meetings to develop and continue work on NPS subsistence program recommendations, and other related regulatory proposals and resource management issues. The NPS SRC program is authorized under Section 808 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3118), Title VIII.

Cape Krusenstern National Monument SRC

Meeting/Teleconference Dates and Location: The Cape Krusenstern National Monument SRC will meet/ teleconference from 9:00 a.m. to 5:00 p.m. or until business is completed on Tuesday, December 2, 2014, and Wednesday, December 3, 2014, at the Northwest Arctic Heritage Center in Kotzebue, AK.

Teleconference participants must call the Cape Krusenstern National Monument office at (907) 442–3890 by December 1, 2014, prior to the meeting to receive teleconference passcode information.

Kobuk Valley National Park SRC Meeting/Teleconference

Dates and Location: The Kobuk Valley National Park SRC will meet/ teleconference from 9:00 a.m. to 5:00 p.m. or until business is completed on Thursday, December 4, 2014, and Friday, December 5, 2014, at the Northwest Arctic Heritage Center in Kotzebue, AK. The teleconference will be open to the public. Teleconference participants must call Kobuk Valley National Park office at (907) 442–3890 by December 2, 2014, prior to the meeting to receive teleconference passcode information.

For more detailed information regarding the Cape Krusenstern National Monument SRC or Kobuk Valley National Park SRC meetings, or if you are interested in applying for SRC membership, contact Frank Hays, Designated Federal Official and Superintendent, at (907) 442–3890, email *frank_hays@nps.gov,* or Ken Adkisson, Subsistence Manager, at (907) 443–2522, email *ken_adkisson@nps.gov,* or Clarence Summers, Subsistence Manager, at (907) 644–3603, email *clarence_summers@nps.gov.*

Wrangell-St. Elias National Park SRC

Meeting/Teleconference Date and Location: The Wrangell-St. Elias National Park SRC will meet/ teleconference from 9:00 a.m. to 12:00 p.m. or until business is completed on Monday, December 1, 2014, at the Wrangell-St. Elias National Park and Preserve office in Copper Center, AK. Teleconference participants must call Wrangell-St. Elias National Park office at (907) 822–7236 or (907) 822–5234 by November 25, 2014, prior to the meeting to receive teleconference passcode information.

For more detailed information regarding the Wrangell-St. Elias National Park SRC meeting/ teleconference, or if you are interested in applying for SRC membership, contact Rick Obernesser, Designated Federal Official and Superintendent, at (907) 822–3182, email *rick_obernesser@nps.gov,* or Barbara Cellarius, Subsistence Manager, at (907) 822–7236, email *barbara_cellarius@nps.gov,* or Clarence Summers, Subsistence Manager, at (907) 644–3603, email *clarence_summers@nps.gov.*

Proposed Meeting Agenda

The agenda may change to accommodate SRC business. The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum
2. Welcome and Introduction
3. Review and Adoption of Agenda
4. Approval of Minutes
5. Superintendent's Welcome and Review of the Commission Purpose
6. Commission Membership Status
7. SRC Chair and Members' Reports
8. Superintendent's Report—NPS
9. Old Business
10. New Business
11. Federal Subsistence Board Update
12. Alaska Boards of Fish and Game Update
13. National Park Service Reports
    a. Ranger Update
    b. Resource Management Update
    c. Subsistence Manager's Report
14. Public and Other Agency Comments
15. Work Session
16. Set Tentative Date and Location for Next SRC Meeting
17. Adjourn Meeting

SRC meeting locations and dates may change based on inclement weather or exceptional circumstances. If the meeting date and location are changed, the Superintendent will issue a press release and use local newspapers and radio stations to announce the rescheduled meeting.

SUPPLEMENTARY INFORMATION: These meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. The meetings will be recorded and meeting minutes will be available upon request from the Superintendent for public inspection approximately six weeks after the meeting. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 13, 2014.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2014–27334 Filed 11–18–14; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02054000, 14XR0680A1, RX021489433320900]

Notice of Availability and Notice of Public Meetings for the Draft Environmental Impact Statement for Central Valley Project Municipal and Industrial Water Shortage Policy, Central Valley, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation has made available for public review and comment the Central Valley Project (CVP) Municipal and Industrial Water Shortage Policy (M&I WSP) Draft Environmental Impact Statement (EIS). The Draft EIS addresses updating the CVP M&I WSP and implementation guidelines. The CVP M&I WSP would be used by Reclamation to: (1) Define water shortage terms and conditions for applicable CVP M&I water service contractors, as appropriate; (2) establish CVP water supply levels that, together with the M&I water service contractors' drought water conservation measures and other water supplies, would assist the M&I water service contractors in their efforts to protect public health and safety during severe or continuing droughts; and (3) provide information to M&I water service contractors for their use in water supply planning and development of drought contingency plans.

DATES: Send written comments on the Draft EIS on or before January 12, 2015.

Four meetings to receive oral or written comments will be held on the following dates:

- Monday, December 8, 2014, 2–4 p.m., Sacramento, California.
- Wednesday, December 10, 2014, 6–8 p.m., Willows, California.
- Tuesday, December 16, 2014, 6–8 p.m., Fresno, California.
- Wednesday, December 17, 2014, 6–8 p.m., Oakland, California.

ADDRESSES: Send written comments or requests for copies to Mr. Tim Rust, Bureau of Reclamation, Resources Management Division, 2800 Cottage Way, Sacramento, CA 95825, or via email to *trust@usbr.gov.*

The meeting locations are:

- Sacramento—Sacramento Inn and Conference Center, 1401 Arden Way, Sacramento, California 95825.
- Willows—Veteran's Memorial Hall, 525 W. Sycamore Street, Willows, California 95988.
- Fresno—Piccadilly Inn Airport, 5113 E. McKinley Avenue, Fresno, California 93727.
- Oakland—Oakland Courtyard Airport, 350 Hegenberger Road, Oakland, California 94621.

To request a compact disc of the Draft EIS, please contact Mr. Tim Rust as indicated above, or call (916) 978–5516. The Draft EIS may be viewed at Reclamation's Web site at *http://www.usbr.gov/mp/cvp/mandi/index.html.* See **SUPPLEMENTARY INFORMATION** section for locations where copies of the Draft EIS are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Rust, Program Manager, Bureau of Reclamation, via email at *trust@usbr.gov,* or at (916) 978–5516; or Mr. Michael Inthavong, Natural Resources Specialist, Bureau of Reclamation, via email at *minthavong@usbr.gov,* or at (559) 487–5295.

SUPPLEMENTARY INFORMATION: The CVP is operated under Federal statutes authorizing the CVP, and by the terms and conditions of water rights acquired pursuant to California law. During any year, constraints may occur on the availability of CVP water for M&I water service contractors. The cause of the water shortage may be drought, unavoidable causes, or restricted operations resulting from legal and environmental obligations or mandates. Those legal and environmental obligations include, but are not limited to, the Endangered Species Act, the Central Valley Project Improvement Act (CVPIA), and conditions imposed on CVP's water rights by the California State Water Resources Control Board. The 2001 draft CVP M&I WSP, as modified by Alternative 1 B of the 2005 draft environmental assessment, establishes the terms and conditions regarding the constraints on availability of water supply for the CVP M&I water service contracts.

Allocation of CVP water supplies for any given water year is based upon forecasted reservoir inflows and Central Valley hydrologic conditions, amounts of storage in CVP reservoirs, regulatory requirements, and management of Section 3406(b)(2) resources and refuge water supplies in accordance with CVPIA. In some cases, M&I allocations in water shortage years may differ between CVP divisions due to regional CVP water supply availability, system capacity, or other operational constraints.

The purpose of the update to the 2001 CVP M&I WSP, as modified by Alternative 1 B of the 2005 draft environmental assessment, is to provide detailed, clear, and objective guidelines for the distribution of CVP water supplies during water shortage conditions, thereby allowing CVP water users to know when, and by how much, water deliveries may be reduced in drought and other low water supply conditions.

The increased level of clarity and understanding that will be provided by the update to the 2001 draft CVP M&I WSP is needed by water managers and the entities that receive CVP water to better plan for and manage available CVP water supplies, and to better integrate the use of CVP water with other available non-CVP water supplies. The update to the 2001 draft CVP M&I WSP is also needed to clarify certain terms and conditions with regard to its applicability and implementation. The proposed action is the adoption of an updated CVP M&I WSP and its implementation guidelines.

The EIS analyzes five alternative actions. Alternative 1 is No Action, and represents the current 2001 draft CVP M&I WSP, as modified by Alternative 1 B of the 2005 Environmental Assessment, which is currently guiding Reclamation's allocation of water to agricultural and M&I water service contractors during water shortage years. Alternative 2, Equal Agricultural and M&I Allocation, provides M&I and agricultural water service contractors with equal allocation percentages during water shortage conditions. Alternative 3, Full M&I Allocation Preference, provides M&I contractors with 100 percent of their contract allocation until CVP supplies are not available to meet those demands, while agricultural water service contractor deliveries are reduced as needed. Alternative 4, Updated M&I WSP, modifies Alternative 1 to provide a different definition of unconstrained years used in calculating historical use, and provides higher level of deliveries to M&I water service contractors by attempting to provide minimum public health and safety (PH&S) unmet need amounts without a guarantee. Alternative 5, M&I Contractor Suggested WSP, is similar to Alternative 4 but attempts to meet PH&S unmet need deliveries through modification of operational priorities.

Public Review of Draft EIS

Copies of the Draft EIS are available for public review at the following locations:

1. Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
2. Natural Resources Library, U.S. Department of the Interior, 1849 C Street

NW., Main Interior Building, Washington, DC 20240–0001.

Special Assistance for Public Meetings

If special assistance is required to participate in the public meeting, please contact Mr. Louis Moore at (916) 978–5106, or via email at *wmoore@usbr.gov.* Please contact Mr. Moore at least 10 working days prior to the meeting. A telephone device for the hearing impaired (TDD) is available at (916) 978–5608.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 28, 2014.

Pablo Arroyave,

Deputy Regional Director.

[FR Doc. 2014–27372 Filed 11–18–14; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1678]

Criminal Justice Restraints Standard, NIJ Standard-1001.00

AGENCY: National Institute of Justice.

ACTION: Notice.

SUMMARY: The National Institute of Justice (NIJ) announces publication of *Criminal Justice Restraints Standard,* NIJ Standard 1001.00. The document can be found here: *https://ncjrs.gov/pdffiles1/nij/247988.pdf.* Conformity assessment organizations are invited to review the document and provide any feedback to the point of contact listed below. This standard is planned to supersede *NIJ Standard for Metallic Handcuffs,* NIJ Standard 0307.01, found here: *https://www.ncjrs.gov/pdffiles1/nij/082981.pdf.* The effective date that this will occur will be given six months prior through a notice in the **Federal Register**. For more information about NIJ standards, please visit *http://nij.gov/standards.*

FOR FURTHER INFORMATION CONTACT: Brian Montgomery, by telephone at (202) 353–9786 [Note: this is not a toll-free telephone number], or by email at *brian.montgomery@usdoj.gov.*

William Sabol,

Acting Director, National Institute of Justice.

[FR Doc. 2014–27367 Filed 11–18–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1676]

Request for Expressions of Interest From Manufacturers and Developers in Forthcoming Gun Safety Technology Challenge and Request for Information

AGENCY: National Institute of Justice, DOJ.

ACTION: Notice.

SUMMARY: The National Institute of Justice (NIJ) is requesting manufacturers and developers of firearms that incorporate advanced safety technologies or firearms accessories utilizing advanced safety technologies that are intended to modify firearms to submit an expression of interest in the forthcoming Gun Safety Technology Challenge (''Challenge'') and provide information about their products or technology. Through the Challenge, NIJ will seek an objective demonstration through testing and evaluation of the reliability of firearms and firearms accessories available today that are typically known by various terms such as smart guns, user-authorized handguns, childproof guns, and personalized firearms. These firearms or firearms accessories can be understood to utilize integrated components that exclusively permit an authorized user or set of users to operate or fire the gun and automatically deactivate it under a set of specific circumstances, reducing the chances of accidental or purposeful use by an unauthorized *user.* NIJ is interested in receiving information regarding which firearms and firearms accessories that incorporate advanced safety technologies that would be made available by industry for testing and evaluation in the Challenge. This information will help inform NIJ regarding the scope of the notional test methods and test procedures for firearms and firearms accessories required for the Challenge, as described below.

DATES: Manufacturers or developers wishing to submit an expression of interest and information to the National Institute of Justice must do so by 5 p.m. Eastern Time January 5, 2015, as instructed below.

ADDRESSES: *How to Respond and What to Include:* To submit an expression of interest and information, please send an email to *gunsafetytechnology@usdoj.gov.* Please provide the business contact information, including a point of contact name, company name (if applicable), mailing address, phone number, and email address. The minimum information requested about the firearm or firearm accessory responsive to the Challenge described in this notice is as follows: (1) A written description; (2) a photograph (or diagram); (3) the type of cartridge that would be used in the firearm; and (4) an estimate of the technological maturity. The information found in the report *A Review of Gun Safety Technologies* is suggested as a guide to assess the maturity of technologies. The report can be found here: *https://www.ncjrs.gov/pdffiles1/nij/242500.pdf.* There is no limit to the amount of information that interested parties may submit. No materials will be returned. All materials submitted will be treated confidentially and discreetly and may be shared with U.S. Government staff or U.S. Government contractors for evaluation purposes. This notice is not a solicitation for funding and does not obligate the Government to fund any research and development.

SUPPLEMENTARY INFORMATION: The National Institute of Justice (NIJ) was tasked with supporting the President's Plan to Reduce Gun Violence, specifically:

''The President is directing the Attorney General to work with technology experts to review existing and emerging gun safety technologies, and to issue a report on the availability and use of those technologies. In addition, the Administration will issue a challenge to the private sector to develop innovative and cost-effective gun safety technology and provide prizes for those technologies that are proven to be reliable and effective.''

In support of this Executive action, NIJ has conducted a technology assessment and market survey of existing and emerging gun safety technologies that would be of interest to the law enforcement and criminal justice communities and others with an interest in gun safety and advanced firearm technology. A report published in June 2013 by NIJ entitled *A Review of Gun Safety Technologies* examined existing and emerging gun safety technologies, and their availability and use, to provide a comprehensive perspective on firearms with integrated advanced safety technologies.

Following the report, NIJ now seeks an objective demonstration of the reliability of firearms available today with advanced gun safety technology integrated into the firearm through a forthcoming Gun Safety Technology Challenge (''Challenge''). The reliability of firearms with integrated advanced safety technologies has been cited as a concern regarding the potential performance and user acceptance of products that may incorporate such technologies, as discussed in the report. It is anticipated that the results of the Challenge will provide a basis to improve the general understanding of whether the addition of a smart gun technology does or does not significantly reduce the reliability of the firearm system compared to existing firearms. It is believed that this Challenge will be the first effort to apply a methodology to provide a rigorous and scientific assessment of the technical performance characteristics of these types of firearms.

Manufacturers and developers of ''smart guns'' are encouraged to respond to this notice to help determine the number of firearm products that are at a commercial or pre-commercial level of maturity that could reasonably be considered safe to carry out testing with live ammunition. Qualified interested parties will be able to submit at a later time their products for testing and evaluation by a third-party testing entity capable of assessing the performance characteristics of firearms through the Challenge. NIJ has partnered with the U.S. Army Aberdeen Test Center (ATC) to perform firearm testing and evaluation. While response to this notice is not a prerequisite for participation in the forthcoming Challenge, the information provided here would permit NIJ and ATC to better assess whether the products or technologies are viable from a testing perspective. The types of firearms that can reasonably be expected to be within the scope of the Challenge include pistols, revolvers, rifles, and shotguns, or accessories that can modify those types of firearms.

The proposed testing and evaluation in the forthcoming Challenge will notionally proceed in an escalated manner in three stages. Stage 1 will be an information review. Participants will deliver a white paper describing their product or technology and will be encouraged to provide any available test data to substantiate claims regarding performance or reliability. Stage 2 will involve single product testing. Participants will deliver two firearms or firearm accessories with integrated gun safety technology for initial testing to confirm that the product performs at a minimum performance level. Testing would be limited to a thorough inspection and tests tending toward more light duty real-world use. Participants will need to provide a safety assessment report to ensure that their products are safe for testing personnel to handle and operate. Stage 3 will involve expanded product testing. Participants will deliver additional units for testing to boost the sample size. This stage will be reserved for mature products that are demonstrated to perform at a minimum performance level determined by Stage 2 testing with Stage 3 tests tending toward more heavy duty real-world use. More rounds of ammunition will be used per unit tested with additional environmental tests to characterize functionality and durability under different conditions.

The test procedures used in the Challenge will be selected or designed to better understand the impact of smart gun technology on the reliability of the firearm, which may include different authentication technologies like radio frequency identification and fingerprint sensors. Test procedures shall be applicable to any firearm or firearm accessory eligible for entry into the Challenge, which will be informed in part by the response to this notice. Failure definitions and scoring criteria that can be used to draw conclusions regarding the performance of the participating firearms or firearms accessories will be developed according to established guidelines already in use for reliability applications in U.S. Army and Joint Service systems. It is also anticipated that manufacturers or developers of ''smart guns'' will be invited at a later time to participate in a voluntary informational workshop as a part of the Challenge. Response to this notice is not a prerequisite for participation in the forthcoming Challenge.

William Sabol,

Acting Director, National Institute of Justice.

[FR Doc. 2014–27368 Filed 11–18–14; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–012]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before December 19, 2014. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001
Email: request.schedule@nara.gov
FAX: 301–837–3698

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Food and Nutrition Service (DAA–0462–2012–0002, 1 item, 1 temporary item). Master files of an electronic information system used to track institutions participating in the child nutrition program.

2. Department of the Army, Agency-wide (DAA–AU–2014–0028, 1 item, 1 temporary item). Master files of an electronic information system that contains records relating to equipment failures and corrective actions.

3. Department of the Army, Agency-wide (DAA–AU–2014–0030, 1 item, 1 temporary item). Master files of an electronic information system that contains equipment testing data used for acquisition purposes.

4. Department of the Army, Agency-wide (DAA–AU–2014–0031, 4 items, 4 temporary items). Master files of an electronic information system that contains equipment life cycle support data to include inventories, maintenance schedules, and failure review actions.

5. Department of the Army, Agency-wide (DAA–AU–2014–0032, 1 item, 1 temporary item). Master files of an electronic information system that contains ammunition tracking data.

6. Department of the Army, Agency-wide (DAA–AU–2014–0034, 1 item, 1 temporary item). Master files of an electronic information system used to track laundry items and cost reports.

7. Department of Commerce, Census Bureau (DAA–0029–2014–0004, 5 items, 2 temporary items). Records of the Survey of Income Program Participation, including unedited and edited internal data files. Proposed for permanent retention are public use microdata files, reports and working papers, and survey documentation.

8. Department of Defense, Office of the Secretary of Defense (DAA–0330–2013–0014, 13 items, 6 temporary items). Still photographs, motion pictures, and other audio and visual records lacking research or other value received by the Defense Imagery Management Operations Center. Proposed for permanent retention are audio and visual records, including finding aids, that provide significant documentation of the department, including its combat and non-combat activities.

9. Department of Defense, Defense Commissary Agency (DAA–0506–2014–0002, 2 items, 2 temporary items). Preliminary notifications of adverse incidents such as thefts or accidents at commissaries and other agency facilities.

10. Department of Defense, Defense Commissary Agency (DAA–0506–2014–0003, 11 items, 10 temporary items). Records relating to agency process improvement, initiatives, innovation, performance management, change management, and strategic planning. Proposed for permanent retention are agency strategic plans.

11. Department of Defense, Defense Logistics Agency (DAA–0361–2013–0001, 9 items, 9 temporary items). Master files of an electronic information system that contains records relating to all aspects of the supply chain for military materiel.

12. Department of Defense, National Geospatial-Intelligence Agency (DAA–0537–2014–0001, 2 items, 1 temporary item). Working case files of the Ombudsman Office. Proposed for permanent retention are program records and annual reports.

13. Department of Health and Human Services, Centers for Medicare & Medicaid Services (DAA–0440–2013–0012, 8 items, 8 temporary items). Records related to safety, occupational health, and environmental administrative procedures, including complaints, reports, and environmental impact statements.

14. Department of Homeland Security, National Protection and Programs Directorate (DAA–0563–2013–0008, 6 items, 6 temporary items). Master files and outputs of an electronic information system which performs information technology infrastructure intrusion detection, analysis, and prevention.

15. Department of Homeland Security, Transportation Security Administration (DAA–0560–2013–0005, 2 items, 2 temporary items). Master files of an electronic information system used to track employee incidents and provide assistance for personal or work-related crises.

16. Department of Homeland Security, U.S. Citizenship and Immigration Services (DAA–0566–2014–0004, 1 item, 1 temporary item). Forms used to track and update deportation cases created prior to 2002.

17. Department of Homeland Security, U.S. Citizenship and Immigration Services (DAA–0566–2015–0001, 1 item, 1 temporary item). Logs detailing the inventorying, transfer, and destruction of secure forms such as naturalization and citizenship certificates.

18. Department of Justice, Agency-wide (DAA–0060–2014–0004, 2 items, 2 temporary items). General correspondence from the public not related to specific cases or actions.

19. Department of Justice, Agency-wide (DAA–0060–2014–0005, 2 items, 2

temporary items). Departmental components' copies of responses to internal data requests and reporting requirements.

20. Department of Justice, Federal Bureau of Investigation (DAA–0065–2013–0004, 3 items, 3 temporary items). Master file of an electronic information system used to track requests and approvals for disseminating information to foreign governments, productivity reports on request processing, and information disseminated.

21. Department of Transportation, Federal Aviation Administration (DAA–0237–2014–0002, 8 items, 5 temporary items). Comprehensive schedule covering various administrative records relating to agency legal opinion, decision, and litigation activity. Proposed for permanent retention are substantive opinion, litigation, and hearing case files.

22. Department of Transportation, Federal Aviation Administration (DAA–0237–2014–0003, 9 items, 6 temporary items). Comprehensive schedule covering various administrative records relating to agency policies, regulations, and rule making. Proposed for permanent retention are substantive policy, regulation, and rule making case files.

23. Department of the Treasury, Financial Crimes Enforcement Network (N1–559–12–1, 14 items, 14 temporary items). Records of the Regulatory Policy and Programs Division, including final rules and working papers, correspondence, and regulatory analysis records.

24. Department of the Treasury, Internal Revenue Service (DAA–0058–2015–0002, 2 items, 2 temporary items). Examination program records for competency tests of tax professionals.

25. Commodity Futures Trading Commission, Agency-wide (DAA–0180–2013–0001, 1 item, 1 temporary item). Master files of an electronic information system used to collect visitor information.

26. Commodity Futures Trading Commission, Agency-wide (DAA–0180–2013–0002, 1 item, 1 temporary item). Records of the debt collection program to include case files, court judgements, and correspondence.

27. Environmental Protection Agency, Agency-wide (DAA–0412–2013–0006, 2 items, 1 temporary item). Planning and resource allocation records, including agency program plans review files, regional guidance reports and revisions, and related records. Proposed for permanent retention are historically significant records including management studies, organizational plans, program development files, program policy planning files, and annual headquarters and regional guidance plans.

28. Government Accountability Office, Agency-wide (DAA–0411–2015–0001, 4 items, 4 temporary items). Records related to the investigation of fraud including case files, referrals, and investigation tracking records.

29. Library of Congress, Agency-wide (DAA–0297–2014–0012, 16 items, 9 temporary items). Records relating to agency involvement in cultural activities and events, such as press clippings and biographies. Proposed for permanent retention are records documenting the public face of the agency including executive speech files, news releases, publications, motion pictures, still photography, and posters.

30. National Archives and Records Administration, Government-wide (DAA–GRS–2014–0004, 4 items, 4 temporary items). General Records Schedule for records of employee separation program management, individual separation case files, and capture of employee knowledge prior to departure.

31. Presidio Trust, Agency-wide (DAA–0556–2014–0003, 5 items, 2 temporary items). Records relating to resource and land management including routine project, correspondence, and administrative files. Proposed for permanent retention are final reports, significant correspondence, and policy and procedure records related to environmental remediation and cultural resource management.

32. Presidio Trust, Agency-wide (DAA–0556–2014–0004, 9 items, 5 temporary items). Records related to the rehabilitation and maintenance of buildings including project administration, operational and equipment manuals, easement records, and routine correspondence. Proposed for permanent retention are building rehabilitation project maps, architectural plans, and construction and restoration reports.

33. Presidio Trust, Agency-wide (DAA–0556–2014–0005, 6 items, 4 temporary items). Records relating to residential and commercial services including lease agreements and responses to commercial services solicitations. Proposed for permanent retention are policy and procedure records and non-residential long-term leases of 50 years or more that rendered permanent changes to the structure or landscape.

34. Presidio Trust, Agency-wide (DAA–0556–2014–0006, 10 items, 7 temporary items). Records that document planning, organizing, staffing, directing, internal/external reporting, and controlling of agency activities that occur routinely. Proposed for permanent retention are annual reports to Congress, strategic plans, and the Executive Director's orders, policy records, and email.

35. Recovery Accountability and Transparency Board, Agency-wide (DAA–0220–2014–0016, 11 items, 8 temporary items). Investigative case files, correspondence, program files, and other records relating to the review of management of Federal appropriations. Proposed for permanent retention are final reports and significant program files.

36. Securities and Exchange Commission, Agency-wide (DAA–0266–2013–0004, 7 items, 7 temporary items). Records relating to routine monitoring of companies.

37. Securities and Exchange Commission, Agency-wide (DAA–0266–2014–0009, 7 items, 7 temporary items). Master files of an electronic information system used to manage tips, complaints, and referrals of possible securities violations.

38. Securities and Exchange Commission, Office of Credit Ratings (DAA–0266–2014–0005, 13 items, 9 temporary items). Records related to examinations and monitoring of credit reporting organizations, including internal reports, memorandums, and correspondence. Proposed for permanent retention are routine reporting records from credit reporting organizations, final reports, and rulemaking records.

39. United States Institute of Peace, Agency-wide (DAA–0573–2013–0001, 6 items, 2 temporary items). Records related to facility construction, including working copies of building plans and non-significant subject files. Proposed for permanent retention are full sets of building plans, design drawings and simulations, and significant subject files.

Dated: November 12, 2014.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2014–27391 Filed 11–18–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, November 20, 2014.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Quarterly Report on Corporate Stabilization Fund.
2. Board Briefing, Estimated Range of Premiums for the NCUSIF and Assessment for the Corporate Stabilization Fund.
3. 2015 Operating Budget.
4. 2015 Overhead Transfer Rate.
5. 2015 Operating Fee Assessment Scale.

RECESS: 12:00 p.m.

TIME AND DATE: 12:15 p.m., Thursday, November 20, 2014.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Share Insurance Appeal. Closed pursuant to Exemption (6).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2014–27510 Filed 11–17–14; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978.

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 19, 2014. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details:

Permit Application: 2015–015

1. *Applicant*: Dr. Joseph A Covi, University of North Carolina at Wilmington, Biological and Marine Biological Department, Wilmington, NC 28403.

Activity for Which Permit Is Requested

ASPA entry. Applicant desires to collect sediment samples from lakes, ephemeral ponds, and terrestrial slopes in the ASPAS, to assess the presence and potential origin of anthropogenic chemicals in lake and ephemeral pond sediments. Up to 54 samples of lake sediment, 54–108 samples of ephemeral pond sediment, and 54 samples of terrestrial sediment would be taken. Sediment disturbance would be limited to 15x15cm and 2.5cm in depth for lake and dry sediments. If ice cover allows traversing across a lake, samples taken through ice holes would be 30cm deep and 6cm in diameter.

Location

King George Island ASPAs 132 (Potter Peninsula), 150 (Ardley Island), and 171 (Narebski Point, Barton Peninsula).

Dates

February 1, 2015–March 1, 2016.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2014–27363 Filed 11–18–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0247]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 31, General Domestic Licenses for Byproduct Material.
2. *Current OMB approval number:* 3150–0016.
3. *How often the collection is required:* Reports are submitted as events occur. General license registration requests may be submitted at any time. Changes to the information on the registration may be submitted as they occur.
4. *Who is required or asked to report:* Persons receiving, possessing, using, or transferring devices containing byproduct material.
5. *The number of annual respondents:* 10,929 (971 NRC respondents, 9,958 Agreement State respondents).
6. *The number of hours needed annually to complete the requirement or request:* 36,186 hours (4,843 hours for NRC licensees + 31,343 hours for Agreement State licensees).
7. *Abstract:* Part 31 of Title 10 of the *Code of Federal Regulations* (10 CFR), establishes general licenses for the possession and use of byproduct material in certain devices. General licensees are required to keep testing records and submit event reports identified in Part 31, which assist the NRC in determining with reasonable assurance that devices are operated safely and without radiological hazard to users or the public.

Submit, by January 20, 2015, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0247. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0247. Mail comments to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 13th day of November, 2014.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–27317 Filed 11–18–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–10; Order No. 2248]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional International Business Reply Service negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 20, 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:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On November 12, 2014, the Postal Service filed notice that it has entered into an additional International Business Reply Service (IBRS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–10 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than November 20, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Pamela A. Thompson to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–10 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Pamela A. Thompson is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than November 20, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–27288 Filed 11–18–14; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, November 12, 2014 (Notice).

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–9; Order No. 2249]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Global Expedited Package Services 3 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 20, 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 Commission Action
III. Ordering Paragraphs

I. Introduction

On November 12, 2014, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–9 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than November 20, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–9 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than November 20, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–27291 Filed 11–18–14; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, November 12, 2014 (Notice).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73590; File No. SR–MIAX–2014–56]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend Exchange Rule 515A

November 13, 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 31, 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. On November 12, 2014, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 515A.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend MIAX Rule 515A regarding PRIME to allow orders of any size to initiate a PRIME Auction on MIAX at a price which is at or better than the national best bid or offer ("NBBO"). The proposed change is based on recent filings of other competing exchanges.[4]

Rule 515A provides that a Member (the "Initiating Member") may initiate an Auction provided that: (i) If the Agency Order is for 50 standard option contracts or 500 mini-option contracts or more, the Initiating Member must stop the entire Agency Order as principal or with a solicited order at the better of the NBBO or the Agency Order's limit price (if the order is a limit order); or (ii) if the Agency Order is for less than 50 standard option contracts or 500 mini-option contracts, the Initiating Member must stop the entire Agency Order as principal or with a solicited order at the better of (A) the NBBO price improved by a $0.01 increment; or (B) the Agency Order's limit price (if the order is a limit order).[5] In addition, to initiate the Auction for auto-match submissions, the Initiating Member must mark the Agency Order for Auction processing, and for auto-match as principal the price and size of all Auction responses up to an optional designated limit price in which case the Agency Order will be stopped at the better of the NBBO (if 50 standard option contracts or 500 mini-option contracts or greater), $0.01 increment better than the NBBO (if less than 50 standard option contracts or 500 mini-option contracts), or the Agency Order's limit price.[6]

The Exchange proposes to discontinue the disparate treatment for Agency Orders less than 50 contracts or 500 mini-option contracts. As a result, all Agency Orders regardless of their size will be treated the same as Agency Orders that are 50 standard option contracts or 500 mini-option contracts or more in current Rule 515A(a)(1)(ii). Similarly, for auto-match submissions, the Exchange will discontinue the requirement that Agency Orders for less

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, MIAX deleted a sentence from purpose section which incorrectly described the current functionality of the Price Improvement Mechanism ("PIM") offered by the International Securities Exchange, LLC ("ISE"). *See* ISE Rule 723. Because the sentence was immaterial to the filing, MIAX submitted Amendment No. 1 to delete it from the filing. MIAX did not propose any other changes to the filing in Amendment No. 1.

[4] *See* Securities Exchange Act Release Nos. 70654 (October 10, 2013), 78 FR 62891 (October 22, 2013) (SR–PHLX–2013–76); 72554 (July 8, 2014), 79 FR 40830 (July 14, 2014) (SR–ISE–2014–35).

[5] *See* Exchange Rule 515A(a)(1).

[6] *See* Exchange Rule 515A(a)(2)(i)(A).

than 50 contracts or 500 mini-option contracts to be $0.01 increment or better than the NBBO in current Rule 515A(a)(2)(i)(A). As a result, for auto-match submissions, all Agency Orders regardless of their size will be stopped at the better of the NBBO or the Agency Order's limit price. The Exchange notes that the requirement will remain unchanged for both single price submissions and auto-match that if the MBBO on the same side of the market as the Agency Order represents a limit order on the Book the stop price must be at least $0.01 increment better than the booked order's limit price.[7] The Exchange notes that orders on the Book on the opposite side of the market as the Agency Order that are priced at the MBBO when the Agency Order has a stop price equal to the opposite order, will be executed in the same manner as today for orders more than 50 contracts or 500 mini-option contracts in accordance to the priority rules for PRIME in Rule 515A(a)(2)(iii). The Exchange notes that other exchanges provide the same functionality.[8] Priority rules for PRIME will remain unchanged with Priority Customers continuing to have priority at each price level in accordance with Rule 515A(a)(2)(iii). After Priority Customer interest at a given price point has been satisfied, remaining contracts will be allocated in accordance with the priority rules set forth in Rule 515A(a)(2)(iii).

The following examples show how allocations will be allocated at the conclusion of the Prime Auction with the proposed changes.

Example 1—Single Price Submission

NBBO = $1.15–$1.20 200 × 200
BBO = $1.15–$1.20 100 × 100
Agency Order to buy 100 contracts with a limit price of $1.20

Initiating Member's Contra Order selling 100 contracts with a single stop price of $1.20

RFR sent identifying the option, side and size, with initiating price of $1.20 [9] (Auction Starts)

- @110 milliseconds MM1 response received, AOC eQuote to Sell 5 at $1.17
- @230 milliseconds MM4 response received, AOC eQuote to Sell 100 at $1.20
- @450 milliseconds MM3 response received, AOC eQuote to Sell 40 at $1.22
- 500 milliseconds (Auction Ends)

Under this scenario the Agency Order would be executed as follows:

1. 5 contracts trade with MM1 @$1.17
2. 40 contracts trade with the Initiating Member's Contra Order @ $1.20 (This satisfies their 40% participation guarantee)
3. 55 contracts trade with MM4 @ $1.20

Example 2—Single Price Submission, Less Than 50 Contracts

NBBO = $1.15–$1.20 200 × 200
BBO = $1.15–$1.20 100 × 100
Agency Order to buy 30 contracts with a limit price of $1.20

Initiating Member's Contra Order selling 30 contracts with a single stop price of $1.20

RFR sent identifying the option, side and size, with initiating price of $1.20 [10] (Auction Starts)

- @110 milliseconds MM1 response received, AOC eQuote to Sell 5 at $1.17
- @230 milliseconds MM4 response received, AOC eQuote to Sell 5 at $1.18
- @450 milliseconds MM3 response received, AOC eQuote to Sell 10 at $1.20
- 500 milliseconds (Auction Ends)

Under this scenario the Agency Order would be executed as follows:

1. 5 contracts trade with MM1 @$1.17
2. 5 contracts trade with MM4 @$1.18
3. 12 contracts trade with the Initiating Member's Contra Order @ $1.20 (This satisfies their 40% participation guarantee)
4. 8 contracts trade with MM3 @$1.20 (This fills the entire Agency Order)

Example 3—Auto-Match

NBBO = $1.15–$1.25 200 × 200
BBO = $1.15–$1.25 100 × 100
Agency Order to buy 50 contracts with a limit price of $1.25
Initiating Member's Contra Order selling 50 contracts auto-match
RFR sent identifying the option, side and size, with initiating price of $1.25 (Auction Starts)

- @ 150 milliseconds MM2 response received, AOC eQuote to Sell 5 at $1.17
- @ 230 milliseconds MM4 response received, AOC eQuote to Sell 10 at $1.18
- @ 450 milliseconds MM3 response received, AOC eQuote to Sell 40 at $1.20
- 500 milliseconds (Auction Ends)

Under this scenario the Agency Order would be executed as follows:

1. 5 contracts trade with MM2 @ $1.17
2. 5 contracts trade with Contra Order @ $1.17 (due to auto-match)
3. 10 contracts trade with MM4 @ $1.18
4. 10 contracts trade with Contra Order @ $1.18 (due to auto-match)
5. 8 contracts trade with Contra Order @ $1.20 (due to auto-match of 40% of the remainder of the order participation guarantee)
6. 12 contracts trade with MM3 @ $1.20 (This fills the entire Agency Order)

Example 4—Auto-Match, Agency Order Entered Without a Limit Price, Less Than 50 Contracts

NBBO = $1.15–$1.25 200 × 200
BBO = $1.15–$1.25 100 × 100
Agency Order to buy 50 contracts without a limit price
Initiating Member's Contra Order selling 30 contracts auto-match
RFR sent identifying the option, side and size, with initiating price of $1.25 (Auction Starts)

- @ 150 milliseconds MM2 response received, AOC eQuote to Sell 5 at $1.17
- @ 230 milliseconds MM4 response received, AOC eQuote to Sell 5 at $1.18
- @ 450 milliseconds MM3 response received, AOC eQuote to Sell 30 at $1.20
- 500 milliseconds (Auction Ends)

Under this scenario the Agency Order would be executed as follows:

1. 5 contracts trade with MM2 @ $1.17
2. 5 contracts trade with Contra Order @ $1.17 (due to auto-match)
3. 5 contracts trade with MM4 @ $1.18
4. 5 contracts trade with Contra Order @ $1.18 (due to auto-match)
5. 4 contracts trade with Contra Order @ $1.20 (due to auto-match of 40% of the remainder of the order participation guarantee)
6. 6 contracts trade with MM3 @ $1.20 (This fills the entire Agency Order)

While the removal of the requirement that Agency Orders for less than 50 contracts or 500 mini-option contracts to be $0.01 increment or better than the NBBO, removes the guarantee of price improvement in a limited instance, specifically when a PRIME Order is for fewer than 50 contracts and MIAX is already present at the NBBO at the commencement of the Auction, the Exchange believes that the proposed rule change will benefit customers because it will encourage the entry of more orders into PRIME, thus it is more likely that such orders may receive price improvement. Similar price improvement mechanisms on the ISE, BOX, and PHLX do not guarantee price improvement over the NBBO today. The BOX PIP mechanism and PHLX PIXL allow orders of any size to be stopped at the NBBO or better which also does not guarantee price improvement.[11] As

[7] *See* Exchange Rule 515A(a)(2)(i)(A).

[8] *See* PHLX Rule 1080(n); ISE Rule 723.

[9] The Exchange notes that under the current Rule the initiating price would have been $1.19.

[10] The Exchange notes that under the current Rule the initiating price would have been $1.24.

[11] *See* Securities Exchange Act Release No. 70654 (October 10, 2013), 78 FR 62891 (October 22, 2013) (SR–PHLX–2013–76).

noted above, the requirement will remain unchanged for both single price submissions and auto-match that if the MBBO on the same side of the market as the Agency Order represents a limit order on the Book the stop price must be at least $0.01 increment better than the booked order's limit price.[12]

The Exchange believes using the same exact allocation method, as it does today for Agency Orders of 50 contracts or 500 mini-options or greater, is a fair distribution because the Contra-side Order provides significant value to the market. The Initiating Member guarantees the Agency Order the opportunity for price improvement, and is subject to market risk while the order is exposed to other market participants. The Initiating Member may not change or cancel its order once the PRIME Auction commences. Other market participants are free to modify or cancel their quotes and orders at any time during the auction. The Exchange believes that the Initiating Member provides an important role in facilitating the price improvement opportunity for market participants.

The Exchange believes the proposed rule change will attract new order flow that might not currently be afforded any price improvement opportunity. Moreover, the Exchange notes that other competing options exchanges currently have rules that allow it [sic] to commence its [sic] price improvement auction, at a price equal to the NBBO.[13]

The Exchange believes that because there is no rational need for volume differentiation, and as there is a competitive disadvantage to the Exchange in continuing differentiation, it is appropriate to discontinue the requirement that Agency Orders for less than 50 contracts or 500 mini-option contracts to be $0.01 increment or better than the NBBO and thereby simplify the way PRIME operates.

The Exchange proposes to adopt the proposed changes to the size requirements subject to a Pilot Program ending July 18, 2015, pursuant to which the Exchange will periodically submit reports based on the comprehensive list of the data that the Exchange represented that it will collect in order to aid the Commission in its evaluation of the PRIME that incorporates the changes proposed.[14]

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) [15] of the Act in general, and furthers the objectives of Section 6(b)(5) [16] 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.

Specifically, the Exchange believes the proposal will result in more orders of less than 50 contracts being executed in PRIME, thus providing an increased probability of price improvement for small orders. By removing the requirement as proposed, market participants would be incentivized to introduce more customer orders to PRIME for the opportunity to receive price improvement. Furthermore, Priority Customers will continue to have priority at each price level in accordance with Rule 515A(a)(2)(iii). In particular, the Exchange believes that using the same allocation process as is used today for Agency Orders of 50 contracts or greater, is fair and equitable because of the value the Initiating Member brings to the market place. Specifically, by stopping the Agency Order at or better than the NBBO, the Initiating Member facilitates a process that protects investors and is in the public interest by providing an opportunity for price improvement. The Exchange believes the proposed rule change is appropriate in the price improvement auctions are widely recognized by market participants as invaluable, both as a tool to access liquidity, and a mechanism to help meet their best execution obligations. The proposed rule change will further the ability of market participants to carry out these strategies. Finally, as noted above, the proposed changes are a competitive response to how price improvement auctions on other exchanges currently operate and with this proposal, the Exchange will be on a more equal footing to compete with other exchanges for orders to be executed in the PRIME.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to amend its rules regarding the start price of a PRIME Auction will not impose a burden on competition because it will increase the number of orders that may be executed in the PRIME and thereby receive price improvement opportunities that were not previously available to them. The PRIME Auction is designed to increase competition for order flow on the Exchange in a manner intended to be beneficial to investors seeking to effect option orders with an opportunity to access additional liquidity and receive price improvement. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. The Exchange believes that the proposed changes to the Auctions are pro-competitive by providing market participants with functionality that is similar to that of other options exchanges.

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 [17] and Rule 19b–4(f)(6) [18] 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

[12] *See* Exchange Rule 515A(a)(2)(1)(A)[sic]. *See also* PHLX Rule 1080(n).

[13] *See* BOX Rules Chapter V, Section 18(e); PHLX Rule 1080(n); ISE Rule 723.

[14] *See* Proposed Rule 515A, Interpretations and Policies .08. A comprehensive list of the data that the Exchange represented that it will collect is available in Exhibit 3 of SR–MIAX–2014–23. *See also* Securities Exchange Act Release Nos. 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014) (SR–MIAX–2014–20); 72418 (June 18, 2014), 79 FR 35833 (June 24, 2014) (SR–MIAX–2014–23).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 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.

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, as modified by Amendment No. 1, 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–2014–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2014–56. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–56 and should be submitted on or before December 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27311 Filed 11–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73588; File No. SR–NYSEARCA–2014–129]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing Fees for the NYSE ArcaBook for Arca Options Complex Feed and Changing the NYSE Arca Options Proprietary Market Data Fee Schedule ("Market Data Fee Schedule") Regarding Non-Display Use Fees

November 13, 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 30, 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 add fees for the NYSE ArcaBook for Arca Options Complex feed, operative on November 1, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE ArcaBook for Arca Options—Complex—Fee Changes

The Exchange offers six NYSE Arca Options real-time options market data products: ArcaBook for Arca Options—Trades, ArcaBook for Arca Options—Top of Book, ArcaBook for Arca Options—Depth of Book, ArcaBook for Arca Options—Complex, ArcaBook for Arca Options—Series Status, and ArcaBook for Arca Options—Order Imbalance (collectively, "Arca Options Products").[4] The Exchange currently charges the following fees for receipt of all six Arca Options Products:[5] an Access Fee of $3,000 per month; a Redistribution Fee of $2,000 per month; a Professional User Fee of $50 per month for each Professional User; and a Non-Professional User Fee of $1 per month for each Non-Professional User. There is a Non-Professional User Fee Cap of $5,000 per month per Redistributor. The fee for non-display use of all six Arca Options Products is $5,000 per data recipient for each category of organization (*i.e.,* for Category 1, Category 2 and Category 3).[6]

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[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 67720 (August 23, 2012), 77 FR 52769 (August 30, 2012) (SR–NYSEArca–2012–89) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Offer Certain Proprietary Options Data Products).

[5] *See* Securities Exchange Act Release No. 68005 (October 9, 2012), 77 FR 63362 (October 16, 2012) (SR–NYSEArca–2012–106) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing Fees for Certain Proprietary Options Market Data Products). *See also* Securities Exchange Act Release No. 69554 (May 10, 2013), 78 FR 28917 (May 16, 2013) (SR–NYSEArca–2013–47) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing Non-Display Usage Fees and Amending the Professional End-User Fees for NYSE Arca Options Market Data). *See also* Securities and Exchange Act Release No. 71933 (April 11, 2014), 79 FR 21821 (April 17, 2014) (SR–NYSEArca–2014–34)(Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Professional User Fees for NYSE Arca Options Market Data, Operative on April 1, 2014).

[6] *See* Securities Exchange Act Release No. 73010 (September 5, 2014), 79 FR 54307 (September 11, 2014) (SR–NYSEArca–2014–94) (Notice of Filing and Immediate Effectiveness of Proposed Rule

The Exchange does not currently have separate pricing for each of the individual products.

Starting on May 1, 2014, the Exchange began offering one of the six feeds, ArcaBook for Arca Options—Complex, on a standalone basis without charge from May 1, 2014 to October 31, 2014.[7] The Exchange proposes to charge fees for ArcaBook for Arca Options—Complex, beginning November 1, 2014, as follows: An Access Fee of $1,500 per month; a Redistribution Fee of $1,000 per month for ArcaBook for Arca Options—Complex; and fees of $20 per month for each Professional User and $1 per month for each Non-Professional User. The Exchange is not proposing a Non-Professional User Fee Cap. In addition, the Exchange proposes to charge a Non-Display Fee for non-display use of ArcaBook for Arca Options—Complex of $1,000 per data recipient for each category of organization (*i.e.,* for Category 1, Category 2 and Category 3).[8] As with the fees for Arca Options Products, data recipients would not be liable for Category 2 Non-Display fees for which they are also paying Category 1 Non-Display fees; and similarly, Category 3 fees would be capped at $3,000.

The Exchange does not propose to make any other changes to the fees for Arca Options Products.

Changes to Fee Schedule Regarding Non-Display Use

The Exchange proposes a change to the Market Data Fee Schedule regarding non-display use fees. Specifically, with respect to the three categories of, and fees applicable to, market data recipients for non-display use, the Exchange proposes to describe the three categories in the Market Data Fee Schedule.

In September 2014, the Exchange revised the fees for non-display use of and added fees for non-display use of NYSE ArcaBook for Arca Options.[9] In the 2014 Non-Display Filing, the Exchange proposed certain changes to the categories of, and fees applicable to, data recipients for non-display use. As set forth in the 2014 Non-Display Filing: (i) Category 1 Fees apply when a data recipient's non-display use of real-time market data is on its own behalf as opposed to use on behalf of its clients; (ii) Category 2 Fees apply when a data recipient's non-display use of real-time market data is on behalf of its clients as opposed to use on its own behalf; and (iii) Category 3 Fees apply when a data recipient's non-display use of real-time market data is for the purpose of internally matching buy and sell orders within an organization, including matching customer orders on a data recipient's own behalf and/or on behalf of its clients. The Market Data Fee Schedule currently lists each category as Category 1, Category 2, and Category 3, without further description.

The Exchange is proposing to amend the Market Data Fee Schedule to add the descriptions of the three categories, as set forth above, as a footnote to the Market Data Fee Schedule. Because there will now be multiple footnotes to the Market Data Fee Schedule, the Exchange proposes non-substantive edits to change the existing footnote references from asterisks to numbers.

The Exchange does not propose to make any other changes to the fees for Arca Options Products.

Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[10] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, in that it would provide an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that the proposed change is reasonable because it would allow vendors and subscribers to pay the standalone fees associated with the one product rather than payment of the higher fees associated with all six Arca Options Products. In this regard, the Exchange notes that some vendors of, and subscribers, to the Arca Options Products currently utilize only ArcaBook for Arca Options—Complex. The proposed change is also equitable and not unfairly discriminatory because the same levels of fees would be charged to similar types of users of the same market data products.

The Exchange believes that the proposed change is reasonable because the proposed fees would be comparable to the fees that other option markets charge for comparable market data products. For example, CBOE charges, for its ''Complex Order Book Feed,'' a Distributor Fee of $3,000 per month, a Professional User Fee of $25 per month and a Non-Professional User Fee of $1 per month.[12] Similarly, the International Securities Exchange, LLC (''ISE'') offers a ''Spread Feed,'' which includes order and quote data for complex strategies, and charges related fees, including $3,000 per month for distributors and a monthly controlled device fee of $25 per controlled device for Professionals.[13] NASDAQ OMX PHLX LLC (''PHLX'') also offers a market data product entitled ''PHLX Orders,'' which similarly includes order and last sale information for complex strategies and other market data, and charges a $3,000 internal monthly fee ($3,500 for external), $2,000 per Distributor and $500 per subscriber.[14]

The Exchange believes that it is reasonable for the proposed Non-Display Fee for ArcaBook for Arca Options—Complex to be lower than the fee for non-display use for all six Arca Options Products (*i.e.,* $5,000 per month). Specifically, some vendors of, and subscribers to, the Arca Options Products currently utilize only ArcaBook for Arca Options—Complex and the proposed rate reflects this use of only one of the six Arca Options Products. This proposal would also be equitable and not unfairly discriminatory because it would establish an overall monthly fee that reflects the value of the data to the data recipients in their profit-generating activities.

The Exchange also believes that it is reasonable for the proposed Non-Professional User Fee to be the same as the existing fee for all six Arca Options Products (*i.e.,* $1 per User per month) because the current fee is already set at a very reasonable and competitive level. This is also equitable and not unfairly discriminatory because the current fee of $1 per Non-Professional User is charged if the Non-Professional User receives the six Arca Options Products, and not on the basis of how many of the six Arca Options Products a Non-

Change Amending Its Fees for Non-Display Use of NYSE Arca Options Market Data) (''2014 Non-Display Filing'').

[7] *See* Securities Exchange Act Release No. 72074 (May 1, 2014), 79 FR 26277 (May 7, 2014) (SR–NYSEArca–2014–51) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Offering ArcaBook for Arca Options—Complex on a Standalone Basis Without Charge from May 1, 2014 Through October 31, 2014).

[8] *See* 2014 Non-Display Filing, supra n.6.

[9] *See* 2014 Non-Display Filing, supra n.6.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4), (5).

[12] *See* the Chicago Board Options Exchange, Inc. (''CBOE'') ''Complex Order Book Feed'' product and pricing information, available at *https://www.cboe.org/MDX/CSM/OBOOKMain.aspx.* CBOE also applies a User Fee Cap of $2,000. The Exchange is not proposing a Non-Professional Fee Cap at this time.

[13] *See* ISE ''Spread Feed'' market data product and pricing information, available at *http://www.ise.com/market-data/products/data-feeds/.*

[14] *See* PHLX ''PHLX Orders'' market data product and pricing information, *available at http://www.nasdaqtrader.com/Micro.aspx?id=PHLXOrders* and *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#PHLX,* respectively.

Professional User utilizes. Therefore, currently, a Non-Professional User that is receiving all six Arca Options Products but using only one feed would pay the $1 per User fee, and similarly, as proposed, a Non-Professsional User that is only subscribing to the ArcaBook for Arca Options—Complex feed would pay the same $1 per User fee.

The Exchange also believes that it is reasonable not to propose a Non-Professional User Fee Cap at this time because such a cap is not anticipated to encourage greater subscription to or distribution of ArcaBook for Arca Options—Complex. The absence of a Non-Professional User Fee Cap is equitable and not unfairly discriminatory because each Redistributor would be charged the same amount for each additional Non-Professional User that subscribes to ArcaBook for Arca Options—Complex, regardless of how many Non-Professional Users to which the Redistributor makes ArcaBook for Arca Options—Complex available.

The Exchange also notes that purchasing Arca Options Products is entirely optional. Firms are not required to purchase them and have a wide variety of alternative options market data products from which to choose. Moreover, the Exchange is not required to make these proprietary data products available or to offer any specific pricing alternatives to any customers.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [15] The Exchange believes that this is also true with respect to options markets.

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for data and that the Commission can rely upon such evidence in concluding that the fees proposed in this filing are the product of competition and therefore satisfy the relevant statutory standards.[16] In addition, the existence of alternatives to these data products, such as options data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach.[17] The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically.[18]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

The Exchange believes that adding the description of the three categories of data recipients for non-display use to the Market Data Fee Schedule would remove impediments to and help perfect a free and open market by providing greater transparency for the Exchange's customers regarding the category descriptions that have been previously filed with the Commission and are applicable to the existing Market Data Fee Schedule.[19]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary data products is constrained by actual competition for the sale of proprietary data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition. The market for proprietary options data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline to the proprietary products themselves. Numerous exchanges compete with each other for options trades and sales of options market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own options market data. Proprietary options data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data itself. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [20] Similarly, the options markets vigorously compete with respect to options data products.[21]

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[15] *NetCoalition,* 615 F.3d at 535.

[16] Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make clear that all exchange fees for market data may be filed by exchanges on an immediately effective basis.

[17] *NetCoalition,* 615 F.3d at 536.

[18] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties, including the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

[19] *See* 2014 Non-Display Filing, supra n.6.

[20] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html.*

[21] *See, e.g.,* Securities Exchange Act Release No. 67466 (July 19, 2012), 77 FR 43629 (July 25, 2012)

Moreover, competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary options data products and therefore constrain markets from overpricing proprietary options market data. Broker-dealers send their order flow to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. Options markets, similar to the equities markets, are highly fragmented.[22]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary options market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its options market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are distributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available Arca Options Products described herein unless their customers request them, and customers will not elect to pay the proposed fees unless this data product can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of their data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's platform for posting quotes, accepting orders, and executing transactions and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in July 2014 more than 80% of the options transaction volume on each of NYSE Arca and NYSE MKT LLC (''NYSE MKT'') was executed by market participants that purchased one or more proprietary market data products. A super-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[23] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[24]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

(SR–Phlx–2012–93), which describes a variety of options market data products and their pricing.

[22] *See, e.g.,* Press Release, TABB Says US Equity Options Market Makers Need Scalable Technology to Compete in Today's Complex Market Structure (February 25, 2013), available at *http://www.tabbgroup.com/PageDetail.aspx?PageID=16&ItemID=1231;* Fragmentation Vexes Options Markets (April 21, 2014), available at *http://marketsmedia.com/fragmentation-vexes-options-market/.*

[23] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''). *See also* Securities Exchange Act Release No. 62907 (September 14, 2010), 75 FR 57314, 57317 (September 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (September 14, 2010), 75 FR 57321, 57324 (September 20, 2010) (SR–NASDAQ–2010–111).

[24] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis . . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 self-regulatory organization (''SRO'') options markets. Two of the 12 have launched operations since December 2012.[25] The Exchange believes that these new entrants demonstrate that competition is robust.

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS Exchange, Inc. (''BATS''), which previously operated as an ATS and obtained exchange status in 2008, has provided certain market data at no charge on its Web site in order to attract more order flow, and uses revenue rebates from resulting additional executions to maintain low execution charges for its users.[26] In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives. The large number of SROs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE Arca; CBOE; C2 Options Exchange, Incorporated; ISE; ISE Gemini; NASDAQ; Phlx; BX; BATS; and Miami Exchange.

The fact that proprietary data from vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute one or more other sources of market data information for its own.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, and BATS. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008. Two new options exchanges have launched operations since December 2012.[27]

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary options market data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors, and has not considered irrelevant factors, in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

The Exchange does not believe that the proposed rule change to describe the three categories of data recipients for non-display use in the Market Data Fee Schedule would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange is merely adding to the Market Data Fee Schedule information that has been previously filed with the Commission.[28]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[29] of the Act and subparagraph (f)(2) of Rule 19b–4[30] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[31] of the Act 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

[25] *See* Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR (August 1, 2013) (approving exchange registration for Topaz Exchange, LLC) (known as ISE Gemini); and 68341 (December 3, 2012), 77 FR 73065 (December 7, 2012) (approving exchange registration for Miami International Securities Exchange LLC (''Miami Exchange'')).

[26] *See* description of free market data from BATS Options, available at *http://www.batsoptions.com/market_data/products/.* This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[27] *See supra* note 25.

[28] *See* 2014 Non-Display Filing, supra n.6.

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(2).

[31] 15 U.S.C. 78s(b)(2)(B).

Number SR–NYSEARCA–2014–129 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–NYSEARCA–2014–129. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–2014–129 and should be submitted on or before December 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27314 Filed 11–18–14; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73585; File No. SR–NYSEArca–2014–116]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule To Add a Service Fee for Certain Post-Trade Adjustments Performed by the Exchange To Be Effective December 1, 2014

November 13, 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 November 4, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule to add a service fee for certain post-trade adjustments performed by the Exchange. The Exchange proposes to implement the fee change effective December 1, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to add a service fee for certain post-trade adjustments performed by the Exchange (the ''Service Fee''). The Exchange proposes to implement the Service Fee effective December 1, 2014. As described below, the proposed Service Fee would apply to certain post-trade adjustments performed by Exchange staff. The purpose of the proposed Service Fee is to ensure a fair and reasonable use of Exchange resources by allowing the Exchange to recoup for valuable employee time and resources expended on these post-trade adjustments that may also be self-executed by OTP Holders or OTP Firms (collectively, ''OTPs''). In addition, the Exchange believes that the proposed Service Fee would incentivize OTPs to process their own post-trade adjustments going forward.

In an effort to conserve Exchange resources, the Exchange has provided OTPs with the functionality to perform certain of their own post-trade adjustments. Specifically, OTPs may perform post-trade adjustments on their side of the trade that do not affect the contractual terms of a transaction. For example, OTPs may currently make the following non-contractual post-trade adjustments without Exchange interaction: changing the position indicator (*e.g.,* from Open to Close or Close to Open); adding or removing Clearing Member Trade Agreement (''CMTA'') information; allocating trades (*e.g.,* adding multiple executing domains or ''give-ups''); changing the clearing account type (*e.g.,* Customer, Firm, Market Maker) and modifying the optional data field, which may be used by OTPs for their own internal back-office processing (collectively, the ''Post-Trade Adjustments'').

Notwithstanding the availability of functionality for OTPs to perform this function themselves, OTPs still send the Exchange a significant number of requests, on a daily basis, to perform these straightforward Post-Trade Adjustments on the OTPs' behalf. The Exchange uses its best efforts to respond to these requests by OTPs in a timely manner. While the Exchange is committed to delivering a certain level of customer service to its OTPs, it believes that performing the Post-Trade Adjustments free of charge results in the diversion of valuable Exchange time and resources in a manner that is not a [sic] fair and equitable to either the Exchange or, ultimately the OTPs.

Thus, to help offset the costs of having Exchange staff process Post Trade Adjustments on behalf of OTPs, the Exchange is proposing a $5.00 Service Fee, per trade adjusted. The Post-Trade Adjustments that would be subject to the proposed Service Fee would be only those Post-Trade Adjustments that do not affect the contractual terms of a transaction and that are performed by the Exchange on behalf of OTPs when the OTPs could otherwise enter the Post-Trade Adjustments on their own behalf.[3] [sic] The Exchange notes that if an outage or malfunction of an Exchange system makes it infeasible for OTPs to enter Post-Trade Adjustments on their own behalf, the Exchange would not assess any Service Fees to process Post-Trade Adjustments on behalf of OTPs.

The $5.00 Service Fee would apply to each trade adjusted, not to each non-contractual change that the Exchange is requested to make to a given trade.[4] For example, if, for a given trade, an OTP requested that the Exchange change both the position indicator from open to close and at the same time change the CMTA information, the Service Fee would still be $5.00, because the changes were for the same trade. The Exchange believes that the $5.00 Service Fee would reasonably compensate the Exchange for the resources diverted to the Post-Trade Adjustments (*i.e.,* cover employee and overhead expenses). The Exchange also believes that the $5.00 Service Fee may operate as an effective disincentive for OTPs that have relied on the Exchange to perform these services free of charge and believes these OTPs may take these tasks in-house given the newly introduced costs.

The Exchange is proposing to discount the $5.00 fee to $1.00 per trade adjusted for the first three months that the Service Fee is operative (*i.e.,* December 1, 2014—February 28, 2015). The Exchange believes this temporary discount is reasonable as it would provide OTPs time to adjust to the Exchange's new policy. To further provide OTPs notice of this proposed change, the Exchange previously announced by Trader Update the specific type of Post-Trade Adjustments that would be subject to the Service Fee.[5]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the Service Fee is reasonable, equitable and not unfairly discriminatory because it is designed to ensure a fair and reasonable use of Exchange resources by allowing the Exchange to recoup for valuable employee time and resources expended on the Post-Trade Adjustments. The Exchange believes that imposing this $5.00 fee per trade adjusted would reasonably compensate the Exchange for the resources diverted to the Post-Trade Adjustments (*i.e.,* cover employee and overhead expenses).[8]

Moreover, the Exchange believes that the Service Fee would promote a fair and orderly market and protect investors and the public interest because the Service Fee may result in a more efficient use of Exchange resources, which would benefit all market participants.

The Exchange believes that the Service Fee is reasonable, equitable and not unfairly discriminatory because OTPs would have the option, as they do today, to perform the Post-Trade Adjustments themselves and the Service Fee would only apply if OTPs elected to rely on the Exchange to perform these adjustments for them. Moreover, the Service Fee would apply equally to all market participants who opt to rely on the Exchange to perform the Post-Trade Adjustments. In fact, the Exchange believes that the proposed Service Fee would incentivize OTPs to process their own Post-Trade Adjustments going forward.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[9] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule [sic] Service Fee is not intended to address any competitive issues among exchanges or OTPs but rather to more efficiently use the Exchange's employee time and resources, which may ultimately benefit OTPs.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues, and imposing the Service Fee may enable the Exchange to improve efficiency and ensure the fair and reasonable use of Exchange resources. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed Service Fee reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and subparagraph (f)(2) of Rule 19b–4[11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[12] of the Act to determine whether the proposed rule

[3] Should the Exchange propose to charge OTPs for any additional post-trade adjustments made on behalf of OTPs, other than non-contractual changes that OTPs may do on their own behalf, the Exchange would only do so pursuant to a separate fee filing.

[4] The Exchange proposes to add this Service Fee to the end of the Fee Schedule (immediately following ''Report Fees'') under a new section entitled ''NYSE Arca OPTIONS: SERVICE FEES.''

[5] *See* NYSE Arca Options Trader Update, *available here, http://www1.nyse.com/pdfs/NYSE_Arca_Options_Service_Fee_Post_Trade_Adjustments_10_13_14.pdf.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] As noted above, the Exchange would offer an introductory rate of $1.00 per trade adjusted for the first three months that the Service Fee is operational.

[9] 15 U.S.C. 78f(b)(8).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–116 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–2014–116. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–116, and should be submitted on or before December 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O' Neill,

Deputy Secretary.

[FR Doc. 2014–27308 Filed 11–18–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73587; File No. SR–NYSE–2014–61]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List for Certain Executions at the Opening

November 13, 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 November 4, 2014, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List for certain executions at the opening. The Exchange proposes to implement the fee change effective November 4, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List for certain executions at the opening. The Exchange proposes to implement the fee change effective November 4, 2014.

For securities priced $1.00 or greater, the Exchange currently charges a fee of $0.0010 per share for executions at the opening or of $0.0010 per share for executions at the opening only orders, subject to a monthly fee cap of $20,000 per member organization for such executions. Designated Market Makers ("DMMs") are not charged for executions at the opening.

The Exchange proposes to modify the monthly fee cap of $20,000 per member organization for securities priced $1.00 or greater[4] by adding a requirement that to qualify for this monthly fee cap, which is set forth in footnote 2 to the Price List, the member organization must execute an average daily trading volume ("ADV") that adds liquidity to the NYSE during the billing month ("Adding ADV") of at least 5,000,000 shares, excluding liquidity added by a DMM. DMM executions at the opening would continue to not be charged.

In addition, the Exchange proposes non-substantive, conforming changes to the text governing "Equity per Share Charge" and "Tier 1 Adding Credit—Equity per Share Credit—per transaction" to reflect that the terms "ADV" and "Adding ADV" are now defined in footnote 2.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that members and member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, because it provides for the

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The existing pricing for executions at the opening in securities priced below $1.00 would also remain unchanged (*i.e.,* 0.3% of the total dollar value of the transaction).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that it is reasonable to add a requirement that member organizations execute Adding ADV at least 5,000,000 shares during the billing month in order to qualify for a fee cap. The proposed Adding ADV requirement will encourage the submission of additional liquidity to a national securities exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. Moreover, the requirement is equitable and not unfairly discriminatory because it would apply equally to all similarly situated member organizations.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would contribute to the Exchange's market quality by promoting price discovery and ultimately increased competition. For the same reasons, the proposed change also would not impose any burden on competition among market participants. Pricing for executions at the opening would remain at the same relatively low levels and would continue to reflect the benefit that market participants receive through the ability to have their orders interact with other liquidity at the opening.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[10] of the Act 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–NYSE–2014–61 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–NYSE–2014–61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSE–2014–61 and should be submitted on or before December 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27313 Filed 11–18–14; 8:45 am]

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[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73586; File No. SR–Phlx–2014–71]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation of the New Options Floor Broker Management System Until November 3, 2015

November 13, 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 31, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to extend the implementation rollout of its new Options Floor Broker Management System.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.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 aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the Exchange operates two Floor Broker Management Systems concurrently on the options trading floor: The original Floor Broker Management System operating since 2005 (''old FBMS''); and the enhanced Floor Broker Management System (''new FBMS''). The purpose of the proposal is to continue the concurrent operation of old FBMS and new FBMS for a temporary period ending November 3, 2015 for the reasons stated below.

Old FBMS enables Floor Brokers and/or their employees to enter, route, and report transactions stemming from options orders received on the Exchange. Old FBMS also establishes an electronic audit trail for options orders represented by Floor Brokers on the Exchange. Floor Brokers can also use old FBMS to submit orders to Phlx XL, rather than executing the orders in the trading crowd.

New FBMS was launched in March 2014. With the new FBMS, all options transactions on the Exchange involving at least one Floor Broker are required to be executed by the new FBMS. In connection with order execution, the Exchange allows the new FBMS to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after the Floor Broker has represented the orders in the trading crowd. New FBMS also provides Floor Brokers with an enhanced functionality called the complex calculator that calculates and displays a suggested price of each individual component of a multi-leg order, up to 15 legs, submitted on a net debit or credit basis.

The Exchange received approval to implement the new FBMS as of June 1, 2013,[3] and delayed implementation until July 2013,[4] until September 2013,[5] until December 2013,[6] and until March 2014.[7] Implementation began on March 7, 2014, with the new FBMS operating concurrently with the old FBMS. The Exchange intended to retire the old FBMS after a specified implementation period. The new FBMS has been fully rolled out to all Floor Brokers and in all options. Nevertheless, the Exchange delayed the retirement of the old FBMS until September 1, 2014[8] and, most recently, until November 3, 2014,[9] for reasons of the performance of the new FBMS.

[3] Securities Exchange Act Release No. 69471 (April 29, 2013), 78 FR 26096 (May 3, 2013) (SR–Phlx–2013–09).

[4] Securities Exchange Act Release No. 69811 (June 20, 2013), 78 FR 38422 (June 26, 2013) (SR–Phlx–2013–67).

[5] Securities Exchange Act Release No. 70141 (August 8, 2013), 78 FR 49565 (August 14, 2013) (SR–Phlx–2013–83).

[6] Securities Exchange Act Release No. 70629 (October 8, 2013), 78 FR 62852 (October 22, 2013) (SR–Phlx–2013–100).

[7] Securities Exchange Act Release No. 71212 (December 31, 2013), 79 FR 888 (January 7, 2014) (SR–Phlx–2013–129).

The Exchange has been making improvements intended to improve the performance of the new system. However, the Floor Brokers have experienced, among other things, some latency in order processing as well as some occasional difficulty accessing certain order entry screens in a timely manner. Accordingly, the Exchange does not believe that the old FBMS should be retired on November 3, 2014. Therefore, the Exchange proposes to continue operation of the old FBMS and new FBMS concurrently for a one year period ending November 3, 2015.

During this time period, the Exchange intends to identify an alternative system to the new FBMS to ultimately replace both old FBMS and new FBMS.

If an alternative to the new FBMS could be implemented sooner than this date, the Exchange will seek to implement it sooner. In addition, the Exchange will notify the Floor Brokers and file a proposed rule change addressing any changes to its rules before implementing any new system.

During this additional time period, the Exchange will continue to permit Floor Brokers to use both the old and the new FBMS based on their business needs and Floor Brokers can choose whether to use one or both. Both old FBMS and new FBMS will continue to be available in all options and to all Floor Brokers. For example, a Floor Broker will be able to use the old FBMS for one order and the new FBMS for the next order. Accordingly, the Exchange believes that the performance issues with the new FBMS are less likely and should decrease because the Floor Broker can choose the old FBMS.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[10] in general, and furthers the objectives of Section 6(b)(5) of the Act[11]

[8] Securities Exchange Act Release No. 72135 (May 9, 2014), 79 FR 27966 (May 15, 2014) (SR–Phlx–2014–33).

[9] Securities Exchange Act Release No. 73246 (September 29, 2014), 79 FR 59874 (October 3, 2014) (SR–Phlx–2014–59).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

in particular, in that it is designed to promote just and equitable principles of trade and protect investors and the public interest, by providing options Floor Brokers with two different FBMS offerings for order entry and processing. Despite its performance issues, the new FBMS offers many beneficial features to the Floor Brokers that the old FBMS does not, such as the complex calculator and increased automation described above, such that the Exchange has determined not to shut down the new FBMS. This should enable Floor Brokers to operate their businesses and comply with the relevant rules, which is consistent with the protection of investors and the public interest. Continuing to operate both old FBMS and new FBMS concurrently for a temporary period should also promote just and equitable principles of trade by providing Floor Brokers with the tools to enter and process their orders efficiently. The proposal is not unfairly discriminatory because all Floor Brokers will be able to use both the old and the new FBMS.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that permitting Floor Brokers to use both the old FBMS and new FBMS for an additional period of time while the Exchange considers an alternative approach to address the efficient operation of the Exchange's trading floor should allow it to compete with other floor-based exchanges and help the Exchange's Floor Brokers compete with floor brokers on other options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13] A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing.[14] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[15]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission notes that the full implementation of the new FBMS was scheduled to occur on November 3, 2014. The Exchange has indicated that it has experienced performance issues with the new FBMS and that it needs additional time to identify an alternative system to the new FBMS. While it seeks this alternative, the Exchange represents that it will continue to operate the old FBMS and new FMBS concurrently and that all Floor Brokers may use either the old FBMS or the new FBMS. Based on the foregoing, the Commission has determined to waive the 30-day operative date so that the proposal may take effect upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.[17] If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.[18]

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:

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 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.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *Id.*

[16] 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).

[17] 15 U.S.C. 78s(b)(3)(C).

[18] *Id.*

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–Phlx–2014–71 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–Phlx–2014–71. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx 2014–71, and should be submitted on or beforeDecember 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

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[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73589; File No. SR–NYSEMKT–2014–94]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing Fees for the NYSE ArcaBook for Amex Options Complex Feed and a Change to the NYSE Amex Options Proprietary Market Data Fee Schedule (''Market Data Fee Schedule'') Regarding Non-Display Use Fees

November 13, 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 30, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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 add fees for the NYSE Arcabook for Amex Options Complex Feed, operative on November 1, 2014, and change the NYSE Amex Options Proprietary Market Data Fee Schedule (''Market Data Fee Schedule'') regarding non-display use fees. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE ArcaBook for Amex Options—Complex—Fee Changes

The Exchange offers six NYSE Amex Options real-time options market data products: ArcaBook for Amex Options—Trades, ArcaBook for Amex Options—Top of Book, ArcaBook for Amex Options—Depth of Book, ArcaBook for Amex Options—Complex, ArcaBook for Amex Options—Series Status, and ArcaBook for Amex Options—Order Imbalance (collectively, ''Amex Options Products'').[4] The Exchange currently charges the following fees for receipt of all six Amex Options Products: [5] An Access Fee of $3,000 per month; a Redistribution Fee of $2,000 per month; a Professional User Fee of $50 per month for each Professional User; and a Non-Professional User Fee of $1 per month for each Non-Professional User. There is a Non-Professional User Fee Cap of $5,000 per month per Redistributor. The fee for non-display use of all six Amex Options Products is $5,000 per data recipient for each category of organization (*i.e.,* for Category 1, Category 2 and Category 3).[6] The Exchange does not currently have separate pricing for each of the individual products.

Starting on May 1, 2014, the Exchange began offering one of the six feeds, ArcaBook for Amex Options—Complex, on a standalone basis without charge from May 1, 2014 to October 31, 2014.[7] The Exchange proposes to charge fees for ArcaBook for Amex Options—Complex, beginning November 1, 2014, as follows: An Access Fee of $1,500 per month; a Redistribution Fee of $1,000 per month for ArcaBook for Amex Options—Complex; and fees of $20 per month for each Professional User and $1 per month for each Non-Professional User. The Exchange is not proposing a Non-Professional User Fee Cap. In addition, the Exchange proposes to charge a Non-Display Fee for non-display use of ArcaBook for Amex Options—Complex of $1,000 per data recipient for each category of organization, *i.e.,* for Category 1, Category 2 and Category 3.[8] As with the fees for Amex Options Products, data recipients would not be liable for Category 2 Non-Display fees for which they are also paying Category 1 Non-Display fees; and similarly, Category 3 fees would be capped at $3,000.

The Exchange does not propose to make any other changes to the fees for Amex Options Products.

Changes to Fee Schedule Regarding Non-Display Use

The Exchange proposes a change to the Market Data Fee Schedule regarding non-display use fees. Specifically, with respect to the three categories of, and fees applicable to, market data recipients for non-display use, the Exchange proposes to describe the three categories in the Market Data Fee Schedule.

In September 2014, the Exchange revised the fees for non-display use of and added fees for non-display use of NYSE ArcaBook for Amex Options.[9] In the 2014 Non-Display Filing, the Exchange proposed certain changes to the categories of, and fees applicable to, data recipients for non-display use. As set forth in the 2014 Non-Display Filing: (i) Category 1 Fees apply when a data recipient's non-display use of real-time market data is on its own behalf as opposed to use on behalf of its clients; (ii) Category 2 Fees apply when a data recipient's non-display use of real-time market data is on behalf of its clients as opposed to use on its own behalf; and (iii) Category 3 Fees apply when a data recipient's non-display use of real-time market data is for the purpose of

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 67719 (August 23, 2012), 77 FR 52767 (August 30, 2012) (SR–NYSEMKT–2012–40) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Offer Certain Proprietary Options Data Products).

[5] *See* Securities Exchange Act Release No. 68004 (October 9, 2012), 77 FR 62582 (October 15, 2012) (SR–NYSEMKT–2012–49) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for Certain Proprietary Options Market Data Products). *See also* Securities Exchange Act Release No. 69553 (May 10, 2013), 78 FR 28926 (May 16, 2013) (SR–NYSEMKT–2013–40) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing Non-Display Usage Fees and Amending the Professional End-User Fees for NYSE Amex Options Market Data). *See also* Securities and Exchange Act Release No. 71934 (April 11, 2014), 79 FR 21818 (April 17, 2014) (SR–NYSEMKT–2014–30) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Professional User Fees for NYSE Amex Options Market Data, Operative on April 1, 2014).

[6] *See* Securities Exchange Act Release No. 73008 (September 5, 2014), 79 FR 54325 (September 11, 2014) (SR–NYSEMKT–2014–73) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fees for Non-Display Use of NYSE Amex Options Market Data) (''2014 Non-Display Filing'').

[7] *See* Securities Exchange Act Release No. 72075 (May 1, 2014), 79 FR 26290 (May 7, 2014) (SR–NYSEMKT–2014–40) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Offering ArcaBook for Amex Options—Complex on a Standalone Basis Without Charge from May 1, 2014 Through October 31, 2014).

[8] *See* 2014 Non-Display Filing, supra n.6.

[9] *See* 2014 Non-Display Filing, supra n.6.

internally matching buy and sell orders within an organization, including matching customer orders on a data recipient's own behalf and/or on behalf of its clients. The Market Data Fee Schedule currently lists each category as Category 1, Category 2, and Category 3, without further description.

The Exchange is proposing to amend the Market Data Fee Schedule to add the descriptions of the three categories, as set forth above, as a footnote to the Market Data Fee Schedule. Because there will now be multiple footnotes to the Market Data Fee Schedule, the Exchange proposes non-substantive edits to change the existing footnote references from asterisks to numbers.

The Exchange does not propose to make any other changes to the fees for Amex Options Products.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[10] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, in that it would provide an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that the proposed change is reasonable because it would allow vendors and subscribers to pay the standalone fees associated with the one product rather than payment of the higher fees associated with all six Amex Options Products. In this regard, the Exchange notes that some vendors of, and subscribers, to the Amex Options Products currently utilize only ArcaBook for Amex Options—Complex. The proposed change is also equitable and not unfairly discriminatory because the same levels of fees would be charged to similar types of users of the same market data products.

The Exchange believes that the proposed change is reasonable because the proposed fees would be comparable to the fees that other option markets charge for comparable market data products. For example, CBOE charges, for its ''Complex Order Book Feed,'' a Distributor Fee of $3,000 per month, a Professional User Fee of $25 per month and a Non-Professional User Fee of $1 per month.[12] Similarly, the International Securities Exchange, LLC (''ISE'') offers a ''Spread Feed,'' which includes order and quote data for complex strategies, and charges related fees, including $3,000 per month for distributors and a monthly controlled device fee of $25 per controlled device for Professionals.[13] NASDAQ OMX PHLX LLC (''PHLX'') also offers a market data product entitled ''PHLX Orders,'' which similarly includes order and last sale information for complex strategies and other market data, and charges a $3,000 internal monthly fee ($3,500 for external), $2,000 per Distributor and $500 per subscriber.[14]

The Exchange believes that it is reasonable for the proposed Non-Display Fee for ArcaBook for Amex Options—Complex to be lower than the fee for non-display use for all six Amex Options Products (*i.e.,* $5,000 per month). Specifically, some vendors of, and subscribers to, the Amex Options Products currently utilize only ArcaBook for Amex Options—Complex and the proposed rate reflects this use of only one of the six Amex Options Products. This proposal would also be equitable and not unfairly discriminatory because it would establish an overall monthly fee that reflects the value of the data to the data recipients in their profit-generating activities.

The Exchange also believes that it is reasonable for the proposed Non-Professional User Fee to be the same as the existing fee for all six Amex Options Products (*i.e.,* $1 per User per month) because the current fee is already set at a very reasonable and competitive level. This is also equitable and not unfairly discriminatory because the current fee of $1 per Non-Professional User is charged if the Non-Professional User receives the six Amex Options Products, and not on the basis of how many of the six Amex Options Products a Non-Professional User utilizes. Therefore, currently, a Non-Professional User that is receiving all six Amex Options Products but using only one feed would pay the $1 per User fee and similarly, as proposed, a Non-Professsional User that is only subscribing to the ArcaBook for Amex Options—Complex feed would pay the same $1 per User fee.

The Exchange also believes that it is reasonable not to propose a Non-Professional User Fee Cap at this time because such a cap is not anticipated to encourage greater subscription to or distribution of ArcaBook for Amex Options—Complex. The absence of a Non-Professional User Fee Cap is equitable and not unfairly discriminatory because each Redistributor would be charged the same amount for each additional Non-Professional User that subscribes to ArcaBook for Amex Options—Complex, regardless of how many Non-Professional Users to which the Redistributor makes ArcaBook for Amex Options—Complex available.

The Exchange also notes that purchasing Amex Options Products is entirely optional. Firms are not required to purchase them and have a wide variety of alternative options market data products from which to choose. Moreover, the Exchange is not required to make these proprietary data products available or to offer any specific pricing alternatives to any customers.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' ''[15] The Exchange believes that this is also true with respect to options markets.

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for data and that the Commission can rely upon such evidence in concluding that the fees proposed in this filing are the product of competition and therefore satisfy the

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4), (5).

[12] *See* the Chicago Board Options Exchange, Inc. (''CBOE'') ''Complex Order Book Feed'' product and pricing information, available at *https://www.cboe.org/MDX/CSM/OBOOKMain.aspx.* CBOE also applies a User Fee Cap of $2,000. The Exchange is not proposing a Non-Professional Fee Cap at this time.

[13] *See* ISE ''Spread Feed'' market data product and pricing information, available at *http://www.ise.com/market-data/products/data-feeds/.*

[14] *See* PHLX ''PHLX Orders'' market data product and pricing information, *available at http://www.nasdaqtrader.com/Micro.aspx?id=PHLXOrders* and *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#PHLX,* respectively.

[15] *NetCoalition,* 615 F.3d at 535.

relevant statutory standards.[16] In addition, the existence of alternatives to these data products, such as options data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach.[17] The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically.[18]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

The Exchange believes that adding the description of the three categories of data recipients for non-display use to the Market Data Fee Schedule would remove impediments to and help perfect a free and open market by providing greater transparency for the Exchange's customers regarding the category descriptions that have been previously filed with the Commission and are applicable to the existing Market Data Fee Schedule.[19]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary data products is constrained by actual competition for the sale of proprietary data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition. The market for proprietary options data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline to the proprietary products themselves. Numerous exchanges compete with each other for options trades and sales of options market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own options market data. Proprietary options data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data itself. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [20] Similarly, the options markets vigorously compete with respect to options data products.[21]

Moreover, competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary options data products and therefore constrain markets from overpricing proprietary options market data. Broker-dealers send their order flow to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. Options markets, similar to the equities markets, are highly fragmented.[22]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary options market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its options market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are distributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available Amex Options Products described herein unless their customers request them, and customers will not elect to pay the proposed fees unless this data product can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision whether

[16] Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make clear that all exchange fees for market data may be filed by exchanges on an immediately effective basis.

[17] *NetCoalition,* 615 F.3d at 536.

[18] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties, including the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

[19] *See* 2014 Non-Display Filing, supra n.5 [sic].

[20] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html.*

[21] *See, e.g.,* Securities Exchange Act Release No. 67466 (July 19, 2012), 77 FR 43629 (July 25, 2012) (SR–Phlx–2012–93), which describes a variety of options market data products and their pricing.

[22] *See, e.g.,* Press Release, TABB Says US Equity Options Market Makers Need Scalable Technology to Compete in Today's Complex Market Structure (February 25, 2013), available at *http://www.tabbgroup.com/PageDetail.aspx?PageID=16&ItemID=1231;* Fragmentation Vexes Options Markets (April 21, 2014), available at *http://marketsmedia.com/fragmentation-vexes-options-market/.*

and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of their data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's platform for posting quotes, accepting orders, and executing transactions and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in July 2014 more than 80% of the options transaction volume on each of NYSE MKT and NYSE Arca, Inc. (''NYSE Arca'') was executed by market participants that purchased one or more proprietary market data products. A super-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[23] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[24]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 self-regulatory organization (''SRO'') options markets. Two of the 12 have launched operations since December 2012.[25] The Exchange believes that these new entrants demonstrate that competition is robust.

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS Exchange, Inc. (''BATS''), which previously operated as an ATS and obtained exchange status in 2008, has provided certain market data at no charge on its Web site in order to attract more order flow, and uses revenue rebates from resulting additional executions to maintain low execution charges for its users.[26] In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives. The large number of SROs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE Arca; CBOE; C2 Options Exchange, Incorporated; ISE; ISE Gemini; NASDAQ; Phlx; BX; BATS; and Miami Exchange.

The fact that proprietary data from vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary

[23] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''). *See also* Securities Exchange Act Release No. 62907 (September 14, 2010), 75 FR 57314, 57317 (September 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (September 14, 2010), 75 FR 57321, 57324 (September 20, 2010) (SR–NASDAQ–2010–111).

[24] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[25] *See* Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR (August 1, 2013) (approving exchange registration for Topaz Exchange, LLC) (known as ISE Gemini); and 68341 (December 3, 2012), 77 FR 73065 (December 7, 2012) (approving exchange registration for Miami International Securities Exchange LLC (''Miami Exchange'')).

[26] *See* description of free market data from BATS Options, available at *http://www.batsoptions.com/market_data/products/*. This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute one or more other sources of market data information for its own.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, and BATS. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008. Two new options exchanges have launched operations since December 2012.[27]

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary options market data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors, and has not considered irrelevant factors, in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

The Exchange does not believe that the proposed rule change to describe the three categories of data recipients for non-display use in the Market Data Fee Schedule would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange is merely adding to the Market Data Fee Schedule information that has been previously filed with the Commission.[28]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[29] of the Act and subparagraph (f)(2) of Rule 19b–4[30] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[31] of the Act 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–NYSEMKT–2014–94 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–NYSEMKT–2014–94. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSEMKT–2014–94 and should be submitted on or before December 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27310 Filed 11–18–14; 8:45 am]

BILLING CODE 8011–01–P

[27] *See supra* note 25.

[28] *See* 2014 Non-Display Filing, supra n.6.

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(2).

[31] 15 U.S.C. 78s(b)(2)(B).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73592; File No. SR–EDGA–2014–20]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Amend EDGA Rule 1.5 and Chapter XI Regarding Current System Functionality Including the Operation of Order Types and Order Instructions

November 13, 2014.

I. Introduction

On August 1, 2014, EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') 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 August 18, 2014.[3] On September 25, 2014, the Commission extended the time period for Commission action on the proposal to November 14, 2014.[4] The Commission received no comment letters on the proposed rule change. On November 4, 2014, the Exchange filed Amendment No. 1 to the proposed rule change.[5] On November 12, 2014, the Exchange filed Amendment No. 2 to the proposed rule change.[6] The Commission is publishing this Notice and Order to solicit comment on Amendment Nos. 1 and 2 and to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, 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 Chapter XI of the EDGA 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 [7] functionality; (4) the execution priority of orders; and (5) organizational and conforming amendments. 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.[8]

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 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, as described in more detail below, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with Section 6(b)(5) of the Act,[10] 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.[11]

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 [12] 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

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b–4.

3 See Securities Exchange Act Release No. 72812 (August 11, 2014), 79 FR 48824 (''Notice'').

4 See Securities Exchange Act Release No. 73217 (September 25, 2014), 79 FR 59336 (October 1, 2014).

5 In Amendment No. 1, the Exchange: (1) Removed the proposed rule text related to Single Re-Price and Short Sale Single Re-Price pricing instruction 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 EDGA 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 EDGA Book in order to avoid an apparent violation of that contra-side displayed order's priority; (4) added further rationale for giving priority to Hide Not Slide orders upon the clearance of the Locking Price; (5) 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 EDGA Book unless there is no marketable contra-side liquidity displayed on the EDGA book upon return and such Routed and Returned Order would be displayed at a price that would be a Locking or Crossing Quotation, in which case 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) and will be ranked at the mid-point of the NBBO with discretion to execute at the Locking Price (though a subsequently arriving contra-side order could suspend the Routed and Returned Order's discretion to execute at the Locking Price); and (6) made a series of non-substantive, corrective changes to the Notice and rule text, including the priority of MidPoint Peg Orders and the suspension of the ability of orders with a Hide Not Slide instruction to execute at the Locking Price due to a contra-side order that equals the Locking Price. Amendment No. 1 has been placed in the public comment file for SR–EDGA–2014–20 at *http://www.sec.gov/comments/sr-edga-2014-20/edga201420.shtml* (*see* letter from Christopher Solgan, Regulatory Counsel, DirectEdge, to Secretary, Commission, dated November 4, 2014) and also is available on the Exchange's Web site.

6 In Amendment No. 2, the Exchange: (1) Added rationale for the priority of MidPoint Peg Orders; (2) added rationale for the suspension of the ability of orders with a Hide Not Slide Instruction to execute at the Locking Price due to a contra-side order that equals the Locking Price. Amendment No. 2 has been placed in the public comment file for SR–EDGA–2014–20 at *http://www.sec.gov/comments/sr-edga-2014-20/edga201420.shtml* (*see* letter from Christopher Solgan, Regulatory Counsel, DirectEdge, to Secretary, Commission, dated November 12, 2014) and also is available on the Exchange's Web site.

7 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.''

8 *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 EDGA 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 EDGA Book where it is eligible to receive price improvement as described under the proposed rule.

9 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).

10 15 U.S.C. 78f(b)(5).

11 The Commission notes that it recently approved a proposed rule change, submitted by EDGX Exchange, Inc. (''EDGX'') relating to EDGX's: (1) Trading sessions and hours of operation; (2) initial opening and reopening processes; (3) order types, order instructions and system functionality; and (4) other miscellaneous rule changes. *See* Securities Exchange Act Release No. 73468 (October 29, 2014); 79 FR 65450 (November 4, 2014) (File No. SR–EDGX–2014–18).

12 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).

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,[13] 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.[14]

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[15] or Stop Limit instruction;[16] (2) Limit Orders with a Post Only,[17] 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 EDGA Book[18] 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 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 EDGA 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.[19] 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 be posted to the EDGA Book, routed, cancelled, or executed consistent with its order type instruction.

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.[20]

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.[21]

[13] *See* proposed Exchange Rule 11.7(d).

[14] *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).

[15] *See* proposed Exchange Rule 11.8(a)(1) discussed below in Section III.C.2.a.

[16] *See* proposed Exchange Rule 11.8(b)(1) discussed below in Section III.C.2.b.

[17] *See* proposed Exchange Rule 11.6(n)(4) discussed below in Section III.C.1.m.

[18] The term ''EDGA Book'' is defined as ''the System's electronic file of orders.'' *See* Exchange Rule 1.5(d).

[19] 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.

[20] 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.

[21] 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).

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.[22]

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,[23] 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.[24] 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,[25] Non-Displayed,[26] certain routing instructions (Book Only and Post Only),[27] and units of trading (Round Lot, Odd Lot and Mixed Lot).[28] Similarly, a number of proposed new definitions/terms are consistent with the rules of exchanges, including: Locking Price,[29] Minimum Execution Quantity,[30] pegging instructions (Market Peg and Primary Peg),[31] Replenishment Amount,[32] time-in-force instruction of Good-'til-Time.[33] 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 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[34] to comply with Regulation NMS, Regulation SHO, or the National Market System Plan to address extraordinary market volatility (the ''LULD Plan'').[35]

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[36] 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.[37] 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 EDGA 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). The proposed definition of Non-Displayed also differs from the current definition in that it deletes rule text regarding the priority and ranking of

[22] Under the proposal, the only standalone order types would be Market Orders, Limit Orders, ISOs, MidPoint Peg Orders, MidPoint Discretionary Orders, NBBO Offset Peg Orders, and Route Peg Orders. *See infra* Sections III.C.2.a–III.C.2.g, regarding proposed Exchange Rule 11.8, Order Types.

[23] *See* Notice, supra note 3, at 48828, note 27 regarding one non-substantive edit to remove the phrase indications of interest.

[24] The Exchange also proposes to delete two additional time-in-force instructions, Good-'til-Cancel and Good-'til-Day, that are not currently offered by the Exchange.

[25] *See* Nasdaq Rule 4751(f)(1), and NYSE Arca Rule 7.31(h)(2).

[26] *See* Nasdaq Rule 4751(e)(3), and BATS Rule 11.9(c)(11); *see also* EDGA Rule 11.5(c)(8).

[27] *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).

[28] *See* Nasdaq Rule 4751(g) (definition of ''Order Size'').

[29] *See, e.g.,* BATS Rule 11.13(a)(1).

[30] *See, e.g.,* Nasdaq Rule 4751(f)(5), and NSX Rule 11.11(c)(2)(B).

[31] *See, e.g.,* NYSE Rule 13 (defining Pegging Interest), and Nasdaq Rule 4751(f)(4).

[32] *See, e.g.,* Nasdaq Rule 4751(f)(2) (Reserve Orders) and NYSE Rule 13 (Reserve Order Types).

[33] *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).

[34] The re-pricing instructions are defined in proposed Exchange Rule 11.6(l) discussed *infra* Section III.C.1.k.

[35] *See* Appendix A to Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[36] Under proposed Exchange Rules 11.8(b)(8) and 11.8(e), Limit Orders and Mid-Point Discretionary Orders can include a Discretionary Range instruction.

[37] The Exchange proposes to modify the existing rule text to 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.

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.[38] 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 EDGA Book, it would be a Locking Quotation.'' [39]

f. Locking Quotation and Crossing Quotations

Currently, Exchange Rule 11.16 defines the terms ''Locking Quotation'' [40] and ''Crossing Quotation.'' [41] 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.[42] 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 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.'' [43] 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'' [44]

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.[45] 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.[46] 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[47] 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 EDGA 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.[48]

[38] The term Locking Quotation is proposed to be defined in Exchange Rule 11.6(g), and is further discussed below.

[39] 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.''

[40] 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.''

[41] 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.''

[42] 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).

[43] 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

[44] *See* Securities Exchange Act Release No. 64094 (March 18, 2011), 76 FR 16468 (March 23, 2011) (SR–EDGA–2011–07).

[45] 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).

[46] Previously, the System permitted a displayable Market Peg instruction to include a zero-offset.

[47] As discussed *supra* in Section III.C.1.h, the term Minimum Price Variation is defined in proposed Exchange Rule 11.6(i).

[48] The Exchange provides examples of the operation of Limit Orders with a Pegged Instruction. *See* Notice, *supra* note 3, at 48828–29.

j. Permitted Price

The Exchange currently defines the term ''Permitted Price'' in Exchange Rule 11.5(c)(4)(B).[49] 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''[50] and ''short sale price sliding process''[51] 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 rename and codify ''displayed price sliding'' as Hide Not Slide and codify the two other re-pricing options for Regulation NMS (Price Adjust 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 System.[52] 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 the Price Adjust instruction where an incoming order that would be a Locking Quotation or Crossing Quotation would be displayed and ranked[53] at a price that is one Minimum Price Variation lower (higher) than the Locking Price.[54] Subsequently, the order would be displayed and ranked by the System on the EDGA 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 EDGA 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.[55] The order would not be subject to further re-ranking and would be displayed by the System on the EDGA 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.[56] 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.[57]

Proposed Exchange Rule 11.6(l)(1)(B) would rename and codify the Hide Not Slide instruction. Specifically, under the proposed rule, if a User selects, or be defaulted by the System to,[58] 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/be executable at the Locking Price. However, if at the time of entry the System is displaying a contra-side order equal to the Locking Price, the order's ability to execute to the Locking Price would be suspended[59] until the contra-side displayed order equal to the Locking Price is cleared. That order, however, would be executable against other orders at its displayed price.

Proposed Exchange Rule 11.6(l)(1)(B) would state that, 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 Exchange proposes to state that the order would only receive a new time stamp when it is ranked at the Locking Price upon clearance of a Locking Quotation due to the receipt of an ISO with a TIF instruction of Day that establishes a new NBBO at the Locked 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

[49] 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.''

[50] The ''displayed price sliding process'' is currently described under Exchange Rule 11.5(c)(4)(A) as follows: ''An EDGA 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 EDGA Book. An EDGA 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 EDGA 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.''

[51] The ''short sale price sliding process'' is currently described under Exchange Rule 11.5(c)(4)(B)—(C) as follows: ''An EDGA 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 EDGA 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 EDGA 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 EDGA 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 EDGA 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. EDGA Only Orders marked ''short exempt'' shall not be subject to the short sale price sliding process.''

[52] 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 5.

[53] 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.

[54] 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).

[55] *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).

[56] *See* proposed Exchange Rule 11.9 in Section III.D, *infra*, for discussion on priority.

[57] The Exchange provides examples of the operation of a Price Adjust Instruction with the assumption that there were no orders resting on the EDGA Book. *See* Notice, *supra* note 3, at 48830.

[58] Pursuant to proposed Exchange Rule 11.8, discussed below, 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 Hide Not Slide instruction, unless the User affirmatively elects: (1) The Cancel Back instruction; or (2) the Price Adjust instruction.

[59] *See infra* note 62.

priority based upon the time of initial receipt by the System.[60]

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.[61] 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/be executable at the Locking Price. However, if a contra-side order with a Post Only instruction that equals the Locking Price is subsequently entered, the order subject to the Routed and Returned Re-Pricing instruction's ability to execute at the Locking Price would be suspended until there is no contra-side order displayed by the System equals the Locking Price.[62] That order, however, would be executable against other orders at its displayed price.

Proposed Exchange Rule 11.6(l)(1)(B)(i) would state that, 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 Locking Price with the ability 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 EDGA Book after being routed away, the order will execute against any marketable contra-side liquidity on the EDGA Book and any remainder will be subject to the Routed and Returned Re-Pricing instruction.[63] The order would receive a new time stamp upon returning to the EDGA 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.[64]

The Commission finds that the proposed rules related to Regulation NMS re-pricing are consistent with Section 6(b)(5) of the Act,[65] and the rules and regulation thereunder, including Rule 610 of Regulation NMS.''[66] 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.[67] In addition, the Commission notes that other exchanges offer price-sliding functionality to comply with Regulation NMS.[68]

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''),[69] 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

[60] 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)(ii). The Exchange provides examples of the operation of a Hide Not Slide Instruction with the assumption that there were no orders resting on the EDGA Book. *See* Notice, *supra* note 3, at 48830–31. *See also* Amendment No. 1, *supra* note 5, for corrections to Example Nos. 1 and 4.

[61] *See* Amendment No. 1, *supra* note 5. *See also* Amendment No. 2, supra note 6.

[62] *Id. See* Amendment No. 1, *supra* note 5. In Amendment No. 1, the Exchange stated it was reasonable to grant priority to a Limit Order subject to the Hide Not Slide instruction ahead of a Limit Order subject to the Price Adjust instruction even where the Limit Order subject to the Hide Not Slide instruction's ability to execute at the Locking Price was previously suspended. *Id.* The Exchange noted that Hide Not Slide orders are typically ranked at more aggressive prices and the Exchange seeks to encourage aggressively priced orders that could provide price improvement. *Id.* The Exchange also noted its current fee structure would cause the orders to remove liquidity upon entry, so this situation would only occur in the event that the Exchange changed its fee structure. *Id.* The Exchange noted: (1) a User submitting a Limit Order subject to a Hide Not Slide instruction cannot control whether its ability to execute at the Locking Price will be suspended; (2) that User does not know and cannot control whether the contra-side order at the Locking Price will be cancelled or executed at the same time as all other Locking Quotations are cleared; and (3) that User does not know and cannot control whether the contra-side order at the Locking Price will be cancelled or executed at the same time as all other Locking Quotations are cleared. *Id.* Lastly, the Exchange noted that a Limit Order will be automatically defaulted by the System to the Hide Not Slide instruction. As a result, a User must proactively elect the Price Adjust instruction resulting in their order being granted priority behind an order subject to the Hide Not Slide instruction in such circumstances. *Id. See also* Amendment No. 2, supra note 6.

[63] *Id.*

[64] 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)(ii). The Exchange provides an example of the operation of a Routed and Returned Re-Pricing Instruction with the assumption that there were no orders resting on the EDGA Book. *See* Notice, *supra* note 3, at 48831. *See also* Amendment No. 1, *supra* note 5.

[65] 15 U.S.C. 78f(b)(5).

[66] 17 CFR 242.610.

[67] 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).

[68] *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).

[69] 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, *http://www.sec.gov/divisions/marketreg/rule201faq.htm.*

displayed at the Permitted Price.[70] 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.[71]

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.[72]

The Commission finds that the proposed rules related to Regulation SHO re-pricing are consistent with Section 6(b)(5) of the Act,[73] as well as Rule 201 of Regulation SHO.[74] 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.[75] 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[76] and Short Sale Price Sliding[77] 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.[78]

iii. Re-Pricing of Orders With a Non-Displayed Instruction

Proposed Exchange Rule 11.6(l)(3) would codify the re-pricing of non-routable orders with a Non-Displayed instruction to specify that an order with a Non-Displayed instruction that would be a Crossing Quotation of an external market, would be ranked at the Locking Price unless the User affirmatively elects that the Order Cancel Back. Each time the NBBO is updated and the order continues to be a Locking Quotation or Crossing Quotation of an external market, the order will be adjusted so that it continues to be ranked at the current Locking Price. Once an order with a Non-Displayed instruction has been ranked at its limit price it will only be adjusted in the event the NBBO is updated and the order would again be a Crossing Quotation of an external market. The order will receive a new time stamp each time it is subsequently re-ranked.[79]

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 EDGA 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.[80] 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[81] 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

[70] 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).

[71] The Exchange provides an example of the operation of a Short Sale Price Adjust instruction with the assumption that there were no orders resting on the EDGA Book. *See* Notice, *supra* note 3, at 48832.

[72] The Exchange provides an example of the operation of a Short Sale Price Sliding instruction with the assumption that there were no orders resting on the EDGA Book. *See* Notice, *supra* note 3, at 48832.

[73] 15 U.S.C. 78f(b)(5).

[74] 17 CFR 242.201.

[75] 17 CFR 242.201.

[76] *See* BATS Rule 11.9(g)(2), BATS–Y Rule 11.9(g)(2) and Nasdaq Rule 4763(e).

[77] *See* BATS Rule 11.9(g)(2) and BATS–Y Rule 11.9(g)(2)

[78] 17 CFR 242.201.

[79] The Exchange provides an example of the operation of the re-pricing of Orders with a Non-Displayed Instruction. *See* Notice, *supra* note 3, at 48833.

[80] 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).

[81] 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).

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.[82]

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 EDGA 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 EDGA Book.

Current Exchange Rule 11.5(c)(4) defines the term EDGA Only Order.[83] 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 EDGA Book or posted to the EDGA Book, but will not route to an away Trading Center.'' [84] 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.'' [85] 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 EDGA 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 EDGA 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.[86] 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 Order.''[87] 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 EDGA 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,'' [88] 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.[89]

o. Time-In-Force

Current Exchange Rule 11.5(b)(1)–(3) defines the terms ''IOC Order,'' ''Day Order'' and ''Fill-or-Kill Order.'' [90] 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.

[82] The Exchange provides examples of the operation of orders with replenishment amounts. *See* Notice, *supra* note 3, at 48834.

[83] Currently, the term EDGA 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 EDGA Only Order unless the User has entered instructions not to use any of the processes.''

[84] 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–Y Only Order), NSX Rule 11.11(c)(6) (NSX Only Order).

[85] 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 EDGA Book absent an order instruction to the contrary. A EDGA 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. . . .''

[86] The Exchange notes that an order with a Post Only instruction will, in all cases, remove contra-side liquidity from the EDGA Book because under its current taker-maker pricing structure, the remover of liquidity is provided a rebate while the provider of liquidity is charged a fee. *See* Amendment No. 1, *supra* note 5. Therefore, in all cases, the value of the execution to remove liquidity will equal or exceed the value of such execution once posted to the EDGA Book, including the applicable fees charged or rebates received. *Id. See also e.g.,* proposed Exchange Rule 11.6(n)(4). 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 EDGA 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. *See* Amendment No. 1, *supra* note 5.

[87] 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 EDGA 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.''

[88] *See* Exchange Rules 11.9(a)(1) and 11.15.

[89] *See* 17 CFR 242.200 *et seq.*

[90] Current Exchange Rule 11.5(b) includes two 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.

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 [91] 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.'' [92] The term would be consistent with the Trading Center definition of in Rule 600(a)(78) of Regulation NMS.[93]

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.[94]

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.[95] Accordingly, the Exchange proposes to delete and replace current Exchange Rule 11.5 with proposed Exchange Rule 11.8, Order Types,[96] which would outline the characteristics of the seven order types that would be accepted by the System: (1) Market Orders, (2) Limit Orders, (3) ISOs, (4) MidPoint Peg Orders, (5) MidPoint Discretionary Orders: (6) NBBO Offset Peg Orders, and (7) 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, MidPoint Peg Order, and MidPoint Discretionary 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 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 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.[97]

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 EDGA 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.[98]

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[91] 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).

[92] The term Trading Center is defined in Exchange Rule 2.11(a) and appears within Chapter XI.

[93] 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).

[94] The proposed definitions are similar to Nasdaq Rule 4751(g) (definition of ''Order Size'').

[95] *See* Notice, *supra* note 3, at 48836.

[96] *See id.*

[97] The Exchange provides examples of the operation of Market Orders. *See* Notice, *supra* note 3, at 48837–38.

[98] 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 EDGA 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

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.[99]

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:[100] 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.[101]

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.[102]

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.[103] 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.[104]

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 EDGA 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.[105] However, pursuant to proposed Exchange Rule 11.11, inbound ISOs would not be eligible for routing under any circumstances.

d. MidPoint Peg Order

Exchange Rule 11.5(c)(7) currently defines a MidPoint Peg Order as ''[a] limit order whose price is automatically adjusted by the System in response to changes in the NBBO to be pegged to 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 MidPoint Peg Order definition would be amended to specify that it could be a Market Order or a Limit Order, as well as to indicate

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No. 69002 (February 27, 2013), 78 FR 14394 (March 5, 2013) (SR–EDGA–2013–08).

[99] *See* proposed Exchange Rule 11.6(l)(2), *supra* Section III.C.1.k.ii.

[100] *See* discussion of Order Type Instructions, *supra* Section III.C.1.

[101] A Limit Order that includes both a Post Only instruction and Non-Displayed Instruction will be rejected by the System. *See* proposed Exchange Rule 11.8(b)(4).

[102] 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 48839–41. *See also* Amendment No. 1, *supra* note 5, for a discussion regarding: (1) the Exchange joining the NBO; (2) Displayed limit orders with Post Only or Book Only instructions; (3) order handling examples that previously included the Single Re-Price instruction; (4) circumstances where, if the Exchange were to change its fee structure to a maker-taker pricing model, an order with a Post Only instruction would not remove liquidity from the EDGA Book because the value of the execution would not provide price improvement; and (5) revisions concerning orders with Routed and Returned Re-Pricing instructions.

[103] *See* Notice, *supra* note 3, at 48841.

[104] The ISO exception under Exchange Rule 11.10(f) requires that ISOs be routed to execute 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.*

[105] This Directed Intermarket Sweep Order functionality is currently provided pursuant to Exchange Rule 11.5(d)(2). *See* Notice, *supra* note 3, at 48841.

that a MidPoint Peg Order with a limit price that is more aggressive than the midpoint of the NBBO will execute at the midpoint of the NBBO or better, subject to its limit price, but when its limit price is less aggressive than the midpoint of the NBBO, it may only execute at its limit price or better. Where its limit price is equal to or more aggressive than the midpoint of the NBBO, a MidPoint Peg Order will be ranked at the midpoint of the NBBO, but it will be ranked at its limit price where its limit price is less aggressive than the midpoint of the NBBO.[106] The proposed rule would also set forth that notwithstanding the co-designation as a Market or Limit Order, the operation of the MidPoint Peg Order would be governed by proposed Exchange Rule 11.8(d).

Proposed Exchange Rule 11.8(d)(1) would also specify that a MidPoint Peg Order could be appended with a TIF instruction of Day, FOK, IOC, or GTT. Proposed Exchange Rule 11.8(d)(2) specifies that a MidPoint Peg Order could include a Minimum Execution Quantity instruction. Proposed Exchange Rule 11.8(d)(3) specifies that MidPoint Peg 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, MidPoint Peg Orders are ineligible for routing unless routed utilizing the RMPT[107] routing strategy as defined in renumbered Rule 11.11(g)(20).

Pursuant to the proposed rule, MidPoint Peg Orders may only be executed during the Regular Session, and any unexecuted portion of a resting MidPoint Peg 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 MidPoint Peg Order would be ineligible for execution if there was a Locking Quotation or Crossing Quotation. The ability of the resting or incoming MidPoint Peg Order to execute would resume when the locked/crossed condition was resolved and a new midpoint relative to the NBBO was established. Similarly, MidPoint Peg Orders would be ineligible to execute at a price below the Lower Price Band or above the Upper Price Band. Pursuant to proposed Exchange Rule 11.9, all MidPoint Peg Orders would retain their comparative priority based upon order's initial receipt and ranking.

e. MidPoint Discretionary Order

Exchange Rule 11.5(c)(17) currently defines a MidPoint Discretionary Order (''MDO'').[108] The term would be relocated to proposed Exchange Rule 11(e) and reformatted, without substantive amendment. The MDO would continue to be defined in a manner similar to its current definition—an order to buy (sell) that is pegged to the NBB (NBO) with discretion to execute at prices up to (down to) and including the midpoint of the NBBO. The MDO definition would be amended to specify that it is a Limit Order, as well as to indicate that a MDO's displayed price and discretionary range are bound by its limit price. A MDO to buy or sell with a limit price that is less than the prevailing NBB or higher than the prevailing NBO, respectively, is posted to the EDGA Book at its limit price. The displayed prices of MDOs are derived from the NBB or NBO, and cannot independently establish the NBB or NBO. The proposed rule would specify that notwithstanding its co-designation as a Market Order or Limit Order, the operation and available modifiers of an MDO would be governed by and limited to Exchange Rule 11.8(e).[109]

Proposed Exchange Rule 11.8(e)(1) would also specify that an MDO could be appended with a TIF instruction of Day or GTT. Proposed Exchange Rule 11.8(e)(2) would also specify that an MDO may be entered as a Round Lot or Mixed Lot only. A new time stamp is created for a MDO each time its displayed price is automatically adjusted based on a change in the NBB or NBO, respectively. Proposed Exchange Rule 11.8(e)(4) would specify that, pursuant to proposed Exchange Rule 11.11, MidPoint Peg Orders are ineligible for routing.

Pursuant to the proposed rule, MDOs may only be submitted during the Regular Trading Hours. When the EDGA Book is locked or crossed by another market, an MDO will be eligible to join the Exchange BBO when the Exchange BBO equals the NBBO. If an MDO displayed on the Exchange would create a Locking Quotation or Crossing Quotation, the price of the order will be automatically adjusted by the System by one MPV with no discretion to execute to the midpoint of the NBBO. Similarly, MDOs would only execute at their displayed prices and not within their discretionary ranges when: (1) the price of the Upper Price Band equals or moves below an existing Protected Bid; or (2) the price of the Lower Price Band equals or moves above an existing Protected Offer.

f. 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(f) 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[110] 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(f).

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.[111] 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

[106] *See* Notice, *supra* note 3, at 48842.

[107] RMPT is a routing option under which a MidPoint Peg Order checks the System for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the EDGA book as a MidPoint Peg Order, unless otherwise instructed by the User. See proposed Exchange Rule 11.11(g)(20), which is being relocated from current Exchange Rule 11.9(b)(2)(t).

[108] *See* Securities Exchange Act Release No. 67226 (June 20, 2012), 77 FR 38113 (June 26, 2012) (Notice of Filing and Immediate Effectiveness to Amend EDGA Rules to Add the MidPoint Discretionary Order).

[109] *See* Amendment No. 1, *supra* note 5.

[110] *See* proposed Exchange Rule 11.20(d)(2)(D).

[111] *See* proposed Exchange Rule 11.20(d)(2)(F).

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 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 [112] (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.

g. Route Peg Order

Exchange Rule 11.5(c)(14) currently defines the term Route Peg Order. The term would be relocated to proposed Exchange Rule 11.8(g) 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(g).

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 EDGA 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 EDGA 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.[113] The Exchange also proposes to provide that, for purposes of priority under Exchange Rule 11.9(a)(2)(A): (1) an ISO,[114] the displayed price of a MidPoint Discretionary Order,[115] and NBBO Offset Peg Orders [116] are to be treated as Limit Orders; [117] 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 EDGA 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. General Priority

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) Non-displayed limit orders and reserve orders; (3) Discretionary ranges of Discretionary Orders and of Mid-Point Discretionary Orders as set forth in current Exchange Rules 11.5(c)(13) and (c)(17), respectively; and (4) Route Peg Orders as set forth in current Exchange Rule 11.5(c)(14). The Exchange proposes to amend the above priority to state that it applies to equally priced trading interest other than where orders are re-ranked at the Locking Price after a Locking Quotation clears.[118] As amended, proposed Exchange Rule 11.9(a)(2)(A) would state that the System will execute equally priced trading interest within the System other than 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, the Reserve Quantity of Limit Orders and MidPoint Peg Orders; [119] (3) MidPoint Discretionary

[112] *See* proposed Exchange Rule 11.20(d)(2)(D).

[113] For purposes of priority under proposed Exchange Rule 11.9(a)(2)(A) and (B), the Exchange notes that orders of Odd Lot, Round Lot, or Mixed Lot size are treated equally.

[114] *See* proposed Exchange Rule 11.8(c), discussed above in Section III.C.2.c.

[115] *See* proposed Exchange Rule 11.8(e), discussed above in Section III.C.2.e.

[116] *See* proposed Exchange Rule 11.8(f), discussed above in Section III.C.2.f.

[117] *See* proposed Exchange Rule 11.8(b), discussed above in Section III.C.2.b.

[118] 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.

[119] *See* Amendment No. 1, *supra* note 5. *See also* Amendment No. 2, supra note 6. The Exchange noted that MidPoint Peg Orders are covered by Rule 11.8(a)(2) category as ''non-displayed limit orders'',

Continued

Orders executed within their Discretionary Range and Limit Orders executed within their Discretionary Range; and (4) Route Peg Orders.[120]

3. 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)(B), 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.[121] Orders not executed and remaining on the EDGA 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.

4. 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.[122]

The Commission finds that proposed Exchange Rule 11.9 relating to priority is consistent with Section 6(b)(5) of the Act,[123] 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 EDGA 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,[124] for approving the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto, prior to the 30th day after publication of notice of the filing of Amendment Nos. 1 and 2 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 EDGA 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 EDGA Book in order to avoid an apparent violation of that contra-side displayed order's priority; adds further rationale for giving priority to Hide Not Slide orders upon the clearance of the Locking Price;[125] clarifies the operation of the Routed and Returned Re-Pricing instruction; and makes a series of non-substantive, corrective changes to the Notice and rule text, including the priority of MidPoint Peg Orders and the suspension of the ability of orders with a Hide Not Slide instruction to execute at the Locking Price due to a contra-side order that equals the Locking Price. 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. In Amendment No. 2, the Exchange: (1) added rationale for the priority of MidPoint Peg Orders; (2) added rationale for the suspension of the ability of orders with a Hide Not Slide Instruction to execute at the Locking Price due to a contra-side order that equals the Locking Price. According to the Exchange, Amendment No. 2 adds additional justification for a change that was included in Amendment No. 1 and otherwise provides a corrective change.

Accordingly, the Commission does not believe that Amendment Nos. 1 and 2 raise any novel regulatory issues and therefore finds that good cause exists to approve the proposal, as modified by Amendment Nos. 1 and 2, 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 2 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–EDGA–2014–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2014–20. This file number should be included on the subject line if email is used.

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and their priority is not changing. *Id.* However, the Exchange believes that identifying MidPoint Peg Orders in proposed Rule 11.9(a)(2)(A) will eliminate any potential confusion. *Id.*

[120] *See* proposed Exchange Rule 11.9(a)(2)(A). *See also* Notice, *supra* note 3, at 48844 for an example illustrating the operation of these priority provisions.

[121] *See* proposed Exchange Rule 11.9(a)(2)(B). *See also* Notice, *supra* note 3, at 48844–45 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 5, which, in the example, replaces the order with a Single Re-Price instruction with an order with a Price Adjust instruction.

[122] *See* proposed Exchange Rule 11.9(a)(6). *See also* Notice, *supra* note 3, at 48845 for an example illustrating the operation of priority for an order with a Reserve Quantity.

[123] 15 U.S.C. 78f(b)(5).

[124] 15 U.S.C. 78s(b)(2).

[125] *See supra* note 62 for a summary of the rationale.

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–EDGA–2014–20 and should be submitted on or before December 10, 2014.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[126] that the proposed rule change (SR–EDGA–2014–20), as modified by Amendment Nos. 1 and 2, 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. 2014–27312 Filed 11–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of YesDTC Holdings, Inc.; Order of Suspension of Trading

November 17, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of YesDTC Holdings, Inc. (''YesDTC'') because it has not filed a periodic report since its Form 10–Q for the period ending June 30, 2011. YesDTC is a Nevada corporation and is currently quoted on OTC Link operated by OTC Markets Group Inc. under the ticker symbol YESD.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of YesDTC. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of YesDTC is suspended for the period from 9:30 a.m. EST on November 17, 2014, through 11:59 p.m. EST on December 1, 2014.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2014–27471 Filed 11–17–14; 11:15 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a revision of an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than December 19, 2014. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Supplement to Claim of Person Outside the United States—20 CFR 422.505(b), 404.460, 404.463, and 42 CFR 407.27(c)–0960–0051. Claimants or beneficiaries (both United States (U.S.) citizens and aliens entitled to benefits living outside the United States complete Form SSA–21 as a supplement to an application for benefits. SSA collects the information to determine eligibility for U.S. Social Security benefits for those months an alien beneficiary or claimant is outside the United States, and to determine if tax withholding applies. In addition, SSA uses the information to: (1) Allow beneficiaries or claimants to request a special payment exception in an SSA restricted country; (2) terminate supplemental medical insurance coverage for recipients who request it, because they are, or will be, out of the United States; and (3) allow claimants to collect a lump sum death benefit if the number holder died outside the United States and we do not have information to determine whether the lump sum death benefit is payable under the Social Security Act. The respondents are Social Security claimants, or individuals entitled to Social Security benefits, who are, were, or will be residing outside the United States for three months or longer.

Note: This is a correction notice. SSA published incorrect burden information on September 11, 2014, at 79 FR 54341. We are correcting that oversight now with burden figures based on our most recent management information data.

Type of Request: Revision of an OMB-approved information collection.

[126] 15 U.S.C. 78s(b)(2).

[127] 17 CFR 200.30–3(a)(12).

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Paper SSA–21—U.S. Citizens	3,580	1	9	537
Paper SSA–21—U.S. Resident	3,669	1	15	917
Paper SSA–21—Resident of Tax Treaty Country	670	1	11	123
Paper SSA–21—Non-Resident Alien (not a resident of a tax treaty country)	2,557	1	10	426
MCS Macros SSA–21—U.S. Resident	10,613	1	11	1,946
MCS Macros SSA–21—Resident of Tax Treaty Country	2,002	1	11	367
MCS Macros SSA–21—Non-Resident Alien (not a resident of a tax treaty country)	7,409	1	5	617
Totals	30,500			4,933

Dated: November 13, 2014.

Faye Lipsky,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2014–27337 Filed 11–18–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 8952]

Notice of Meeting of Advisory Committee on International Law

A meeting of the Department of State's Advisory Committee on International Law will take place on Monday, December 15, from 10:00 a.m. to 5:00 p.m. at the George Washington University Law School, Michael K. Young Faculty Conference Center, 716 20th Street NW., 5th Floor, Washington, DC. Acting Legal Adviser Mary McLeod will chair the meeting, which will be open to the public up to the capacity of the conference room. The meeting will include discussions on a variety of international law topics.

Members of the public who wish to attend should contact the Office of the Legal Adviser by December 11 at *lermanjb@state.gov* or 202–776–8442 and provide their name, professional affiliation, address, and phone number. A valid photo ID is required for admission to the meeting. Attendees who require reasonable accommodation should make their requests by December 8. Late requests will be considered but might not be possible to accommodate.

Dated: November 12, 2014.

Jonas Lerman,

Attorney-Adviser, Office of the Legal Adviser, Executive Director, Advisory Committee on International Law, United States Department of State.

[FR Doc. 2014–27403 Filed 11–18–14; 8:45 am]

BILLING CODE 4710–08–P

SUSQUEHANNA RIVER BASIN COMMISSION

Commission Meeting; Correction

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice; correction.

SUMMARY: The Susquehanna River Basin Commission published a document in the **Federal Register** of November 10, 2014 (79 FR 66763), concerning its regular business meeting on December 5, 2014, in Annapolis, Maryland. The location of the meeting has been changed and the new location is contained in the Addresses section of this notice. Also an agenda item has been added to be addressed at the business meeting and is contained in the Supplementary Information section of this notice.

DATES: December 5, 2014, at 9:00 a.m.

ADDRESSES: Miller Senate Office Building, President's Conference Room, 11 Bladen Street, Annapolis, Md. 21401. (The recommended parking and transportation option is to park at the Navy-Marine Corps Memorial Stadium and take the Annapolis Transit Trolley Shuttle from there—for all available parking options, see *http://www.downtownannapolis.org/_pages/transport/tr_parking.htm.*)

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Regulatory Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436.

SUPPLEMENTARY INFORMATION: The business meeting will include actions or presentations on the following items: (1) Informational presentation of interest to the Lower Susquehanna Subbasin area; (2) resolution concerning FY–2016 federal funding of the Susquehanna Flood Forecast and Warning System and National Streamflow Information Program; (3) rulemaking action to clarify the water uses involved in hydrocarbon development that are subject to the consumptive use regulations, as implemented by the Approval By Rule program; (4) resolution concerning delegation of authority; (5) ratification/approval of contracts/grants; (6) regulatory compliance matters for Lion Brewery, LHP Management, and Southwestern Energy Company; (7) transfer of approval (Docket No. 20081222) from Sunbury Generation LP to Hummel Station LLC; (8) Future Power PA, LLC request for waiver of 18 CFR 806.3 and 806.4; and (9) Regulatory Program projects.

The rulemaking item listed for Commission action was the subject of a public hearing conducted by the Commission on November 6, 2014, and identified in the notice for such hearing, which was published in 79 FR 57850, September 26, 2014. Projects listed for Commission action are those that were the subject of a public hearing conducted by the Commission on November 6, 2014, and identified in the notice for such hearing, which was published in 79 FR 61683, October 14, 2014.

Opportunity To Appear and Comment:

Interested parties are invited to attend the business meeting and encouraged to review the Commission's Public Meeting Rules of Conduct, which are posted on the Commission's Web site, *www.srbc.net.* As identified in the public hearing notices referenced above, written comments on the rulemaking item and Regulatory Program projects that were the subject of public hearings, and are listed for action at the business meeting, are subject to a comment deadline of November 17, 2014. Written comments pertaining to any other matters listed for action at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110–1788, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm.* Any such comments mailed or electronically submitted must be received by the

Commission on or before November 26, 2014, to be considered.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: November 10, 2014.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2014–27369 Filed 11–18–14; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

[Docket ID Number DOT–OST–2014–0031]

Agency Information Collection: Activity Under OMB Review: Report of Financial and Operating Statistics for Large Certificated Air Carriers

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS collecting financial data from large certificated air carriers. Large certificated air carriers are carriers that operate aircraft with 61 seats or more, aircraft with 18,001 pounds of payload capacity or more, or operate international air services.

DATES: Written comments should be submitted by January 20, 2015.

FOR FURTHER INFORMATION CONTACT: Jeff Gorham, Office of Airline Information, RTS–42, Room E34, OST–R, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–4406, Fax Number (202) 366–3383 or EMAIL *jeff.gorham@dot.gov.*

Comments: Comments should identify the associated OMB approval #2138–0013 and Docket ID Number DOT–OST–2014–0031. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2138–0013, Docket—DOT–OST–2014–0031. The postcard will be date/time stamped and returned.

ADDRESSES: You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–366–3383.

Instructions: Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street address listed above. Follow the online instructions for accessing the dockets.

Electronic Access

You may access comments received for this notice at *http://www.regulations.gov,* by searching docket DOT–OST–2014–0031.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0013.

Title: Report of Financial and Operating Statistics for Large Certificated Air Carriers.

Form No.: BTS Form 41.

Type Of Review: Extension of a currently approved collection.

Respondents: Large certificated air carriers.

Number of Respondents: 63.

Estimated Time per Response: 4 hours per schedule, an average carrier may submit 90 schedules in one year.

Total Annual Burden: 22,680 hours.

Needs and Uses: Program uses for Form 41 data are as follows:

Mail Rates

The Department of Transportation sets and updates the international and mainline Alaska mail rates based on carrier aircraft operating expense, traffic and operational data. Form 41 cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Submission of U.S. Carrier Data to ICAO

As a party to the Convention on International Civil Aviation, the United States is obligated to provide the International Civil Aviation Organization with financial and statistical data on operations of U.S. air carriers. Over 99 percent of the data filed with ICAO is extracted from the carriers' Form 41 reports.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR Part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 41 for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

Form 41 reports, particularly balance sheet reports and cash flow statements play a major role in the identification of vulnerable carriers. Data comparisons are made between current and past periods in order to assess the current financial position of the carrier. Financial trend lines are extended into the future to analyze the continued viability of the carrier. DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier is operating, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed as to all current and developing economic issues affecting the airline industry. In preparing financial conditions reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers may use the same information.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on November 14, 2014.

William Chadwick,

Director, Office of Airline Information, Office of the Assistant Secretary for Research and Technology.

[FR Doc. 2014–27409 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Protection of Voluntarily Submitted Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014. One of the ways to have an information program designated as protected under Section 40123 is for an air carrier or other person to submit an application for an individual program. The FAA evaluates the application and either publishes a designation based on the application for public comment or denies the application.

DATES: Written comments should be submitted by December 19, 2014.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0646.

Title: Protection of Voluntarily Submitted Information.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014 (79 FR 53508). To encourage people to voluntarily submit desired information, § 40123 was added to Title 49, United States Code, in the Federal Aviation Reauthorization Act of 1996. Section 40123 allows the Administrator, through FAA regulations, to protect from disclosure voluntarily provided safety and security information. This rule imposes a negligible paperwork burden for air carriers that choose to participate in this program. The air carrier submits a letter notifying the Administrator that they wish to participate in a current program.

Respondents: Approximately 5 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 5 hours.

Issued in Washington, DC on November 12, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–27298 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Special Awareness Training for the Washington, DC, Metropolitan Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014. Information is required of persons who must receive training and testing under 14 CFR 91.161 in order to fly within 60 nautical miles of the Washington, DC omni-directional range/distance measuring equipment.

DATES: Written comments should be submitted by December 19, 2014.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0734.

Title: Special Awareness Training for the Washington DC Metropolitan Area.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014 (79 FR 53506). The final rule containing this information collection requirement was published on August 12, 2008 (73 FR 46797). The collection of information is solicited by the FAA in order to maintain a National database registry for those persons who are required to receive training and be tested for flying in the airspace that is within 60 NM of the DCA VOR/DME. This National database registry provides the FAA with information on how many persons and the names of those who have completed this training.

Respondents: Approximately 366 pilots.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 122 hours.

Issued in Washington, DC, on November 12, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–27304 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: License Requirements for Operation of a Launch Site

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014. The information to be collected includes data required for performing launch site location analysis. The launch site license is valid for a period of 5 years. Respondents are licensees authorized to operate sites.

DATES: Written comments should be submitted by December 24, 2014.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0644.

Title: License Requirements for Operation of a Launch Site.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014 (79 FR 53508). The data requested for a license application to operate a commercial launch site are required by 51 U.S.C. 509. The information is needed in order to demonstrate to the FAA Office of Commercial Space Transportation (FAA/AST) that the proposed activity meets applicable public safety, national security, and foreign policy interest of the United States.

Respondents: Approximately 1 applicant.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 2,322 hours.

Estimated Total Annual Burden: 4,644 hours.

Issued in Washington, DC on November 12, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–27301 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: AVIATOR Customer Satisfaction Survey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014. This collection of information is necessary to determine how satisfied applicants are with the automated staffing solution. The information enables the FAA to improve and enhance its automated staffing process.

DATES: Written comments should be submitted by December 19, 2014.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0699.

Title: AVIATOR Customer Satisfaction Survey.

Form Numbers: There are no FAA Forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014 (79 FR 53507). The information will be collected via an online form. It is part of an automated staffing tool. The data collected will be analyzed by Human Resources, the AVIATOR Program Manager, and the Enterprise Service Center (ESC) to determine the quality of our service to our users and customers, to address any problems or issues found as a result of the data analysis.

Respondents: Approximately 131,000 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 7 minutes.

Estimated Total Annual Burden: 4,585 hours.

Issued in Washington, DC on November 12, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–27302 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Reporting of Laser Illumination of Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014. This collection covers the reporting of unauthorized illumination of aircraft by lasers.

DATES: Written comments should be submitted by December 19, 2014.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0698.

Title: Reporting of Laser Illumination of Aircraft.

Form Numbers: Advisory Circular 70–2.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014 (79 FR 53509). Advisory Circular 70–2 provides guidance to civilian air crews on the reporting of laser illumination incidents and recommended mitigation actions to be taken in order to ensure safe and orderly flight operations. Information is collected from pilots and aircrews that are affected by an unauthorized illumination by lasers. The requested reporting involves an immediate broadcast notification to Air Traffic Control (ATC) when the incident occurs, as well as a broadcast warning of the incident if the aircrew is flying in uncontrolled airspace. In addition, the AC requests that the aircrew supply a written report of the incident and send it by fax or email to the Washington Operations Control Complex (WOCC) as soon as possible.

Respondents: Approximately 1,100 pilots and crewmembers.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 10 minutes.

Estimated Total Annual Burden: 183 hours.

Issued in Washington, DC on November 12, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–27299 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Reporting of Information Using Special Airworthiness Information Bulletin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014. Special Airworthiness Information Bulletins (SAIBs) alert, educate, and make recommendations to the aviation community and aircraft owners/operators on ways to improve products, and may include requests for reporting results from requested actions and inspections.

DATES: Written comments should be submitted by December 19, 2014.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0731.

Title: Reporting of Information Using Special Airworthiness Information Bulletin.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2014 (79 FR 53506). An SAIB helps the FAA gather information to determine the necessity of an airworthiness directive. An SAIB alerts, educates, and makes recommendations to the aviation community and to aircraft owners/operators about ways to improve product safety. It contains non-regulatory information and advisory guidance and may include recommended actions or inspections with a request for voluntary reporting of inspection results.

Respondents: Approximately 1,120 owners/operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 5 minutes.

Estimated Total Annual Burden: 467 hours.

Issued in Washington, DC on November 12, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–27303 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

39th Meeting: RTCA Special Committee 206, Aeronautical Information and Meteorological Data Link Services

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

ACTION: Meeting Notice of RTCA Special Committee 206, Aeronautical Information and Meteorological Data Link Services.

SUMMARY: The FAA is issuing this notice to advise the public of the thirty-ninth meeting of the RTCA Special Committee 206, Aeronautical Information and Meteorological Data Link Services.

DATES: The meeting will be held December 8–12, 2014, 10:00 a.m.–5:00 p.m. on Monday (EST), 8:30 a.m.–5:00 p.m. Tuesday to Thursday and 8:30 a.m.–11:00 a.m. on Friday.

ADDRESSES: The meeting will be held at RTCA, 1150 18th St. 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) 330–0652/(202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 206. The agenda will include the following:

December 8th Monday 10:00 a.m.

- Opening Plenary
- Opening remarks and Attendees' introductions
- Review and approval of meeting agenda
- Approval of previous meeting minutes (Norman, OK)
- TOR changes
- Industry presentations
  - Systems Wide Information Management Program Status
  - Weather Technology in the Cockpit (WTIC) Concept of Operations

December 9th—10th Tuesday and Wednesday 8:30 a.m.

- Sub-Group meetings (Plenary if FIS–B MOPS has large number of comments and needs more time to resolve)

December 10th Wednesday 1:00 p.m.

- FAA AAtS Workshop

December 11th Thursday

- Plenary: FIS–B MOPS FRAC Review (start date if small number of comments)
- Sub-Group meetings (Plenary FIS–B MOPS FRAC Review, if needed)

December 12th Friday

Closing Plenary

- Sub-Groups' reports and Action item review
- Future meeting plans and dates
- Other business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 11, 2014.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2014–27319 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Second Meeting: RTCA Special Committee 232, Airborne Selective Calling Equipment

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

ACTION: Meeting Notice of RTCA Special Committee 232, Airborne Selective Calling Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of the second meeting of RTCA Special Committee 232, Airborne Selective Calling Equipment.

DATES: The meeting will be held December 10–12 from 9:00 a.m.–5:00 p.m. on December 10th and 11th, 9:00 a.m.–12:00 p.m. on December 12th.

ADDRESSES: The meeting will be held at Boeing Flight Services Training Center Longacres 25–01 Building 1301 SW 16th Street, Renton, Washington 98055.

FOR FURTHER INFORMATION CONTACT: You may contact the RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site *http://www.rtca.org* for directions.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 216.

December 10–12

- Welcome/Introductions/Administrative Remarks.
- Agenda Overview.
- Review/Approval of Minutes from Plenary #1
- Status of Other SELCAL Industry Activities/Committees
- Review of Selective Calling (SELCAL) Action Items
- Review SC–232 Completion Schedule
- Review of Draft MOPS
- Continue Drafting MOPS
- Other Business.
- Date and Place of Next Meetings.
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 10, 2014.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2014–27307 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0407]

Hours of Service (HOS) of Drivers; Application for International Association of Movers (IAM) Exemption From the 14-Hour Rule

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the International Association of Movers (IAM) has applied for an exemption from FMCSA's regulation prohibiting operators of commercial motor vehicles (CMVs) from driving following the 14th hour after coming on duty. IAM's exemption request is on behalf of all FMCSA-authorized carriers moving household goods, regardless of membership in IAM or any other professional society. The requested exemption would be used only by drivers who need to move their vehicles from the customer's residence or military base to a safe place for overnight parking when there are delays in completing the job. In no case would the drivers be permitted to drive more than 75 miles or 90 minutes after the 14th hour. FMCSA requests public comment on IAM's application for exemption.

DATES: Comments must be received on or before December 19, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2014–0407 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted.

The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

The International Association of Movers (IAM) is a global trade association representing more than 2,000 companies in over 170 countries. IAM counts van lines, agents, freight forwarders and brokers among its membership base. IAM members move household goods for a number of Federal agencies and the public. IAM's members provide relocation services throughout North America and at strategic points throughout the world.

IAM is seeking an exemption from the ''14-hour rule'' in 49 CFR 395.3(a)(2), which prohibits a property-carrying CMV driver from driving a CMV after the 14th hour after coming on duty following 10 consecutive hours off duty. IAM's exemption request is on behalf of all FMCSA-authorized carriers moving household goods (HHGs), regardless of membership in IAM or any other professional society. Under IAM's proposal, the exemption would be used only by drivers who need to move their trucks from the customer's residence to a safe place for overnight parking when there are delays in completing the job. The overnight parking location would offer safety for the occupants of the CMV, security for the CMV and its cargo, and avoid creating a safety hazard on local streets. In no case would the driver be permitted to drive more than 75 miles or 90 minutes after reaching the 14th hour. Upon reaching a safe place to park their CMVs, drivers using this exemption would be required to take 10 hours off duty before driving again. The driver must notify the motor carrier each time the extension is used. These log entries would provide verification and a record whenever the exemption is used and would be available during compliance reviews.

IAM contends that operations of its sector of the trucking industry are subject to a multitude of unique circumstances not faced by the majority of the general property and commodity industry. Customers frequently change their plans and expect their movers to accommodate these changes. IAM states that the list of potential unforeseen, impossible-to-plan-for situations that can cause delay is nearly endless. Unanticipated delays, including recently stepped-up security checkpoints within military bases and facilities, a homeowner's schedule (and level of preparedness for a scheduled move), unusually shaped items that need to be packed in-home by the driver and team, and the amount of time off-highway driving and irregular routes faced by the household goods moving industry are among the many factors that require the flexibility requested by IAM. All of these issues can change schedules beyond the original plan developed by the mover.

IAM states that the vast majority of these situations will not impact these drivers' ability to complete residential loading or unloading jobs within the 14-hour rule. However, when rare, unusual, and unforeseen circumstances arise, the rule forces drivers nearing the end of their 14-hour shifts to choose one of two impractical alternatives; either (1) stop a moving crew from completing the loading or unloading of a customer's household goods shipment in order to be able to drive the moving truck from the customer's residence to a place offering safety for the occupants of the CMV, security for the CMV and its cargo, and to avoid creating a safety hazard on local streets, or (2) permit completion of the loading or unloading, but leave the moving truck where it is, typically parked on an unsecured residential street, for at least 10 hours before they are permitted to drive again. Neither choice permits efficient, effective or safe operation.

IAM believes that the requested exemption is comparable to the current regulation permitting certain ''short-haul'' drivers an increased driving window once per week, and other non-CDL short-haul drivers two such extended duty periods per week. The driving circumstances experienced under this exemption—the relatively short time and distance needed to remove their CMVs from residential areas to safe locations—can be analogous to the ''short-haul'' situations. IAM acknowledges that all drivers using the requested exemption would still be subject to all of the other Federal Motor Carrier Safety Regulations, including all other hours-of-service requirements.

A copy of IAM's application for exemption is available for review in the docket for this notice.

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on IAM's application for an exemption from certain provisions of the driver's HOS rules in 49 CFR part 395. The Agency will consider all comments received by close of business on December 19, 2014. Comments will be available for examination in the docket at the location listed in the **ADDRESSES** section of this notice.

Issued on: November 13, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–27392 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0141]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WINKAPEW; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 19, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0141. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel WINKAPEW is:

Intended Commercial Use of Vessel: ''We are a small, family owned sailing charter business entering our sixth year in business. In 2010 we obtained a small vessel waiver for our boat the S/V Tomahawk. We have just purchased our second vessel, and will be using her for the same commercial use as Tomahawk. We presently run day sails, dinner cruises and adventure trips in the PNW, Canada and Alaska. Our adventure trips combine skiing or surfing with sailing. We have purchased our second boat, the S/V Winkapew, specifically for our multi-day adventure trips, as she is a better vessel for them than Tomahawk.''

Geographic Region: ''Washington State, Alaska, Oregon, California, and Hawaii.''

The complete application is given in DOT docket MARAD–2014–0141 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: November 13, 2014.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–27322 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0143]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KATHLEEN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 19, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0143. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel KATHLEEN is:

Intended Commercial Use of Vessel: ''To carry passengers on narrated excursions. To carry passengers and kayaks for estuary scenic and wildlife tours. To carry recreational scuba divers to and from local recreational dive sights. Also weekend long trips from home port of Union Wa. To Port Townsend Wa. And or Shelton Wa. on Oakland Bay''

Geographic Region: ''Washington State''

The complete application is given in DOT docket MARAD–2014–0143 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: November 13, 2014.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–27323 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0144]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CATCH AND RELIEF; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 19, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0144. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CATCH AND RELIEF is:

Intended Commercial Use Of Vessel: Carrying passengers for sport fishing

Geographic Region: ''Wisconsin, Michigan, Indiana, Illinois, Minnesota, and Ohio''

The complete application is given in DOT docket MARAD–2014–0144 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: November 13, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–27320 Filed 11–18–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from iHS (WB986–1–11/12/14) for permission to use certain data from the Board's 2013 Carload Waybill Sample. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–27353 Filed 11–18–14; 8:45 am]

BILLING CODE 4915–01–P

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Part II

Consumer Product Safety Commission

16 CFR Part 1422

Safety Standard for Recreational Off-Highway Vehicles (ROVs); Proposed Rule

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1422

RIN 3041–AC78

[Docket No. CPSC–2009–0087]

Safety Standard for Recreational Off-Highway Vehicles (ROVs)

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission has determined preliminarily that there may be an unreasonable risk of injury and death associated with recreational off-highway vehicles (ROVs). To address these risks, the Commission proposes a rule that includes: lateral stability and vehicle handling requirements that specify a minimum level of rollover resistance for ROVs and require that ROVs exhibit sublimit understeer characteristics; occupant retention requirements that would limit the maximum speed of an ROV to no more than 15 miles per hour (mph), unless the seat belts of both the driver and front passengers, if any, are fastened, and would require ROVs to have a passive means, such as a barrier or structure, to limit further the ejection of a belted occupant in the event of a rollover; and information requirements.

DATES: Submit comments by February 2, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2009–0087, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number CPSC–2009–0087, into the ''Search'' box, and follow the prompts.

Submit comments related to the Paperwork Reduction Act (PRA) aspects of the proposed rule to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC or by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. In addition, comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2009–0087.

FOR FURTHER INFORMATION CONTACT: Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301–987–2225; email: *cpaul@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Consumer Product Safety Commission (Commission or CPSC) is proposing a standard for recreational off-highway vehicles (ROVs).[1] ROVs are motorized vehicles that combine off-road capability with utility and recreational use. Reports of ROV-related fatalities and injuries prompted the Commission to publish an advance notice of proposed rulemaking (ANPR) in October 2009 to consider whether there may be unreasonable risks of injury and death associated with ROVs. (74 FR 55495 (October 28, 2009)). The ANPR began a rulemaking proceeding under the Consumer Product Safety Act (CPSA). The Commission received 116 comments in response to the ANPR. The Commission is now issuing a notice of proposed rulemaking (NPR) that would establish requirements for lateral stability, vehicle handling, and occupant protection performance, as well as information requirements. The information discussed in this preamble is derived from CPSC staff's briefing package for the NPR and from CPSC staff's supplemental memorandum to the Commission, which are available on CPSC's Web site at *http://www.cpsc.gov//Global/Newsroom/FOIA/CommissionBriefingPackages/2014/SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf* and *http://www.cpsc.gov//Global/Newsroom/FOIA/CommissionBriefingPackages/2015/SupplementalInformation-ROVs.pdf.*

II. The Product

A. Products Covered

ROVs are motorized vehicles designed for off-highway use with the following features: Four or more pneumatic tires designed for off-highway use; bench or bucket seats for two or more occupants; automotive-type controls for steering, throttle, and braking; and a maximum vehicle speed greater than 30 miles per hour (mph). ROVs are also equipped with rollover protective structures (ROPS), seat belts, and other restraints (such as doors, nets, and shoulder barriers) for the protection of occupants.

ROVs and All-Terrain Vehicles (ATVs) are similar in that both are motorized vehicles designed for off-highway use, and both are used for utility and recreational purposes. However, ROVs differ significantly from ATVs in vehicle design. ROVs have a steering wheel instead of a handle bar for steering; foot pedals instead of hand levers for throttle and brake control; and bench or bucket seats rather than straddle seating for the occupant(s). Most importantly, ROVs only require steering wheel input from the driver to steer the vehicle, and the motion of the occupants has little or no effect on vehicle control or stability. In contrast, ATVs require riders to steer with their hands and to maneuver their body front to back and side to side to augment the ATV's pitch and lateral stability.

Early ROV models emphasized the utility aspects of the vehicles, but the recreational aspects of the vehicles have become very popular. Currently, there are two varieties of ROVs: Utility and recreational. Models emphasizing utility have larger cargo beds, higher cargo capacities, and lower top speeds. Models emphasizing recreation have smaller cargo beds, lower cargo capacities, and higher top speeds. Both utility and recreational ROVs with maximum speed greater than 30 mph are covered by the scope of this NPR.

B. Similar or Substitute Products

There are several types of off-road vehicles that have some characteristics

[1] The Commission voted (3–2) to publish this notice in the **Federal Register**. Chairman Elliot F. Kaye and Commissioners Robert S. Adler and Marietta S. Robinson voted to approve publication of the proposed rule. Commissioners Ann Marie Buerkle and Joseph P. Mohorovic voted against publication of the proposed rule.

that are similar to those of ROVs and may be considered substitutes for some purposes.

Low-Speed Utility vehicles (UTVs)—Although ROVs can be considered to be a type of utility vehicle, their maximum speeds of greater than 30 mph distinguish them from low-speed utility vehicles, which have maximum speeds of 25 mph or less. Like ROVs, low-speed utility vehicles have steering wheels and bucket or bench seating capable of carrying two or more riders. All utility vehicles have both work and recreational uses. However, low-speed utility vehicles might not be good substitutes for ROVs in recreational uses where speeds higher than 30 mph are important.

All-terrain vehicles (ATVs)—Unlike ROVs, ATVs make use of handlebars for steering and hand controls for operating the throttle and brakes. The seats on ATVs are intended to be straddled, unlike the bucket or bench seats on ROVs. Some ATVs are intended for work or utility applications, as well as for recreational uses; others are intended primarily for recreational purposes. ATVs are usually narrower than ROVs. This means that ATVs can navigate some trails or terrain that some ROVs might not be able to navigate.

Unlike ROVs, ATVs are rider interactive. When riding an ATV, the driver must shift his or her weight from side to side while turning, or forward or backward when ascending or descending a hill or crossing an obstacle. Most ATVs are designed for one rider (the driver). On ATVs that are designed for more than one rider, the passenger sits behind the driver and not beside the driver as on ROVs.

Go-Karts—Go-karts (sometimes called ''off-road buggies'') are another type of recreational vehicle that has some similarities to ROVs. Go-karts are usually intended solely for recreational purposes. Some go-karts with smaller engines are intended to be driven by children 12 and younger. Some go-karts are intended to be driven primarily on prepared surfaces. These go-karts would not be substitutes for ROVs. Other go-karts have larger engines, full suspensions, can reach maximum speeds in excess of 30 mph, and can be used on more surfaces. These go-karts could be close substitutes for ROVs in some recreational applications.

III. Risk of Injury

A. Incident Data

As of April 5, 2013, CPSC staff is aware of 550 reported ROV-related incidents that occurred between January 1, 2003 and April 5, 2013; there were 335 reported fatalities and 506 reported injuries related to these incidents. To analyze hazard patterns related to ROVs, a multidisciplinary team of CPSC staff reviewed incident reports that CPSC received by December 31, 2011 concerning incidents that occurred between January 1, 2003 and December 31, 2011. CPSC received 428 reports of ROV-related incidents that occurred between January 1, 2003 and December 31, 2011, from the Injury and Potential Injury Incident (IPII) and In-Depth Investigation (INDP) databases.

ROV-related incidents can involve more than one injury or fatality because the incidents often involve both a driver and passengers. There were a total of 826 victims involved in the 428 incidents. Of the 428 ROV-related incidents, there were a total of 231 reported fatalities and 388 reported injuries. Seventy-five of the 388 injuries (19 percent) could be classified as severe; that is, based on the information available, the victim has lasting repercussions from the injuries received in the incident. The remaining 207 victims were either not injured or their injury information was not known.

Of the 428 ROV-related incidents, 76 incidents involved drivers under 16 years of age (18 percent); 227 involved drivers 16 years of age or older (53 percent); and 125 involved drivers of unknown age (29 percent). Of the 227 incidents involving adult drivers, 86 (38 percent) are known to have involved the driver consuming at least one alcoholic beverage before the incident; 52 (23 percent) did not involve alcohol; and 89 (39 percent) have an unknown alcohol status of the driver.

Of the 619 victims who were injured or killed, most (66 percent) were in a front seat of the ROV, either as a driver or passenger, when the incidents occurred. The remaining victims were in the rear of the ROV or in an unspecified location of the ROV.

In many of the ROV-related incidents resulting in at least one death, the Commission was able to obtain more detailed information on the events surrounding the incident through an In-Depth Investigation (IDI). Of the 428 ROV-related incidents, 224 involved at least one death. This includes 218 incidents resulting in one fatality, five incidents resulting in two fatalities, and one incident resulting in three fatalities, for a total of 231 fatalities. Of the 224 fatal incidents, 145 (65 percent) occurred on an unpaved surface; 38 (17 percent) occurred on a paved surface; and 41 (18 percent) occurred on unknown terrain.

B. Hazard Characteristics

After CPSC staff determined that a reported incident resulting in at least one death or injury was ROV-related, a multidisciplinary team reviewed all the documents associated with the incident. The multidisciplinary team was made up of a human factors engineer, an economist, a health scientist, and a statistician. As part of the review process, each member of the review team considered every incident and coded victim characteristics, the characteristics of the vehicle involved, the environment, and the events of the incident.[2] Below, we discuss the key hazard characteristics that the review identified.

1. Rollover

Of the 428 reported ROV-related incidents, 291 (68 percent) involved rollover of the vehicle, more than half of which occurred while the vehicle was in a turn (52 percent). Of the 224 fatal incidents, 147 (66 percent) involved rollover of the vehicle, and 56 of those incidents (38 percent) occurred on flat terrain. The slope of the terrain is unknown in 39 fatal incidents.

A total of 826 victims were involved in the 428 reported incidents, including 231 fatalities and 388 injuries. Of the 231 reported fatalities, 150 (65 percent) died in an incident involving lateral rollover of the ROV. Of the 388 injured victims, 75 (19 percent) were classified as being severely injured; 67 of these victims (89 percent) were injured in incidents that involved lateral rollover of the ROV.

2. Occupant Ejection and Seat Belt Use

From the 428 ROV-related incidents reviewed by CPSC, 817 victims were reported to be in or on the ROV during the incident, and 610 (75 percent) were known to have been injured or killed. Seatbelt use is known for 477 of the 817 victims; of these, 348 (73 percent) were not wearing a seatbelt at the time of the incident.

Of the 610 fatally and nonfatally injured victims who were in or on the ROV, 433 (71 percent) were partially or fully ejected from the ROV; and 269 (62 percent) of these victims were struck by

[2] The data collected for the Commission's study are based on information reported to the Commission through various sources. The reports are not a complete set of all incidents that have occurred, nor do they constitute a statistical sample representing all ROV-related incidents with at least one death or injury resulting. Additionally, reporting is ongoing for ROV-related incidents that occurred in the specified time frame. The Commission is expecting additional reports and information on ROV-related incidents that resulted in a death or injury and that occurred in the given time frame.

a part of the vehicle, such as the roll cage or side of the ROV, after ejection. Seat belt use is known for 374 of the 610 victims; of these, 282 (75 percent) were not wearing a seat belt.

Of the 225 fatal victims who were in or on the ROV at the time of the incident, 194 (86 percent) were ejected partially or fully from the vehicle, and 146 (75 percent) were struck by a part of the vehicle after ejection. Seat belt use is known for 155 of the 194 ejected victims; of these, 141 (91 percent) were not wearing a seat belt.

C. NEISS Data

To estimate the number of nonfatal injuries associated with ROVs that were treated in a hospital emergency department, CPSC undertook a special study to identify cases that involved ROVs that were reported through the National Electronic Injury Surveillance System (NEISS) from January 1, 2010 to August 31, 2010.[3]

NEISS does not contain a separate category or product code for ROVs. Injuries associated with ROVs are usually assigned to an ATV product category (NEISS product codes 3286—3287) or to the utility vehicle (UTV) category (NEISS product code 5044). A total of 2,018 injuries that were related to ATVs or UTVs were recorded in NEISS between January 1, 2010 and August 31, 2010. The Commission attempted follow-up interviews with each victim (or a relative of the victim) to gather more information about the incidents and the vehicles involved. CPSC determined whether the vehicle involved was an ROV based on the make and model of the vehicle reported in the interviews. If the make and model of the vehicle was not reported, staff did not count the case as involving an ROV.

A total of 688 surveys were completed, resulting in a 33 percent response rate for this survey. Of the 688 completed surveys, 16 were identified as involving an ROV based on the make and model of the vehicle involved. It is possible that more cases involved an ROV, but it was not possible to identify them due to lack of information on the vehicle make and model.

The estimated number of emergency department-treated ROV-related injuries occurring in the United States between January 1, 2010 and August 31, 2010, is 2,200 injuries. Extrapolating for the year 2010, the estimated number of emergency department-treated, ROV-related injuries is 3,000, with a corresponding 95 percent confidence interval of 1,100 to 4,900.

D. Yamaha Rhino Repair Program

CPSC staff began investigating ROVs following reports of serious injuries and fatalities associated with the Yamaha Rhino. In March 2009, CPSC staff negotiated a repair program on the Yamaha Rhino 450, 660, and 700 model ROVs to address stability and handling issues with the vehicles.[4] CPSC staff investigated more than 50 incidents, including 46 driver and passenger deaths related to the Yamaha Rhino. The manufacturer voluntarily agreed to design changes through a repair program that would increase the vehicle's lateral stability and change the vehicle's handling characteristic from oversteer to understeer. The repair consisted of the following: (1) Addition of 50-mm spacers on the vehicle's rear wheels to increase the track width, and (2) the removal of the rear stabilizer bar to effect understeer characteristics.

CPSC staff reviewed reports of ROV-related incidents reported to the CPSC between January 1, 2003 and May 31, 2012, involving Yamaha Rhino model vehicles. (The data are only those reported to CPSC staff and are not representative of all incidents.) The number of incidents that occurred by quarters of a year are shown below in Figure 1.

[3] NEISS is a stratified national probability sample of hospital emergency departments that allows the Commission to make national estimates of product-related injuries. The sample consists of about 100 of the approximately 5,400 U.S. hospitals that have at least six beds and provide 24-hour emergency service. Consumer product-related injuries treated in emergency departments of the NEISS-member hospitals are coded from the medical record. As such, information about the injury is extracted, but specifics about the product and its use are often not available.

[4] CPSC Release #09–172, March 31, 2009, Yamaha Motor Corp. Offers Free Repair for 450, 660, and 700 Model Rhino Vehicles.

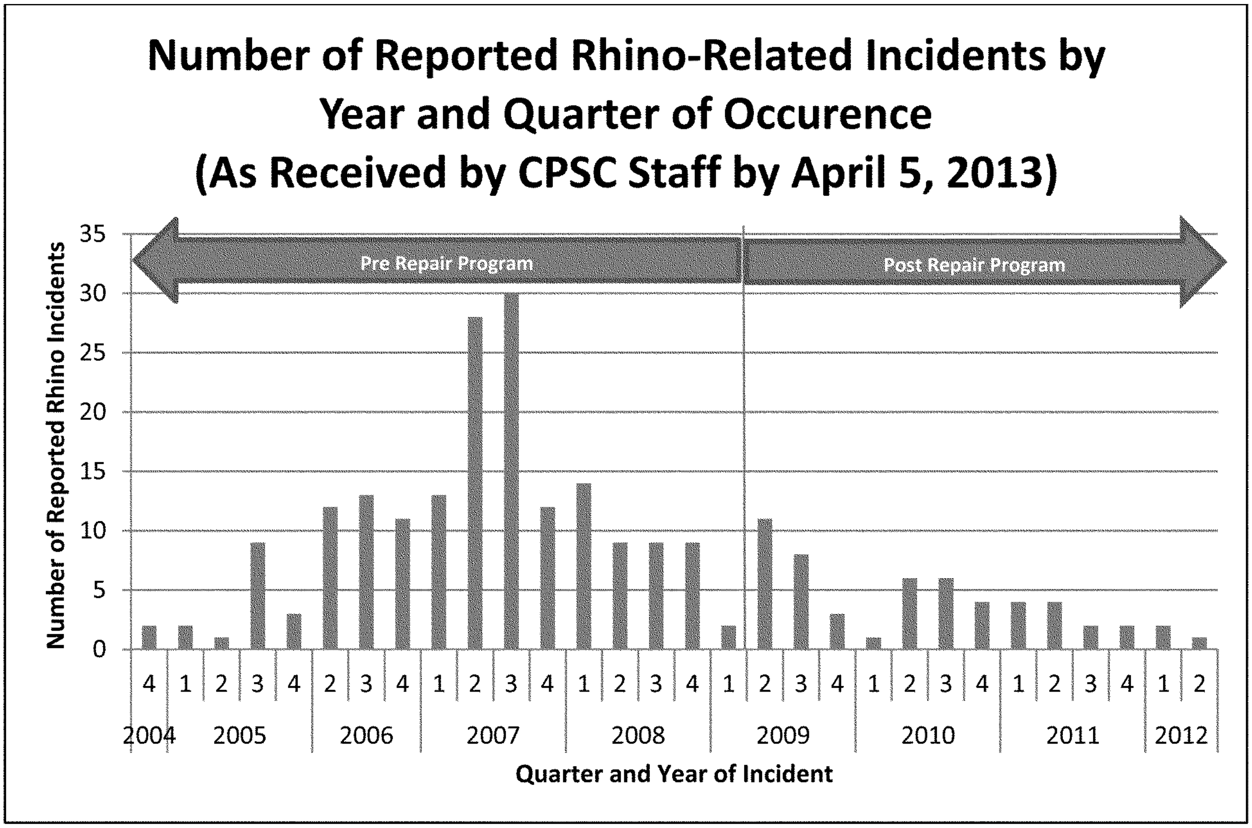


Figure 1. Number of Reported Yamaha Rhino Incidents from January 2003 to May 2012.

After the repair program was initiated in March 2009, the number of reported incidents involving a Yamaha Rhino ROV decreased noticeably.

CPSC staff also analyzed the 242 Yamaha Rhino-related incidents reported to CPSC and identified 46 incidents in which a Yamaha Rhino vehicle rolled over during a turn on flat or gentle terrain. Staff identified forty-one of the 46 incidents as involving an unrepaired Rhino vehicle. In comparison, staff identified only two of the 46 incidents in which a repaired Rhino vehicle rolled during a turn, and each of these incidents occurred on terrain with a 5 to 10 degree slope. Among these 41 reported incidents, there were no incidents involving repaired Rhinos rolling over on flat terrain during a turn.

The Commission believes the decrease in Rhino-related incidents after the repair program was initiated can be attributed to the vehicle modifications made by the repair program. Specifically, correction of oversteer and improved lateral stability can reduce rollover incidents by reducing the risk of sudden and unexpected increases in lateral acceleration during a turn, and increasing the amount of force required to roll the vehicle over. CPSC believes that lateral stability and vehicle handling have the most effect on rollovers during a turn on level terrain because the rollover is caused primarily by lateral acceleration generated by friction during the turn. Staff's review of rollover incidents during a turn on level ground indicates that repaired Rhino vehicles are less likely than unrepaired vehicles to roll over. CPSC believes this is further evidence that increasing lateral stability and correcting oversteer to understeer contributed to the decrease in Yamaha Rhino incidents.

IV. Statutory Authority

ROVs are "consumer products" that can be regulated by the Commission under the authority of the CPSA. *See* 15 U.S.C. 2052(a). Section 7 of the CPSA authorizes the Commission to promulgate a mandatory consumer product safety standard that sets forth certain performance requirements for a consumer product or that sets forth certain requirements that a product be marked or accompanied by clear and adequate warnings or instructions. A performance, warning, or instruction standard must be reasonably necessary to prevent or reduce an unreasonable risk or injury. *Id.*

Section 9 of the CPSA specifies the procedure the Commission must follow to issue a consumer product safety standard under section 7. In accordance with section 9, the Commission may commence rulemaking by issuing an ANPR; as noted previously, the Commission issued an ANPR on ROVs in October 2009. Section 9 authorizes the Commission to issue an NPR including the proposed rule and a preliminary regulatory analysis in accordance with section 9(c) of the CPSA and request comments regarding the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk. *Id.* 2058(c). Next, the Commission will consider the comments received in response to the proposed rule and decide whether to issue a final rule along with a final regulatory analysis. *Id.* 2058(c)–(f). The Commission also will provide an opportunity for interested persons to make oral presentations of the data, views, or arguments, in accordance with section 9(d)(2) of the CPSA. *Id.* 2058(d)(2).

According to section 9(f)(1) of the CPSA, before promulgating a consumer product safety rule, the Commission must consider, and make appropriate findings to be included in the rule, concerning the following issues: (1) The degree and nature of the risk of injury that the rule is designed to eliminate or reduce; (2) the approximate number of consumer products subject to the rule; (3) the need of the public for the products subject to the rule and the probable effect the rule will have on utility, cost, or availability of such products; and (4) the means to achieve the objective of the rule while minimizing adverse effects on competition, manufacturing, and commercial practices. *Id.* 2058(f)(1).

According to section 9(f)(3) of the CPSA, to issue a final rule, the Commission must find that the rule is ''reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with such product'' and that issuing the rule is in the public interest. *Id.* 2058(f)(3)(A)&(B). In addition, if a voluntary standard addressing the risk of injury has been adopted and implemented, the Commission must find that: (1) The voluntary standard is not likely to eliminate or adequately reduce the risk of injury, or that (2) substantial compliance with the voluntary standard is unlikely. *Id.* 2058(f)(3(D). The Commission also must find that expected benefits of the rule bear a reasonable relationship to its costs and that the rule imposes the least burdensome requirements that would adequately reduce the risk of injury. *Id.* 2058(f)(3)(E)&(F).

Other provisions of the CPSA also authorize this rulemaking. Section 27(e) provides the Commission with authority to issue a rule requiring consumer product manufacturers to provide the Commission with such performance and technical data related to performance and safety as may be required to carry out the CPSA and to give such performance and technical data to prospective and first purchasers. *Id.* 2076(e). This provision bolsters the Commission's authority under section 7 to require provision of safety-related information, such as hang tags.

V. Overview of Proposed Requirements

Based on incident data, vehicle testing, and experience with the Yamaha Rhino repair program, the Commission believes that improving lateral stability (by increasing rollover resistance) and improving vehicle handling (by correcting oversteer to understeer) are the most effective approaches to reducing the occurrence of ROV rollover incidents. ROVs with higher lateral stability are less likely to roll over because more lateral force is necessary to cause rollover than an ROV with lower lateral stability. ROVs exhibiting understeer during a turn are less likely to rollover because steering control is stable and the potential for the driver to lose control is low.

The Commission believes that when rollovers do occur, improving occupant protection performance (by increasing seat belt use) will mitigate injury severity. CPSC's analysis of ROV incidents indicates that 91 percent of fatally ejected victims were not wearing a seat belt at the time of the incident. Increasing seat belt use, in conjunction with better shoulder retention performance, will significantly reduce injuries and deaths associated with an ROV rollover event.

To address these hazards, the Commission is proposing requirements for:

- A minimum level of rollover resistance of the ROV when tested using the J-turn test procedure;
- A hang tag providing information about the vehicle's rollover resistance on a progressive scale;
- Understeer performance of the ROV when tested using the constant radius test procedure;
- Limited maximum speed of the ROV when tested with occupied front seat belts unbuckled; and
- A minimum level of passive shoulder protection when using a probe test.

VI. CPSC Technical Analysis and Basis for Proposed Requirements

A. Overview of Technical Work

In February 2010, the Commission contracted SEA, Limited (SEA) to conduct an in-depth study of vehicle dynamic performance and static rollover measures for ROVs. SEA evaluated a sample of 10 ROVs that represented the recreational and utility oriented ROVs available in the U.S. market that year. SEA tested and measured several characteristics and features that relate to the rollover performance of the vehicles and to the vehicle's handling characteristics.

In 2011, SEA designed and built a roll simulator to measure and analyze occupant response during quarter-turn roll events of a wide range of machines, including ROVs. The Commission contracted with SEA to conduct occupant protection performance evaluations of seven ROVs with differing occupant protection designs.[5]

B. Lateral Stability

1. Definitions

Following are definitions of basic terms used in this section.

- Lateral acceleration: acceleration that generates the force that pushes the vehicle sideways. During a turn, lateral acceleration is generated by friction between the tires and surface. Lateral acceleration is expressed as a multiple of free-fall gravity (g).
- Two-wheel lift: point at which the inside wheels of a turning vehicle lift off the ground, or when the uphill wheels of a vehicle on a tilt table lift off the table. Two-wheel lift is a precursor to a rollover event. We use the term ''two-wheel lift'' interchangeably with ''tip-up.''
- Threshold lateral acceleration: minimum lateral acceleration of the vehicle at two-wheel lift.
- Untripped rollover: rollover that occurs during a turn due solely to the lateral acceleration generated by friction between the tires and the road surface.
- Tripped rollover: rollover that occurs when the vehicle slides and strikes an object that provides a pivot point for the vehicle to roll over.

2. Static Measures to Evaluate ROV Lateral Stability

CPSC and SEA evaluated the static measurements of the static stability factor (SSF) and tilt table ratio (TTR) to compare lateral stability of a group of 10 ROVS.

a. Static Stability Factor (SSF)

SSF approximates the lateral acceleration in units of gravitational acceleration (g) at which rollover begins in a simplified vehicle that is assumed to be a rigid body without suspension movement or tire deflections. NHTSA uses rollover risk as determined by dynamic test results and SSF values to evaluate passenger vehicle rollover resistance for the New Car Assessment Program (NCAP).[6] SSF relates the track width of the vehicle to the height of the vehicle center of gravity (CG), as shown in Figure 2. Loading condition is important because CG height and track width vary, depending on the vehicle load condition. Mathematically, the relationship is track width (T) divided by two times the CG height (H), or SSF=T/2H. Higher values for SSF indicate higher lateral stability, and lower SSF values indicate lower lateral stability.

[5] SEA's reports are available on CPSC's Web site at: *http://www.cpsc.gov/en/Research-Statistics/Sports-Recreation/ATVs/Technical-Reports/.*

[6] NHTSA, 68 FR 59250, ''Consumer Information; New Car Assessment Program; Rollover Resistance,'' (Oct. 14, 2003).

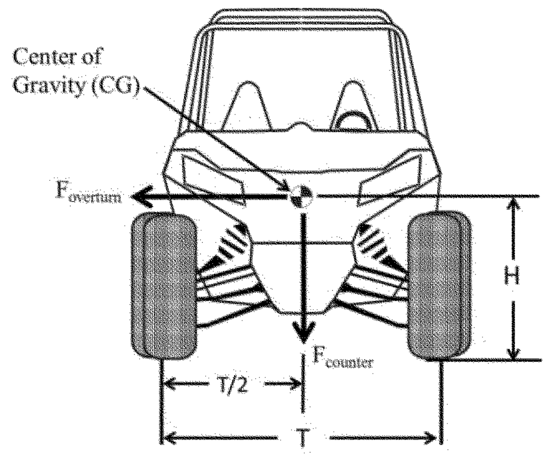


Figure 2. Components of SSF

SEA measured track width and CG height values for the sample group of 10 ROVs. SEA used their Vehicle Inertia Measurement Facility (VIMF), which incorporates the results of five different tests to determine the CG height. SEA has demonstrated that VIMF CG height measurements are repeatable within ±0.5 percent of the measured values.[7] Using the CG height and track width measurement, SEA calculated SSF values for several different load conditions. (See Table 1).

TABLE 1—SSF VALUES

Vehicle rank (SSF)	SSF
F	0.881
A	0.887
H	0.918
B	0.932
D	0.942
J	0.962
E	0.965
C	0.991
G	1.031
I	1.045

b. Tilt Table Ratio (TTR)

SEA conducted tilt table tests on the ROV sample group. In this test, the vehicles in various loaded conditions were placed on a rigid platform, and the angle of platform tilt was increased (see Figure 3) until both upper wheels of the vehicle lifted off the platform. The platform angle at two-wheel lift is the Tilt Table Angle (TTA). The trigonometric tangent of the TTA is the Tilt Table Ratio (TTR). TTA and TTR are used to evaluate the stability of the vehicle. Larger TTA and TTR generally correspond to better lateral stability, except these measures do not account for dynamic tire deflections or dynamic suspension compliances. Tilt testing is a quick and simple static test that does not require sophisticated instrumentation. Tilt testing is used as a rollover metric in the voluntary standards created by the Recreational Off-Highway Vehicle Association (ROHVA) and the Outdoor Power Equipment Institute (OPEI). TTA and TTR values measured by SEA are shown in Table 2.[8]

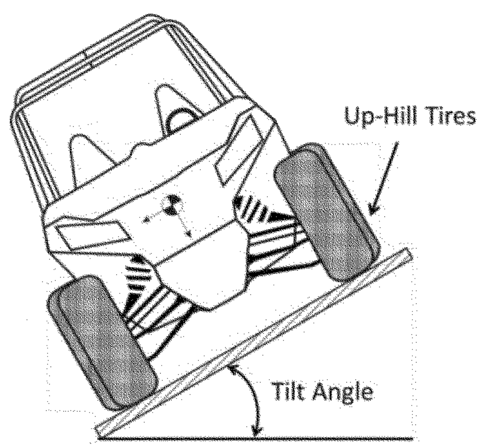


Figure 3. Tilt Table Ratio (TTR) = Tan (Tilt Angle)

[7] Heydinger, Gary J., et al, *The Design of a Vehicle Inertia Measurement Facility,* SAE 950309, 1995.

[8] ROHVA developed ANSI/ROHVA 1 for recreation-oriented ROVs and OPEI developed ANSI/OPEI B71.0 for utility-oriented ROVs.

TABLE 2—TTA AND TTR VALUES

Vehicle rank (TTA)	TTA (deg.)	Vehicle rank (TTR)	TTR
A	33.0	A	0.650
B	33.6	B	0.664
D	33.7	D	0.667
I	35.4	I	0.712
H	35.9	H	0.724
J	36.1	J	0.730
F	36.4	F	0.739
E	38.1	E	0.784
C	38.8	C	0.803
G	39.0	G	0.810

Because ROVs are designed with long suspension travel and soft tires for off-road performance, staff was concerned that SSF and TTR would not accurately characterize the dynamic lateral stability of the vehicle. Therefore, CPSC's contractor, SEA, conducted dynamic J-turn tests to determine whether SSF or TTR measurement corresponded with actual dynamic measures for lateral stability.

3. Dynamic Test To Measure ROV Lateral Stability—the J-Turn Test

In 2001, NHTSA evaluated the J-turn test (also called drop-throttle J-turn testing and step-steer testing) as a method to measure rollover resistance of automobiles. NHTSA found the J-turn test to be the most objective and repeatable method for vehicles with low rollover resistance. Specifically, the J-turn test is objective because a programmable steering machine turns the steering wheel during the test, and the test results show that the vehicle speed, lateral acceleration, and roll angle data observed during J-turn tests were highly repeatable.[9] However, NHTSA determined that although the J-turn test is the most objective and repeatable method for vehicles with low rollover resistance, the J-turn test is unable to measure the high rollover resistance of most passenger automobiles.[10] On pavement where a high-friction surface creates high lateral accelerations, vehicles with high rollover resistance (such as passenger automobiles) will lose tire traction and slide in a severe turn rather than roll over. The threshold lateral acceleration cannot be measured because rollover does not occur. In contrast, vehicles with low rollover resistance exhibit untripped rollover on a pavement during a J-turn test, and the lateral acceleration at rollover threshold can be measured. Thus, the J-turn test is the most appropriate method to measure the rollover resistance of ROVs because ROVs exhibit untripped rollover during the test.

J-turn tests are conducted by driving the test vehicle in a straight path, releasing (dropping) the throttle, and rapidly turning the steering wheel to a specified angle once the vehicle slows to a specified speed. The steering wheel angle and vehicle speed are selected to produce two-wheel lift of the vehicle. Outriggers, which are beams that extend to either side of a vehicle, allow the vehicle to roll but prevent full rollover. The sequence of events in the test procedure is shown in Figure 4. SEA conducted drop-throttle J-turn tests to measure the minimum lateral accelerations necessary to cause two-wheel lift (shown in Step 3 of Figure 4) for each vehicle. Side loading of the vehicle occurs naturally as a result of the lateral acceleration that is created in the J-turn and this lateral acceleration can be measured and recorded. The lateral acceleration produced in the turn is directly proportional to the side loading force acting to overturn the vehicle according to the equation $F = (m)(A_y)$, where F is force, m is the mass of the vehicle, and A_y is lateral acceleration.

[9] Forkenbrock, G. and Garrott, W. (2002). A Comprehensive Experimental Evaluation of Test Maneuvers That May Induce On-Road, Untripped, Light Vehicle Rollover Phase IV of NHTSA's Light Vehicle Rollover Research Program. DOT HS 809 513.

[10] Forkenbrock, G. and Garrott, W. (2002). A Comprehensive Experimental Evaluation of Test Maneuvers That May Induce On-Road, Untripped, Light Vehicle Rollover Phase IV of NHTSA's Light Vehicle Rollover Research Program. DOT HS 809 513.

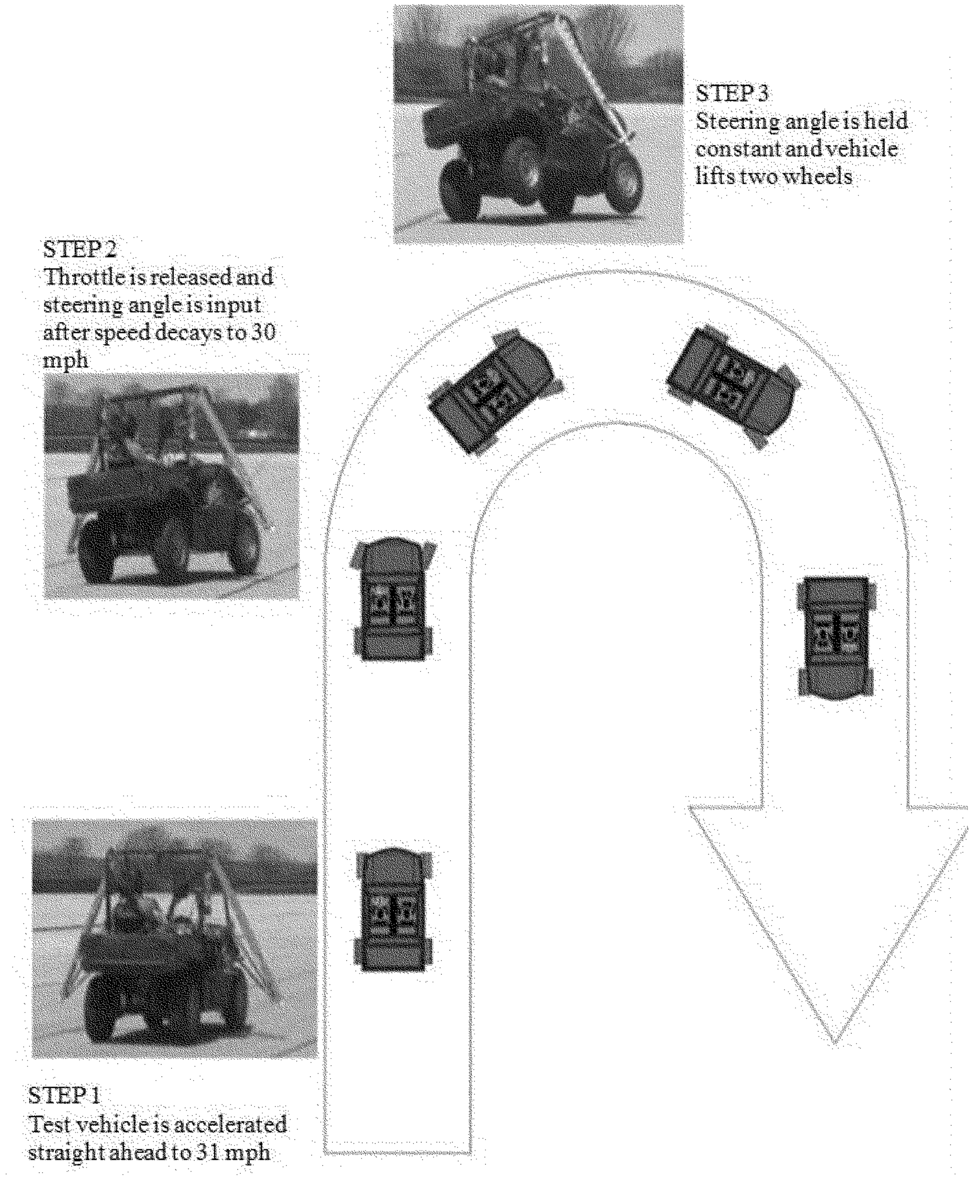


Figure 4. J-Turn Test Sequence of Events

SEA conducted the J-turn testing at 30 mph. A programmable steering controller input the desired steering angles at a steering rate of 500 degrees per second for all vehicles. The chosen steering rate of 500 degrees per second is high enough to approximate a step input, but still within the capabilities of a driver. (A step input is one that happens instantly and requires no time to complete. For steering input, time is required to complete the desired steering angle, so a steering step input is approximated by a high angular rate of steering input.) SEA conducted preliminary tests by starting with a relatively low steering angle of 80 to 90 degrees and incrementally increasing the steering angle until two-wheel lift was achieved. When SEA determined the steering angle that produced a two-wheel lift, SEA conducted the test run for that vehicle load condition. For each test run, SEA recorded the speed, steering angle, roll rate, and acceleration in three directions (longitudinal, lateral, and vertical). SEA processed and plotted the data to determine the minimum lateral acceleration required for two-wheel lift of the vehicle.

The J-turn test is a direct measure of the minimum or threshold lateral acceleration required to initiate a rollover event, or tip-up of the test vehicle when turning. ROVs that exhibit higher threshold lateral acceleration have a higher rollover resistance or are more stable than ROVs with lower threshold lateral accelerations. Each of the 10 ROVs tested in the study by SEA exhibited untripped rollover in the J-turn tests at steering wheel angles ranging from 93.8 to 205 degrees and lateral accelerations ranging from 0.625 to 0.785 g. Table 3 shows the vehicles arranged in ascending order for threshold lateral acceleration (A_y) at tip up, SSF, TTA, and TTR. Table 3 illustrates the lack of correlation of the static metrics (SSF, TTA, or TTR) with the direct dynamic measure of threshold lateral acceleration (A_y) at tip up.

TABLE 3

Vehicle rank $(A)_y$	A_y(g)	SSF	TTR
D	0.625	0.942	0.667
B	0.655	0.932	0.664
A	0.670	0.887	0.650
J	0.670	0.962	0.730
I	0.675	1.045	0.712
F	0.690	0.881	0.739
E	0.700	0.965	0.784
H	0.705	0.918	0.724
C	0.740	0.991	0.803
G	0.785	1.031	0.810

Adapted from: Heydinger, G. (2011). Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles—Additional Results for Vehicle J. Retrieved from *http://www.cpsc.gov/PageFiles/93928/rovj.pdf.*

SEA also conducted J-turn tests on four ROVs to measure the repeatability of the lateral acceleration measurements and found the tests to be very repeatable.[11] The results of the repeatability tests indicate the standard deviation for sets of 10 test runs (conducted in opposite directions and left/right turn directions) ranged from 0.002 g to 0.013 g.

Comparison of the SSF, TTR, and A_y values for each ROV indicate that there is a lack of correspondence between the static metrics (SSF and TTR) and the direct measurement of threshold lateral acceleration at rollover. Static metrics cannot be used to evaluate ROV rollover resistance because static tests are unable to account fully for the dynamic tire deflections and suspension compliance exhibited by the ROVs during a J-turn maneuver. Therefore, the Commission believes that the lateral acceleration threshold at rollover is the most appropriate metric to use when measuring and comparing rollover resistance for ROVs.

C. Vehicle Handling

1. Basic Terms

- *Understeer:* Path of vehicle during a turn in which the vehicle steers less into a turn than the steering wheel angle input by the driver. If the driver does not correct for the understeer path of the vehicle, the vehicle continues on a straighter path than intended (see Figure 5).
- *Oversteer:* Path of vehicle during a turn in which the vehicle steers more into a turn than the steering wheel angle input by the driver. If the driver does not correct for the oversteer path of the vehicle, the vehicle spirals into the turn more than intended (see Figure 5).
- *Sub-limit understeer or sub-limit oversteer:* Steering condition that occurs while the tires have traction on the driving surface.
- *Limit understeer or limit oversteer:* Steering condition that occurs when the traction limits of the tires have been reached and the vehicle begins to slide.

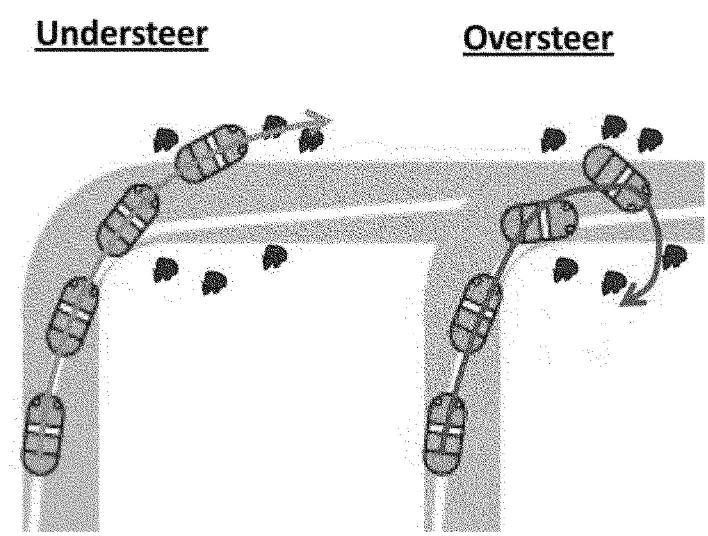


Figure 5. Understeer and Oversteer Path

2. Staff's Technical Work

a. Constant Radius Test

SAE International (formerly Society of Automotive Engineers) standard, SAE J266, Surface Vehicle Recommended Practice, *Steady-State Directional Control Test Procedures for Passenger Cars and Light Trucks,* establishes test procedures to measure the vehicle handling properties of passenger cars and light trucks. ROVs obey the same principles of motion as automobiles because ROVs and automobiles share key characteristics, such as pneumatic

[11] Heydinger, G. (2013). Repeatability of J-Turn Testing of Four Recreational Off-Highway Vehicles. Retrieved from *http://www.cpsc.gov//Global/Research-and-Statistics/Injury-Statistics/Sports-and-Recreation/ATVs/SEAReporttoCPSCRepeatabilityTestingSeptember%202013.pdf.*

tires, a steering wheel, and spring-damper suspension that contribute to the dynamic response of the vehicle.[12] Thus, the test procedures to measure the vehicle handling properties of passenger cars and light trucks are also applicable to ROVs.

SEA used the constant radius test method, described in SAE J266, to evaluate the sample ROVs' handling characteristics. The test consists of driving each vehicle on a 100 ft. radius circular path from very low speeds, up to the speed where the vehicle experiences two-wheel lift or cannot be maintained on the path of the circle. The test vehicles were driven in the clockwise and counterclockwise directions. For a constant radius test, ''understeer'' is defined as the condition when the steering wheel angle required to maintain the circular path increases as the vehicle speed increases because the vehicle is turning less than intended. ''Neutral steer'' is defined as the condition when the steering wheel angle required to maintain the circular path is unchanged as the vehicle speed increases. ''Oversteer'' is defined as the condition when the average steering wheel input required to maintain the circular path decreases as the vehicle speed increases because the vehicle is turning more than intended.

SEA tested 10 ROVs; five of those vehicles (A, D, F, I, and J) exhibited sub-limit transitions to oversteer when tested on asphalt (see Figure 6). The five remaining vehicles (B, C, E, G, and H) exhibited a sub-limit understeer condition for the full range of the test.

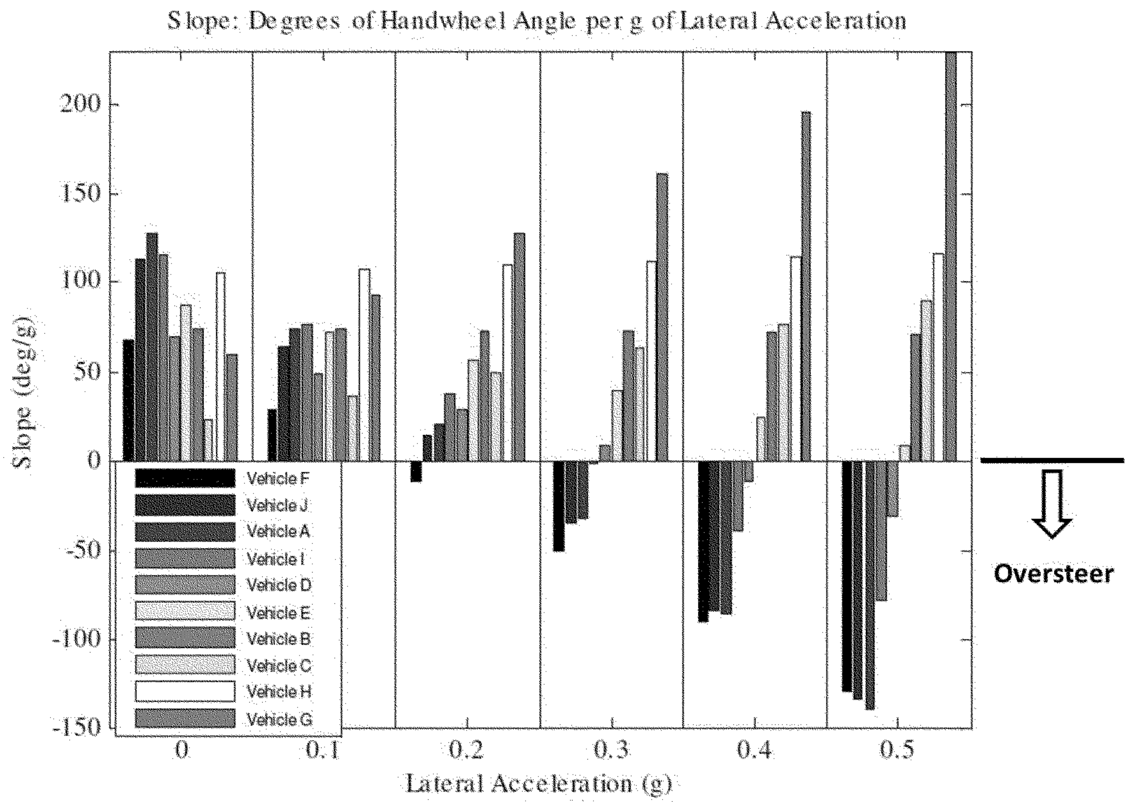


Figure 6. Steering Gradient Slopes at Selected Values of Lateral Acceleration for Tested ROVs

Source: Heydinger, G. (2011) Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles – Additional Results for Vehicle J. Retrieved from http://www.cpsc.gov/PageFiles/93928/rovj.pdf.

b. Slowly Increasing Steer (SIS) Test

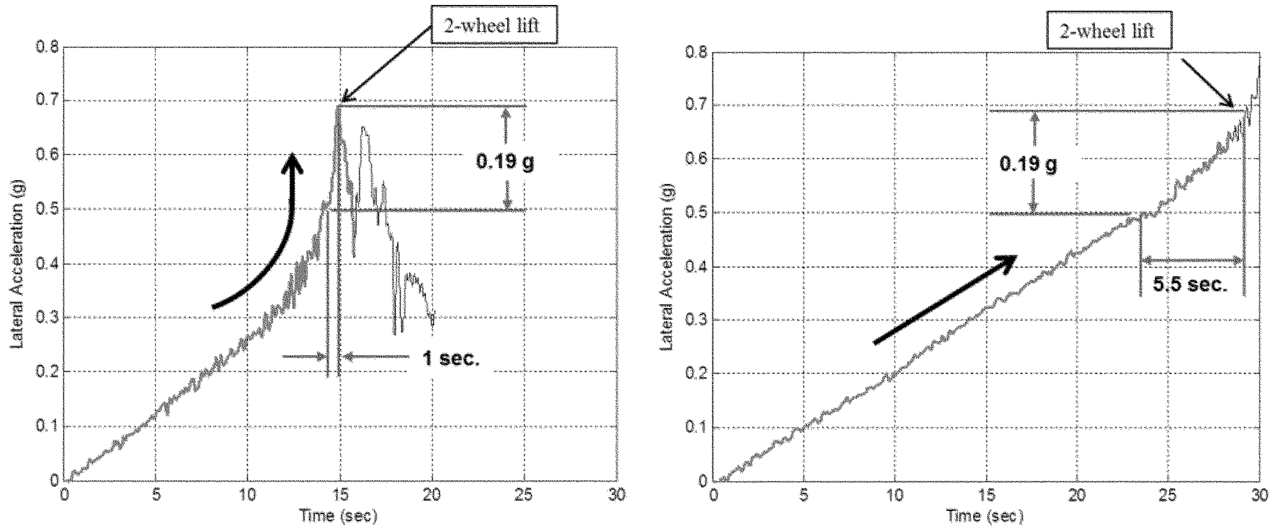
SAE J266, Surface Vehicle Recommended Practice, *Steady-State Directional Control Test Procedures for Passenger Cars and Light Trucks,* also establishes test procedures for the Constant Speed Variable Steer Angle Test. SEA calls this test the ''constant speed slowly increasing steer (SIS) test.'' During the SIS test, the ROV driver maintains a constant speed of 30 mph, and the vehicle's steering wheel angle is slowly increased at a rate of 5 degrees per second until the ROV reaches a speed limiting condition or tip-up. A programmable steering controller (PSC) was used to increase the steering angle at a constant rate of 5 degrees per second. During the test, instrumentation for speed, steering angle, lateral acceleration, roll angle, and yaw rate were recorded. SEA conducted SIS tests on the sample of 10 ROVs.

Figure 7 shows SIS test data plotted of lateral acceleration versus time for Vehicle A and Vehicle H. Vehicle H is the same model vehicle as Vehicle A, but Vehicle H is a later model year, where the sub-limit oversteer has been corrected to understeer.

Plots from the ROV SIS tests in Figure 7 illustrate a sudden increase in lateral acceleration that is found only in vehicles that exhibit sub-limit oversteer. The sudden increase in lateral acceleration is exponential and represents a dynamically unstable

[12] See Tab A of the CPSC staff's briefing package.

condition.[13] This condition is undesirable because it can cause a vehicle with high lateral stability (such as a passenger car) to spin out of control, or it can cause a vehicle with low lateral stability (such as an ROV) to roll over suddenly.



Vehicle A (Oversteer)

Vehicle H (Understeer)

Figure 7. SIS Plots of Lateral Acceleration Gain Over Time

Source: Heydinger, G. (2011) Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles . Retrieved from http://www.cpsc.gov/PageFiles/96037/rov.pdf. Appendix D.

When Vehicle A reached its dynamically unstable condition, the lateral acceleration suddenly increased from 0.50 g to 0.69 g (difference of 0.19 g) in less than 1 second, and the vehicle rolled over. (Outriggers on the vehicle prevented full rollover of the vehicle.) In contrast, Vehicle H never reached a point where the lateral acceleration increases exponentially because the condition does not develop in understeering vehicles.[14] The increase in Vehicle H's lateral acceleration remains linear, and the lateral acceleration increase from 0.50 g to 0.69 g (same difference of 0.19 g) occurs in 5.5 seconds.

SEA test results indicate that ROVs that exhibited sub-limit oversteer also exhibited a sudden increase in lateral acceleration that caused the vehicle to roll over. An ROV that exhibits this sudden increase in lateral acceleration is directionally unstable and uncontrollable.[15]

Plots of the vehicle path during SIS tests illustrate further how an oversteering ROV (Vehicle A) will roll over earlier in a turn than an understeering ROV (Vehicle H), when the vehicles are operated at the same speed and steering rate (see Figure 8). Vehicle A and Vehicle H follow the same path until Vehicle A begins to oversteer and its turn radius becomes smaller. Vehicle A becomes dynamically unstable, its lateral acceleration increases exponentially, and the vehicle rolls over suddenly. In contrast, Vehicle H continues to travel 300 more feet in the turn before the vehicle reaches its threshold lateral acceleration and rolls over. A driver in Vehicle H has more margin (in time and distance) to correct the steering to prevent rollover than a driver in Vehicle A because Vehicle H remains in understeer during the turn, while Vehicle A transitions to oversteer and becomes dynamically unstable.

[13] (Gillespie, T. (1992). Fundamentals of Vehicle Dynamics. Society of Automotive Engineers, Inc. p. 204–205.)

[14] Gillespie, T. (1992). Fundamentals of Vehicle Dynamics. Society of Automotive Engineers.

[15] Gillespie, T. (1992). Fundamentals of Vehicle Dynamics. Society of Automotive Engineers, Inc. p. 204–205; Bundorf, R. T. (1967). The Influence of Vehicle Design Parameters on Characteristic Speed and Understeer. SAE 670078; Segel, L. (1957). Research in the Fundamentals of Automobile Control and Stability. SAE 570044.

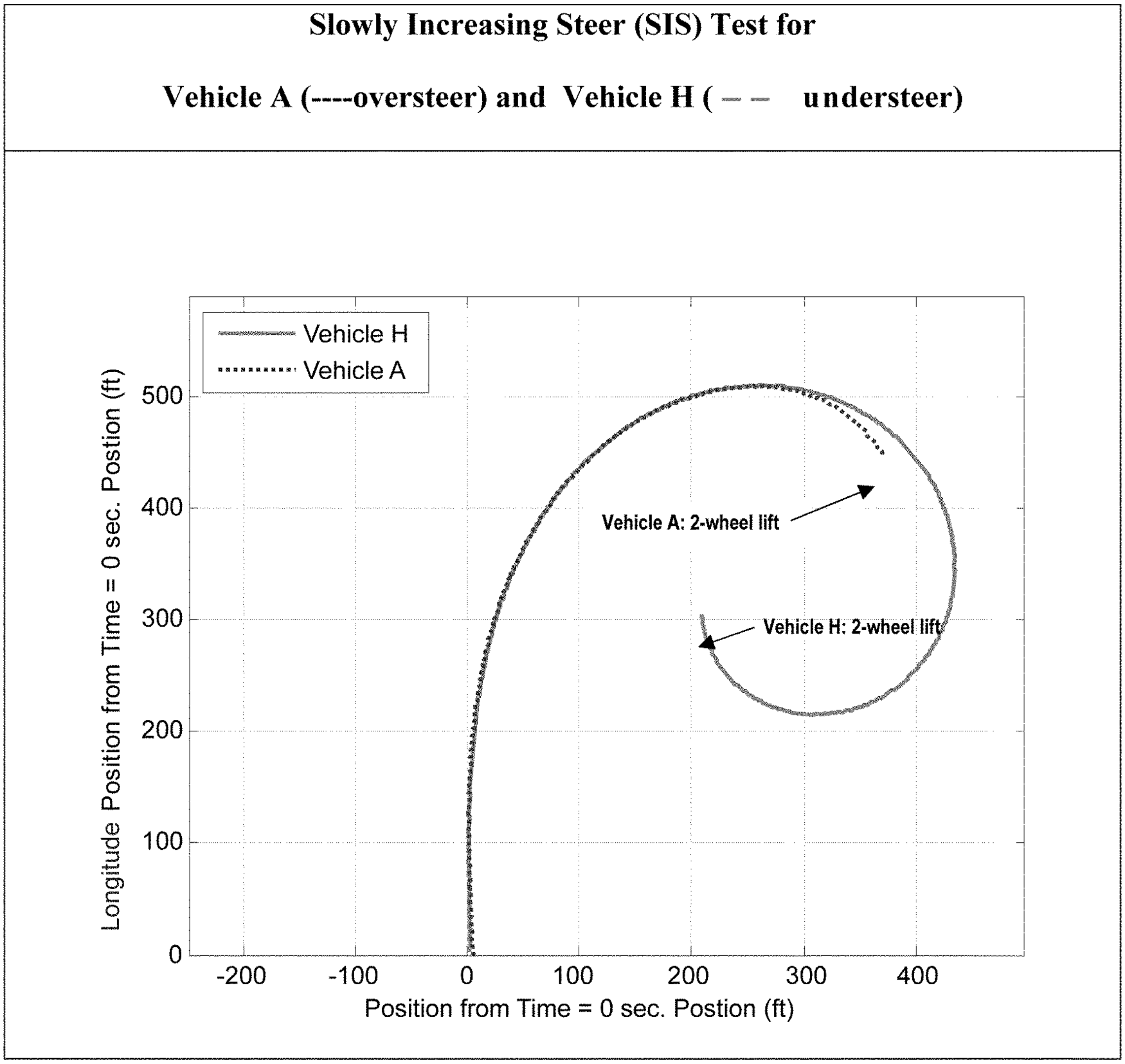


Figure 8. Path of Vehicle A and H During SIS Test (Superimposed in the Right Turn Direction)

The Commission believes that tests conducted by SEA provide strong evidence that sub-limit oversteer in ROVs is an unstable condition that can lead to a rollover incident, especially given the low rollover resistance of ROVs. All ROVs that exhibited sub-limit oversteer reached a dynamically unstable condition during a turn where the increase in lateral acceleration suddenly became exponential. The CPSC believes this condition can contribute to ROV rollover on level ground, and especially on pavement.

D. Occupant Protection

1. Overview and Basic Terms

The open compartment configuration of ROVs is intentional and allows for easy ingress and egress, but the configuration also increases the likelihood of complete or partial ejection of the occupants in a rollover event. ROVs are equipped with a ROPS, seat belts, and other restraints for the protection of occupants (see Figure 9). Occupants who remain in the ROV and surrounded by the ROPS, an area known as the protective zone, are generally protected from being crushed by the vehicle during a quarter-turn rollover. Seat belts are the primary restraint for keeping occupants within the protective zone of the ROPS.

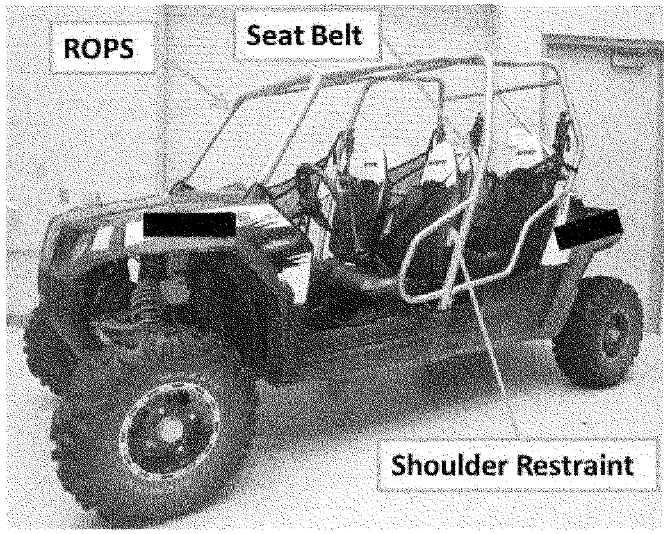


Figure 9. Occupant Protection Components on ROVs

NHTSA evaluates the occupant protection performance of passenger vehicles with tests that simulate vehicle collisions and tests that simulate vehicle rollover.[16] The NHTSA tests use anthropometric test devices (ATDs), or crash test dummies, to evaluate occupant excursion and injury severity during the simulation tests. The occupant movement during these tests is called occupant kinematics. Occupant kinematics is defined as the occupant's motion during a crash event, including the relative motion between various body parts. Occupant kinematics is an important element of dynamic tests because forces act on an occupant from many different directions during a collision or rollover.

There are no standardized tests to evaluate the occupant protection performance of ROVs. However, a test to evaluate occupant protection performance in ROVs should be based on simulations of real vehicle rollover. In a rollover event, the vehicle experiences lateral acceleration and lateral roll. A valid simulation of an ROV rollover will reproduce the lateral acceleration and the roll rate experienced by an ROV during a real rollover event.

2. Seat belts

a. Seat Belt Use in Incidents

From the 428 ROV-related incidents reviewed by the Commission, 817 victims were reported to be in or on the ROV at the time of the incident, and 610 (75 percent) were known to have been injured or killed. Seatbelt use is known for 477 of the 817 victims; of these, 348 (73 percent) were not wearing a seatbelt at the time of the incident.

Of the 610 fatal and nonfatal victims who were in or on the ROV at the time of the incident, 433 (71 percent) were ejected partially or fully from the ROV, and 269 (62 percent) of these victims were struck by a part of the vehicle, such as the roll cage or side of the ROV, after ejection. Seat belt use is also known for 374 of the 610 victims; of these, 282 (75 percent) were not wearing a seat belt.

Of the 225 fatal victims who were in or on the ROV at the time of the incident, 194 (86 percent) were ejected partially or fully from the vehicle, and 146 (75 percent) were struck by a part of the vehicle after ejection. Seat belt use is known for 155 of the 194 ejected victim; of these, 141 (91 percent) were not wearing a seat belt.

A total of 826 victims were involved in the 428 ROV-related incidents reviewed the Commission's multidisciplinary team. Of these victims, 353 (43 percent) were known to be driving the ROV, and 203 (24 percent) were known to be a passenger in the front seat of the ROV. Of the 231 reported fatalities, 141 (61 percent) were the driver of the ROV, and 49 (21 percent) were the right front passenger in an ROV.

ROHVA also performed an analysis of hazard and risk issues associated with ROV-related incidents and determined that lack of seat belt use is the top incident factor.[17] ROHVA has stated: ''Based on the engineering judgment of its members and its review of ROV incident data provided by the CPSC, ROHVA concludes that the vast majority of hazard patterns associated with ROV rollover would be eliminated through proper seat belt use alone.''[18]

a. Literature Review (Automotive)

CPSC staff reviewed the substantial body of literature on seat belt use in automobiles. (See Tab I of staff's briefing package.) Although seat belts are one of the most effective strategies for avoiding death and injury in motor vehicle crashes, seat belts are only effective if they are used.

Strategies for increasing seat belt use in passenger vehicles date to January 1, 1972, when NHTSA required all new cars to be equipped with passive restraints or with a seat belt reminder system that used a visual flashing light and audible buzzer that activated continuously for one minute if the vehicle was placed in gear with occupied front seat belts not belted. In 1973, NHTSA required that all new cars be equipped with an ignition interlock that allowed the vehicle to start only if the driver was belted. The ignition interlock was meant to be an interim measure until passive airbag technology matured, but public opposition to the technology led Congress to rescind the legislation and to prohibit NHTSA from requiring either ignition interlocks or continuous audible warnings that last more than 8 seconds. NHTSA then revised the Federal Motor Vehicle Safety Standard (FMVSS) to require a

[16] Federal Motor Vehicle Safety Standard (1971) 49 CFR 571.208.

[17] Heiden, E. (2009). Summary of Recreational Off-Highway Vehicle (ROV) Hazard Analysis. Memorandum from E. Heiden to P. Vitrano. Docket No. CPSC–2009–0087. Regulations.gov.

[18] Yager, T. (2011) Letter to Caroleene Paul. 18 Apr. 2011. Recreational Off-Highway Vehicle Association (ROHVA) written response to CPSC staff's ballot on proposed American National Standard ANSI/ROHVA 1–201X.

seat belt reminder with warning light and audible buzzer that lasts 4 seconds to 8 seconds when front seat belts are not fastened at the time of ignition. This standard still applies today (15 U.S.C. 1410 (b)).

Work by NHTSA indicates seat belt users can be separated loosely into three categories: Full-time users, part-time users, and nonusers. Part-time users and nonusers give different reasons for not wearing seat belts. Part-time seat belt users consistently cite forgetfulness and perceived low risk, such as driving short distances or on familiar roads, as reasons for not using seat belts.[19]

One approach to increasing vehicle occupant seat belt use is to provide in-vehicle reminders to encourage occupants to fasten their seat belts. However, possible systems vary considerably in design, intrusiveness, and, most importantly, effectiveness.

Observational studies of cars equipped with the original NHTSA-required seat belt reminders found no significant difference in seat belt use among vehicles equipped with the continuous one minute visual-audio system and vehicles not equipped with the reminder system.[20] After NHTSA adopted the less stringent 4-second to 8-second visual and audio reminder system requirements, NHTSA conducted observational and phone interview studies and concluded that the less intrusive reminder system was also not effective in increasing seat belt use.[21]

A national research project by the University of Michigan Transportation Research Institute endeavored to promote safety belt use in the United States by developing an effective in-vehicle safety belt reminder system.[22] The project authors performed literature reviews and conducted surveys and focus groups to design an optimal safety belt reminder system. The authors concluded that principles for an optimal safety belt reminder system include the following:

1. The full-time safety belt user should not notice the system.
2. It should be more difficult to cheat on the system than to use the safety belt.
3. Permanent disconnection of the system should be difficult.
4. The system should be reliable and have a long life.
5. Crash and injury risk should not be increased as a result of the system.
6. System design should be based on what is known about the effectiveness and acceptability of system types and elements.
7. System design should be compatible with the manufacturer's intended purpose/goals for the system.

NHTSA conducted a study of enhanced seatbelt reminder (ESBR) effectiveness that compared results of controlled experiments with field observations of actual seat belt use. Among the findings of the ESBR effectiveness report are: (1) Systems with only visual reminders are not effective; (2) ESBR systems, in general, promote greater seat belt use by 3 to 4 percentage points; (3) more annoying systems are more effective, but that creates the challenge of designing an effective system that is acceptable; (4) potential gains in seat belt use not only come from simply reminding users, but also from motivating users, such as equating seat belt use with elimination of an annoyance; and (5) the positive effects of ESBRs on belt use were more pronounced for the low belt-use propensity groups.[23]

c. Innovative Technologies

Automobiles. Researchers developed more innovative in-vehicle technology, beyond visual and audible warnings, to study the effectiveness of systems that hindered a vehicle function if the driver's seat belt was not buckled. One system allowed drivers to start the vehicle but delayed the driver's ability to place the vehicle in gear if the seat belt was not buckled.[24] Follow-up systems made it more difficult for the driver to depress the gas pedal when the vehicle exceeded 20–25 mph if the driver's seat belt was not buckled. Study participants were more receptive to the latter system, which was a consistent and forceful motivator to buckle the seat belt without affecting the general operation of the vehicle.[25]

ROVs. In 2010, Bombardier Recreation Products (BRP) introduced the Can-Am Commander 1000 ROV with a seat belt speed limiter system that restricts the vehicle speed to 9 mph if the driver's seat belt is not buckled. CPSC staff performed dynamic tests to verify that the vehicle's speed was limited when the driver's seat belt was not buckled. On level ground, the vehicle's speed was limited to 6 to 9 mph when the driver was unbelted, depending on the ignition key and transmission mode selected.

In 2013, BRP introduced the Can-Am Maverick vehicle as a sport-oriented ROV that also includes a seat belt speed limiter system. CPSC staff did not test the Maverick vehicle because a sample vehicle was not available for testing.

In 2014, Polaris Industries (Polaris) announced that model year 2015 Ranger and RZR ROVs will include a seatbelt system that limits the speed of the vehicle to 15 mph if the seatbelt is not engaged. (Retrieved at: *http://www.weeklytimesnow.com.au/machine/sidebyside-vehicles-soon-to-get-safety-improvements/story-fnkerd6b-1227023275396.)* The Commission has not tested these vehicles because they are not yet available on the market.

d. User Acceptance of Innovative Technologies in ROVs

Studies of seat belt reminder systems on automobiles are an appropriate foundation for ROV analysis because ROVs are typically driven by licensed drivers and the seating environment is similar to an automobile. Staff decided to obtain data on ROV users' experience and acceptance of seat belt reminders to validate the analysis.

CPSC staff was not aware of any studies that provide data on the effectiveness of seat belt reminder systems on ROVs or user acceptance of such technologies. Therefore, the CPSC contracted Westat, Inc. (Westat), to conduct focus groups with ROV users to explore their opinions of seat belt speed-limitation systems on ROVs. Phase 1 of the effort involved

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[19] Block, 1998; Bradbard et al., 1998; Harrison and Senserrick, 2000; Bentley et al., 2003; Boyle and Vanderwolf, 2003; Eby et al., 2005; Boyle and Lampkin, 2008.

[20] Robertson, L. S. and Haddon, W. (1974). The Buzzer-Light Reminder System and Safety Belt Use. *American Journal of Public Health,* Vol. 64, No. 8, pp. 814–815.; Robertson, L. S. (1975). Safety Belt Use in Automobiles with Starter-Interlock and Buzzer-Light Reminder Systems. American Journal of Public Health, Vol. 65, No. 12, pp. 1319–1325.

[21] Westefeld, A. and Phillips, B. M. (1976). Effectiveness of Various Safety Belt Warning Systems. (DOT HS 801 953). Washington, DC: National Highway Traffic Safety Administration, U.S. Department of Transportation.

[22] Eby, D. W., Molnar, L. J., Kostyniuk, L. P., and Shope, J. T. (2005). Developing an Effective and Acceptable Safety Belt Reminder System. 19th International Technical Conference on the Enhanced Safety of Vehicles, Washington, DC, June 6–9, 2005. *http://www-nrd.nhtsa.dot....01/esv/esv19/05-0171-O.pdf.*

[23] Lerner, N., Singer, J., Huey, R., Jenness, J. (2007). Acceptability and Potential Effectiveness of Enhanced Seat Belt Reminder System Features. (DOT HS 810 848). Washington, DC: National Highway Traffic Safety Administration, U.S. Department of Transportation. Freedman, M., Lerner, N., Zador, P., Singer, J., and Levi, S. (2009). Effectiveness and Acceptance of Enhanced Seat Belt Reminder Systems: Characteristics of Optimal Reminder Systems. (DOT HS 811 097). Washington, DC: National Highway Traffic Safety Administration, U.S. Department of Transportation.

[24] Van Houten, R., Malenfant, J.E.L., Reagan, I., Sifrit, K., Compton, R., & Tenenbaum, J. (2010). Increasing Seat Belt Use in Service Vehicle Drivers with a Gearshift Delay. *Journal of Applied Behavior Analysis, 43,* 369–380.

[25] Van Houten, R., Hilton, B., Schulman, R., and Reagan, I. (2011). Using Haptic Feedback to Increase Seat Belt Use of Service Vehicle Drivers. (DOT HS 811 434). Washington, DC: National Highway Traffic Safety Administration, U.S. Department of Transportation.

conducting focus groups of ROV users and asking questions about ROV use and user opinions of the Can-Am speed-limitation system that were shown in a video to the participants. Results from Phase 1 were used to develop the protocol for Phase 2. Phase 2 of the effort conducts focus groups of ROV users who provide feedback after driving and interacting with an ROV equipped with a speed-limitation system.

Results of Phase 1 of the Westat study indicate that participants:

- Admit to being part-time seat belt users;
- cite familiarity and low-risk perception as reasons for not wearing seat belts;
- value easy ROV ingress and egress over seat belt use;
- generally travel around 5 mph when driving on their own property, and overall, drive 15 to 30 mph for typical use;
- had a mixed reaction to the speed-limitation technology at 10 mph;
- were more accepting of the speed-limitation technology if the speed was raised to 15 mph or if the system was tied to a key control.

Phase 2 of the Westat study is ongoing, and a report of the results is expected by December 2014. The results will provide data on ROV users' acceptance of a seat belt speed limitation technology with a threshold speed of 10 mph, 15 mph, and 20 mph. CPSC believes the results will provide additional rationale for determining a threshold speed for a seat belt speed limitation technology that balances users acceptance (as high a speed as possible) with safe operation of the ROV without seat belt use (as low a speed as possible).

3. CPSC's Technical Work

To explore occupant protection performance testing for a product for which no standard test protocol exists, CPSC staff contracted Active Safety Engineering (ASE) to conduct two exploratory pilot studies to evaluate potential test methods. After completion of the pilot studies, CPSC staff contracted SEA, Limited (SEA) to conduct occupant protection performance evaluation tests, based on a more advanced test device designed by SEA.[26]

a. Pilot Study 1

ASE used a HYGE ™ accelerator sled to conduct dynamic rollover simulations on sample ROVs, occupied by a Hybrid III 50th percentile male anthropomorphic test device (ATD). The HYGE ™ system causes a stationary vehicle, resting on the test sled, to roll over by imparting a short-duration lateral acceleration to the test sled. The torso of an unbelted ATD ejected partially from the ROV during a simulated rollover. In comparison, the torso of a belted ATD remained in the ROV during a simulated rollover. The tests demonstrated that use of a seat belt prevented full ejection of the ATD's torso.

b. Pilot Study 2

In a follow-up pilot study, ASE used a deceleration platform sled rather than a HYGE ™ accelerator sled to impart the lateral acceleration to the test vehicle. The deceleration sled is more accurate than the HYGETM sled in re-creating the lower energy rollovers associated with ROVs.

An unbelted ATD ejected fully from the vehicle during tests conducted at the rollover threshold of the ROV. In comparison, a belted ATD partially ejected from the vehicle during tests conducted at the same lateral acceleration. These exploratory tests with belted and unbelted occupants indicate the importance of using seat belts to prevent full ejection of the occupant during a rollover event.

c. SEA Roll Simulator

SEA designed and built a roll simulator to measure and analyze occupant response during quarter-turn roll events of a wide range of machines, including ROVs. The SEA roll simulator produces lateral accelerations using a deceleration sled and produces roll rates using a motor to rotate the test sled (see Figure 10).

[26] The ASE and SEA reports are available on CPSC's Web site at: *http://www.cpsc.gov/en/Research-Statistics/Sports-Recreation/ATVs/Technical-Reports/.*

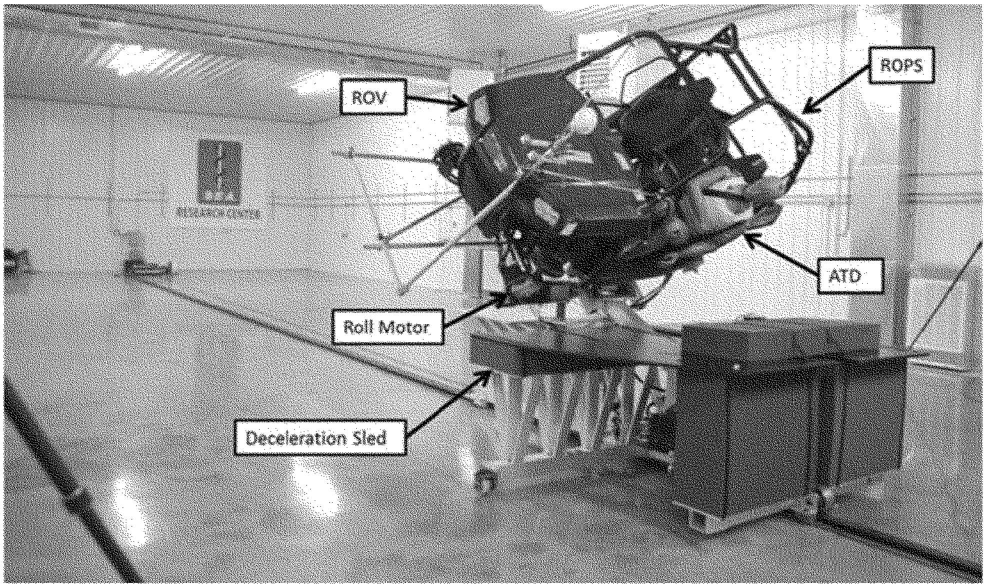


Figure 10. SEA Roll Simulator

Source: Zagorski, S. B., Heydinger, G. J., Sidhu, A., Guenther, D.A., and Andreatta, D. A. (2011). Modeling and Validation of a Roll Simulator for Recreational Off-Highway Vehicles. IMECE 2011-6203.

SEA validated the roll simulator as an accurate simulation of ROV rollover and occupant kinematics by comparing roll rates, lateral accelerations, and ATD ejections that were created by the simulator with actual values measured during autonomous rollover. Results show that the roll simulator accurately re-creates the conditions of an ROV rollover. CPSC believes that the vehicle kinematics on the SEA rollover simulator accurately represent real-world events because SEA validated the sled kinematics against full-vehicle, real-world rollover events.

SEA simulated tripped and untripped rollovers of seven sample ROVs using belted and unbelted ATD occupants. Plots of the head excursion data indicate how well the vehicle's occupant protection features retain the occupant inside the protective zone of the ROPS during a roll simulation (see Figure 11). Head displacement plots above the ROPS Plane indicate the occupant's head stayed inside the ROPS zone, and plots below the ROPS Plane indicate that the occupant's head moved outside the ROPS zone.

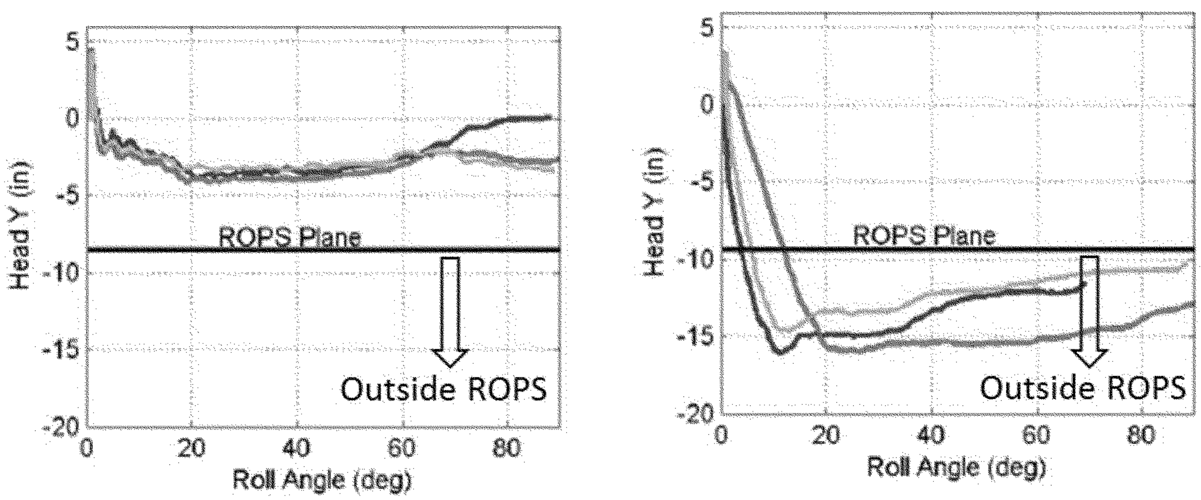


Figure 11. Exemplar Plots of Head Excursion During ROV Roll Simulation

Source: Morr, D. (2012) Test and Evaluation of Recreational Off-Highway Vehicles (ROVs) Dynamic Occupant Protection Performance Tests. Retrieved from http://www.cpsc.gov/Global/Research-and-Statistics/Technical-Reports/Sports-and-Recreation/ATV-ROV/ROVOccupantProtectionPerformanceTests.pdf.

The SEA roll simulator test results indicate that five of the seven ROVs tested allowed a belted occupant's head to eject outside the ROPS of the vehicle during a quarter-turn rollover simulation. The occupant protection performance of belted occupants varied from vehicle to vehicle, depending on seat belt design, passive hip and shoulder coverage, whether the rollover was tripped or untripped, and ROPS dimensions and geometry.

CPSC staff analysis of the SEA roll simulator test results indicates that vehicles with the best occupant protection performance restricted movement of the occupant with combinations of quick-locking seat belts, passive coverage in the hip and shoulder areas of the occupant, and large ROPS zones around the occupant's head. Rollover tests indicate that a seat belt is effective at preventing full occupant ejection, but in some cases where the seat belt does not lock quickly, partial occupant ejection still occurs. However, when a seat belt is used in conjunction with a passive shoulder barrier restraint, testing indicates that the occupant remains within the protective zone of the vehicle's ROPS during quarter-turn rollover events.

The SEA roll simulator test results also indicate that unbelted occupants are partially or fully ejected from all vehicles, regardless of the presence of other passive restraints, such as hip restraints or shoulder restraints. Although passive shoulder barriers may not provide substantial benefit for occupant protection in unbelted rollovers, the roll simulator test results indicate that shoulder restraints significantly improved occupant containment when used in conjunction with a seat belt.

Although the SEA roll simulator is the most advanced test equipment viewed by the Commission, to date, and the test results provide clear evidence of occupant head excursion, not enough test data have been generated to base dynamic occupant protection performance test requirements on a device like the roll simulator. Therefore, the Commission is using the roll simulator test results to focus on occupant protection requirements that maximize occupant retention through seat belt use with passive shoulder restraint.

d. ANSI/ROHVA 1–2011 Occupant Protection Tests

CPSC staff tested 10 sample ROVs to the occupant retention system (ORS) zone requirements specified in ANSI/ROHVA 1–2011. Requirements are specified for Zone 1—Leg/Foot, Zone 2—Shoulder/Hip, Zone 3—Arm/Hand, and Zone 4—Head/Neck. CPSC focused on the requirements for Zone 2 because occupant ejection occurs in this zone.[27]

ANSI/ROHVA Zone 2—Shoulder/Hip requirements allow the vehicle to pass one of two different test methods to meet that zone's requirement. Under the first option, a construction-based method defines an area near the occupant's side that must be covered by a passive barrier. The test involves applying a 163-lbf. load at a point in the defined test area without failure or deformation of the barrier. Under the second option, a performance-based method specifies a tilt table test with a vehicle occupied by a belted test dummy. When the vehicle is tilted to 45 degrees on the tilt table, the ejection of the dummy must not exceed 5 inches beyond the vehicle width.

Results of CPSC tests indicate that only four of 10 vehicles passed the construction-based test requirements, and eight of 10 vehicles passed the performance-based test requirements.[28] CPSC analysis identified a primary weakness with the performance-based tilt table tests. The performance-based test criteria measure the torso excursion outside the vehicle width, not the excursion outside the protective zone of the ROPS. An occupant must remain inside the envelope of the ROPS to be protected; therefore, the requirement allows an inherently unsafe condition where the occupant moves outside the protective zone of the vehicle's ROPS.

CPSC measured the difference between the outermost point of the ROV and the outermost point on the ROPS near the occupant's head (see Figure 12). On one vehicle, the vehicle's maximum width was 6.75 inches outside the maximum ROPS width near the occupant's head. Because the requirement is based on a 5-inch limitation beyond the vehicle width, the occupant's torso could be 11.75 inches (6.75 inches plus 5 inches) outside of the vehicle ROPS and still meet the performance-based requirement.

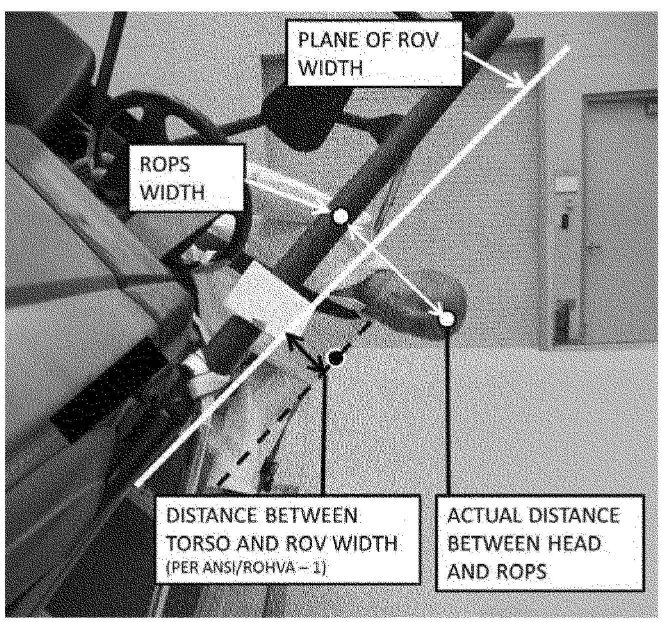


Figure 12. Difference Between Torso and Head Excursion During Tilt Table Test

[27] See Tab H of the briefing package.

[28] See Tab H of the briefing package.

CPSC also compared the occupant head excursion relative to the torso excursion during the tilt table tests. Due to occupant rotation during the tests, the maximum head displacement exceeded the torso displacement by up to 3 inches. The discrepancy between head and torso displacement and between the vehicle width and ROPS' width can result in occupant head ejection that is 14.75 inches (11.75 inches plus 3 inches) outside the protective zone of the ROPS and still meet the performance-based requirement.

VII. Relevant Existing Standards

A. Background

Two different organizations developed separate voluntary standards for ROVs. The Recreational Off-Highway Vehicle Association (ROHVA) developed ANSI/ROHVA 1, *American National Standard for Recreational Off-Highway Vehicles,* and the Outdoor Power Equipment Institute (OPEI) developed ANSI/OPEI B71.9, *American National Standard for Multipurpose Off-Highway Utility Vehicles.*

ROHVA member companies include: Arctic Cat, BRP, Honda, John Deere, Kawasaki, Polaris, and Yamaha. Work on ANSI/ROHVA 1 started in 2008, and work completed with the publication of ANSI/ROHVA 1–2010. The standard was immediately opened for revision, and a revised standard, ANSI/ROHVA 1–2011, was published in July 2011.

OPEI member companies include: Honda, John Deere, Kawasaki, and Yamaha. Work on ANSI/OPEI B71.9 was started in 2008, and work was completed with the publication of ANSI/OPEI B71.9–2012 in March 2012.

Both voluntary standards address design, configuration, and performance aspects of ROVs, including requirements for accelerator and brake controls; service and parking brake/parking mechanism performance; lateral and pitch stability; lighting; tires; handholds; occupant protection; labels; and owner's manuals.

CPSC staff participated in the canvass process used to develop consensus for ANSI/ROHVA 1 and ANSI/OPEI B71.9. From June 2009 to the present, CPSC staff has engaged actively with ROHVA and OPEI through actions that include the following:

- Sending correspondence to ROHVA and OPEI with comments on voluntary standard ballots that outlined CPSC staff's concerns that the voluntary standard requirements for lateral stability are too low, that requirements for vehicle handling are lacking, and that requirements for occupant protection are not robust;
- Participating in public meetings with ROHVA and OPEI to discuss development of the voluntary standard and to discuss static and dynamic tests performed by contractors on behalf of CPSC staff;
- Sharing all CPSC contractor reports with test results of static and dynamic tests performed on ROVs by making all reports available on the CPSC Web site;
- Requesting copies of test reports on dynamic tests performed on ROVs by ROHVA for CPSC staff to review;
- Demonstrating dynamic test procedures and data collection to ROHVA and OPEI at a public meeting at an outdoor test facility in East Liberty, OH; and
- Submitting suggested changes and additions to the ANSI/ROHVA 1–2011 voluntary standard to improve lateral stability, vehicle handling, and occupant protection (OPEI was copied).

ANSI/ROHVA 1–2011 was published in July 2011, without addressing CPSC staff's concerns. CPSC staff requested, but has not received reports or test results of static or dynamic tests conducted by contractors on behalf of ROHVA.

ANSI/OPEI B71.9–2012 was published in March 2012, without addressing CPSC staff's concerns.

On August 29, 2013, CPSC staff sent a letter to ROHVA with suggested modifications to the voluntary standard requirements to address staff's concerns. CPSC staff sent a courtesy copy of the August 29, 2013 recommendation letter to OPEI. On November 27, 2013, ROHVA responded that ROHVA plans to adopt less stringent versions of CPSC staff's suggested requirements to improve the lateral stability and occupant protection performance of ROVs. On March 13, 2014, ROHVA sent CPSC staff the Canvass Draft of proposed revisions to ANSI/ROHVA 1–2011. Staff responded to the Canvass Draft on May 23, 2014, and summarized why staff believes ROHVA's proposed requirements will not reduce the number of deaths and injuries from ROVs. The discussion below also provides that explanation. On September 24, 2014, ANSI approved the proposed revisions to ANSI/ROHVA 1–2011, which is identical to the Canvass Draft. ROHVA has advised that the revised standard will soon be published as ANSI/ROHVA 1–2014. In addition, CPSC staff met with representatives from ROHVA and OPEI on October 23, 2014. Following is a link to the video of this meeting: *http://www.cpsc.gov/en/Newsroom/Multimedia/?vid=70952.*

On February 21, 2014, OPEI sent a letter to CPSC staff requesting that the CPSC exclude from CPSC's rulemaking efforts multipurpose off-highway utility vehicles (MOHUVs) that meet the ANSI/OPEI B71.9–12 standard requirements. We address this request in the response to comments section of this preamble (Section VIII).

B. Voluntary Standards Provisions Related to the Proposed Rule

In this section, we summarize the provisions of the voluntary standards that are related to the specific requirements the Commission is proposing and we assess the adequacy of these voluntary standard provisions.

1. Lateral Stability

ANSI/ROHVA 1–2011 and ANSI/OPEI B71.9 include similar provisions to address static lateral stability and differing provisions to address dynamic lateral stability:

Voluntary Standard Requirement: ANSI/ROHVA 1–2011 Section 8.2 Stability Coefficient (K_{st}) and ANSI/OPEI B71.9–2012 Section 8.6 Stability Coefficient (K_{st}) specify a stability coefficient, $K_{st,}$ which is calculated from the vehicle's center of gravity location and track-width dimensions. The value of K_{st} for a vehicle at curb weight (without occupants) is required to be no less than 1.0.

Adequacy: The Commission believes the stability coefficient requirement does not adequately address lateral stability in ROVs because static tests are unable to account fully for the dynamic tire deflections and suspension compliance exhibited by ROVs in a dynamic maneuver. For practical purposes, K_{st} and SSF values provide the same information for ROVs because the difference in front and rear track widths are averaged in the SSF calculation. Table 4 shows the results of SSF measurements made by SEA for driver-plus-passenger load condition. A comparison of how the vehicles would rank if the SSF (or K_{st}) were used instead of the threshold lateral acceleration at rollover (A_y) illustrates how poorly a stability coefficient correlates to the actual rollover resistance of the vehicle. The stability coefficient does not account for dynamic effects of tire compliance, suspension compliance, or vehicle handling, which are important factors in the vehicle's lateral stability.

TABLE 4—VEHICLE ASCENDING RANK ORDER A_y VS. SSF

[Operator plus passenger load]

Vehicle rank (A_y)	A_y (g)	Vehicle rank (SSF)	SSF
D	0.625	F	0.881
B	0.655	A	0.887
A	0.670	H	0.918
J	0.670	B	0.932
I	0.675	D	0.942
F	0.690	J	0.962
E	0.700	E	0.965
H	0.705	C	0.991
C	0.740	G	1.031
G	0.785	I	1.045

Adapted from: Heydinger, G. (2011) Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles—Additional Results for Vehicle J. Retrieved from *http://www.cpsc.gov/PageFiles/93928/rovj.pdf*.

Furthermore, all of the ROVs tested pass the K_{st} minimum of 1.0 for an unoccupied vehicle, as specified by ANSI/ROHVA 1–2011 and ANSI/OPEI B71.9–12. The K_{st} value of an ROV with no occupants is of limited value because an ROV in use has at least one occupant. The Commission believes the ANSI/ROHVA and ANSI/OPEI stability coefficient requirement is a requirement that all ROVs can pass, does not reflect the actual use of ROVs, does not promote improvement in lateral stability, and does not correspond to the actual rollover resistance of ROVs. The Commission believes that the threshold lateral acceleration at rollover is a direct measure for rollover resistance, and its use would eliminate the need for a stability coefficient requirement.

Voluntary Standard Requirement: ANSI/ROHVA 1–2011 Section 8.1 Tilt Table Test and ANSI/OPEI Section 8.7 Tilt Table Stability specify tilt table tests in the driver-plus-passenger load condition and the gross vehicle weight rating (GVWR) load condition. The minimum tilt table angle (TTA) requirement for an ROV with a driver-plus-passenger load condition is 30 degrees, and the minimum TTA for GVWR load condition is 24 degrees.

Adequacy: The CPSC believes the tilt table requirement does not adequately address lateral stability in ROVs because static tests are unable to account fully for the dynamic tire deflections and suspension compliance exhibited by ROVs in a dynamic maneuver. Table 5 shows the results of tilt table measurements made by SEA for driver-plus-passenger load condition. A comparison of how the vehicles would rank if the TTA were used instead of the direct measurement of threshold lateral acceleration at rollover (A_y) illustrates how poorly the TTA corresponds to the actual rollover resistance of the vehicle. The tilt table test does not account for dynamic effects of tire compliance, suspension compliance, or vehicle handling, which are important factors in the vehicle's lateral stability.

Furthermore, all of the ROVs tested passed the minimum 30 degree TTA requirement specified by ANSI/ROHVA 1–2011. The ROV with the lowest rollover resistance, as directly measured by threshold lateral acceleration at rollover (Vehicle D, A_y = 0.625 g, TTA = 33.7 degrees), exceeds the voluntary standard TTA requirement by 3.7 degrees, or 12 percent above the 30 degree minimum. The ROV that was part of a repair program to increase its roll resistance, Vehicle A, exceeds the TTA requirement by 3.0 degrees, or 10 percent above the 30 degree minimum.

TABLE 5—VEHICLE ASCENDING RANK ORDER AY VS. TTA

[Operator plus passenger load]

Vehicle rank (A_y)	A_y (g)	Vehicle rank (TTA)	TTA (deg.)
D	0.625	A	33.0
B	0.655	B	33.6
A	0.670	D	33.7
J	0.670	I	35.4
I	0.675	H	35.9
F	0.690	J	36.1
E	0.700	F	36.4
H	0.705	E	38.1
C	0.740	C	38.8
G	0.785	G	39.0

Source: Heydinger, G. (2011) Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles—Additional Results for Vehicle J. Retrieved from *http://www.cpsc.gov/PageFiles/93928/rovj.pdf.*

The CPSC believes the ANSI/ROHVA and ANSI/OPEI tilt table requirement does not detect inadequate rollover resistance. The TTA requirement in the voluntary standard does not correlate to the actual rollover resistance of ROVs, allows a vehicle that was part of repair program to pass the test without having undergone the repair, and provides no incentive for manufacturers to improve the lateral stability of ROVs. The CPSC believes the threshold lateral acceleration at rollover is a direct measure of rollover resistance, and its use would eliminate the need for a tilt table test requirement.

Voluntary Standard Requirement: ANSI/ROHVA 1–2011 Section 8.3 Dynamic Stability specifies a dynamic stability test based on a constant steer angle test performed on pavement. The standard describes the method for driving the vehicle around a 25-foot radius circle and slowly increasing the speed until 0.6 g of lateral acceleration is achieved; or 0.6 g lateral acceleration cannot be achieved because the vehicle experiences two-wheel lift of the inside wheels, or the vehicle speed is limited and will not increase with further throttle input. The vehicle passes the dynamic test if at least eight out of 10 test runs do not result in two-wheel lift.

Adequacy: The CPSC does not believe the ANSI/ROHVA requirement accurately characterizes the lateral stability of an ROV because it does not measure the threshold lateral acceleration at rollover. The Commission is not aware of any standards, recognized test protocols, or real-world significance that supports using a constant steer angle test to assess dynamic lateral stability.

CPSC staff contracted SEA to conduct constant steer angle testing, as specified by the ROHVA standard, on vehicles A, F, and J of the ROV study.[29] Table 6 shows the results of the tests.

TABLE 6—SUMMARY OF CONSTANT STEER ANGLE TEST FOR 25 FT. RADIUS PATH

Vehicle	Turn direction (CW = clockwise CCW = counter-clockwise)	Test end condition/limit response	ROHVA Test pass/fail outcome
Vehicle A	Right (CW)	Two-wheel lift	Fail.
	Left (CCW)	Two-wheel lift	Fail.
Vehicle F	Right (CW)	Maximum Speed*	Pass.**
	Left (CCW)	Maximum Speed*	Pass.**

[29] Heydinger, G. J. (2011) Results from Proposed ROHVA and OPEI Dynamic Maneuvers—Vehicles A, F, and J. Retrieved from: *http://www.cpsc.gov/Global/Research-and-Statistics/Technical-Reports/Sports-and-Recreation/ATV-ROV/ProposedROHVAandOPEIDynamicManeuvers.pdf*.)

TABLE 6—SUMMARY OF CONSTANT STEER ANGLE TEST FOR 25 FT. RADIUS PATH—Continued

Vehicle	Turn direction (CW = clockwise CCW = counter-clockwise)	Test end condition/limit response	ROHVA Test pass/fail outcome
Vehicle J	Right (CW)	Two-wheel lift	Fail.
	Left (CCW)	Maximum Speed/Spinout	Pass.

* Maximum speed occurred very near 0.6 g of corrected lateral acceleration for Vehicle F.
** Two-wheel lift occurred for Vehicle F after the driver slowed from maximum speed at the end of the test.
Source: Heydinger, G. (2011) Results from Proposed ROHVA and OPEI Dynamic Maneuvers—Vehicles A, F, and J. Retrieved from *http://www.cpsc.gov/Global/Research-and-Statistics/Technical-Reports/Sports-and-Recreation/ATV-ROV/ProposedROHVAandOPEIDynamicManeuvers.pdf.*

The Commission is concerned that ROVs with low lateral stability can pass ROHVA's dynamic stability requirement because the small turn radius limits the ROV's speed and prevents generation of the lateral accelerations necessary to assess rollover resistance (as shown by the results for Vehicle F). The Commission is also concerned that the effects of oversteer can allow an ROV to pass the test because maximum speed is reached by vehicle spinout (as shown by the results for Vehicle J).

NHTSA evaluated the J-turn test protocol as a method to measure the rollover resistance of automobiles.[30] NHTSA determined that the J-turn test is the most objective and repeatable method for vehicles with low rollover resistance. Vehicles with low rollover resistance exhibit untripped rollover on pavement during a J-turn test and the lateral acceleration at the rollover threshold can be measured. Lateral acceleration is the accepted measure by vehicle engineers for assessing lateral stability or rollover resistance.[31] This value is commonly used by engineers to compare rollover resistance from one vehicle to another. The ANSI/ROHVA test protocol does not measure the lateral acceleration at two-wheel lift, and the parameters of the test appear tuned to allow most vehicles to pass. Based on CPSC's testing and review, the Commission does not believe the ANSI/ROHVA dynamic stability requirement is a true measure of rollover resistance, and the CPSC does not believe the requirement will improve the lateral stability of ROVs.

Voluntary Standard Requirement: ANSI/OPEI B71.9–2012 Section 8.8 Dynamic Stability specifies a dynamic stability test based on a 20 mph J-turn maneuver performed on pavement. At a steering input of 180 degrees in the right and left directions, the vehicle shall not exhibit two-wheel lift.

Adequacy: The Commission does not believe the ANSI/OPEI requirement accurately characterizes the lateral stability of an ROV because the ANSI/OPEI requirement does not measure the threshold lateral acceleration at rollover. The Commission is not aware of any standards or recognized test protocols that support using a J-turn maneuver with 180 degrees of steering wheel input to assess dynamic lateral stability of an ROV.

OPEI's use of the J-turn maneuver does not measure the lateral acceleration at two-wheel lift that produces ROV rollover. There is no correspondence between the proposed ANSI/OPEI dynamic stability requirement and ROV lateral stability because the 180-degree steering wheel input does not correspond to a turning radius. For example, an ROV with a low steering ratio will make a sharper turn at 180 degrees of steering wheel input than an ROV with a high steering ratio. (The steering ratio relates the amount that the steering wheel is turned to the amount that the wheels of the vehicle turns. A higher steering ratio means the driver turns the steering wheel more to get the vehicle wheels to turn, and a lower steering ratio means the driver turns the steering wheel less to get the vehicle wheels to turn.) In the proposed ANSI/ROHVA J-turn test, a vehicle with a larger steering ratio will make a wider turn and generate less lateral acceleration than a vehicle with a smaller steering ratio.

The steering ratio is set by the ROV manufacturer and varies depending on make and model. SEA measured the steering ratios of the 10 sample ROVs that were tested (see Figure 13). If the dynamic lateral stability requirement is defined by a steering wheel angle input, a manufacturer could increase the steering ratio of a vehicle to meet the requirement rather than improve the vehicle's stability.

[30] Forkenbrock, G. and Garrott, W. (2002). A Comprehensive Experimental Evaluation of Test Maneuvers That May Induce On-Road, Untripped, Light Vehicle Rollover Phase IV of NHTSA's Light Vehicle Rollover Research Program. DOT HS 809 513.

[31] Gillespie, T. (1992). Fundamentals of Vehicle Dynamics. Society of Automotive Engineers, Inc. p. 309–319.

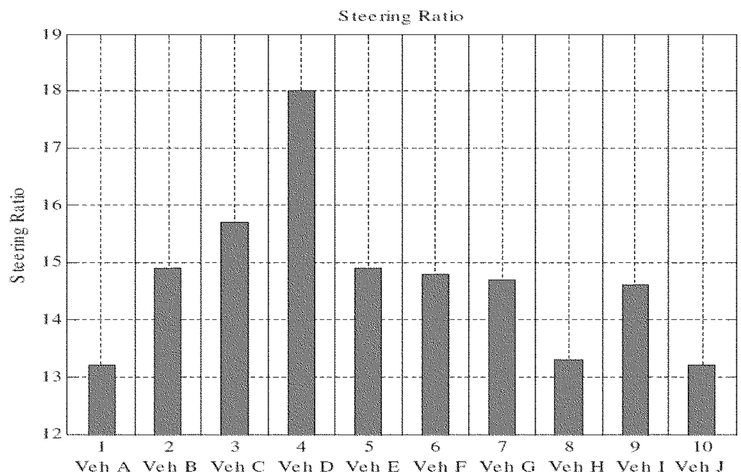


Figure 13. Steering Ratio = steering wheel input (degrees)/change in front wheel angle (degrees)

Source: Heydinger, G. (2011) Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles – Additional Results for Vehicle J. Retrieved from http://www.cpsc.gov/PageFiles/93928/rovj.pdf.

CPSC staff contracted SEA to conduct J-turn testing, as specified by the ANSI/OPEI standard, on vehicles A, F, and J (see Table 7).

TABLE 7—SUMMARY OF J-TURN TEST RESULTS

[20 mph with 180 degrees steering wheel angle input]

Vehicle	Turn direction	Speed required for 2-wheel	OPEI 20 mph test pass/fail outcome
Vehicle A	Right	22 mph	Pass.
	Left	21 mph	Pass.
Vehicle F	Right	21 mph	Pass.
	Left	22 mph	Pass.
Vehicle J	Right	21 mph	Pass.
	Left	23 mph	Pass.

Source: Heydinger, G. (2011) Results from Proposed ROHVA and OPEI Dynamic Maneuvers—Vehicles A, F, and J. Retrieved from *http://www.cpsc.gov/Global/Research-and-Statistics/Technical-Reports/Sports-and-Recreation/ATV-ROV/ProposedROHVAandOPEIDynamicManeuvers.pdf*.

CPSC is concerned that ROVs with low lateral stability can pass OPEI's dynamic stability requirement because an ROV that was part of a repair program (Vehicle A) to increase its roll resistance passed the ANSI/OPEI stability test. When the ANSI/OPEI J-turn maneuver was conducted just one mile above the requirement at 21 mph, Vehicle A failed. Similarly, when the maneuver was conducted at 22 mph, Vehicle F and Vehicle J failed. These results indicate that the parameters of the test protocol allow most ROVs to pass.

NHTSA evaluated the J-turn test protocol as a method to measure rollover resistance of automobiles and determined that the J-turn test is the most objective and repeatable method for vehicles with low rollover resistance.[32] Vehicles with low rollover resistance exhibit untripped rollover on pavement during a J-turn test and the lateral acceleration at the rollover threshold can be measured. Lateral acceleration is the accepted measure by vehicle engineers for assessing lateral stability or rollover resistance.[33] This value is commonly used by engineers to compare rollover resistance from one vehicle to another. The ANSI/OPEI test protocol does not measure the lateral acceleration at two-wheel lift, and the parameters of the test appear tuned to allow most vehicles to pass. Based on CPSC's testing and review, the CPSC does not believe the ANSI/OPEI dynamic stability requirement is a true measure of rollover resistance, and the CPSC does not believe the requirement will improve the lateral stability of ROVs.

2. Vehicle Handling

ANSI/ROHVA 1–2011 and ANSI/OPEI B71.9 both lack provisions to address vehicle handling:

Voluntary Standard Requirement: ANSI/ROHVA 1–2011 ANSI/OPEI B71.9–2012 do not specify a vehicle handling requirement.

Adequacy: CPSC's testing and review indicate that a requirement for sub-limit understeer is necessary to reduce ROV rollovers that may be produced by sub-limit oversteer in ROVs. Tests conducted by SEA show that ROVs in sub-limit oversteer transition to a condition where the lateral acceleration increases suddenly and exponentially.

[32] Forkenbrock, G. and Garrott, W. (2002). A Comprehensive Experimental Evaluation of Test Maneuvers That May Induce On-Road, Untripped, Light Vehicle Rollover Phase IV of NHTSA's Light Vehicle Rollover Research Program. DOT HS 809 513.

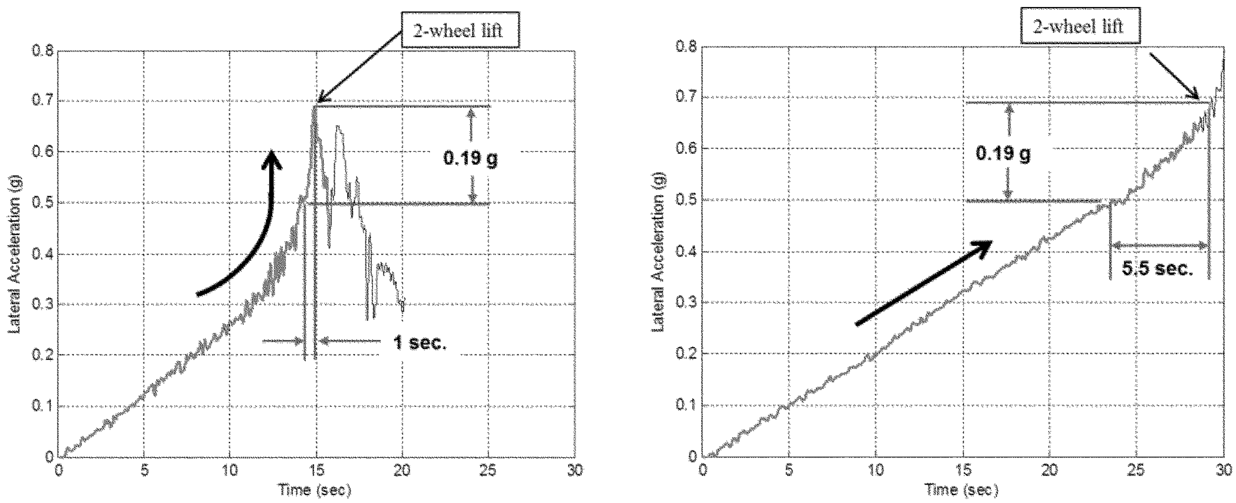
[33] Gillespie, T. (1992). Fundamentals of Vehicle Dynamics. Society of Automotive Engineers, Inc. p. 309–319.

The CPSC believes this condition can lead to untripped ROV rollovers or cause ROVs to slide into limit oversteer and experience tripped rollover.

ROVs that understeer in sub-limit conditions do not exhibit a sudden increase in lateral acceleration. Therefore, the CPSC concludes that ROVs should be required to operate in understeer at sub-limit conditions based on the associated inherent dynamic stability of understeering ROVs and the smaller burden of steering correction it places on the average driver who is familiar with driving a passenger vehicle that operates in sub-limit understeer.

SIS tests conducted by SEA that illustrate the sudden increase in lateral acceleration that is found only in vehicles that exhibit sub-limit oversteer. The sudden increase in lateral acceleration is exponential and represents a dynamically unstable condition. This condition is undesirable because it can cause a vehicle with low lateral stability (such as an ROV) to roll over suddenly.

In Figure 14, Vehicle A is an ROV that transitions to oversteer; Vehicle H is the same model ROV, but a later model year in which the oversteer has been corrected to understeer.



Vehicle A (Oversteer) Vehicle H (Understeer)

Figure 14. SIS Plots of Lateral Acceleration Gain Over Time

Source: Heydinger, G. (2011) Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles . Retrieved from http://www.cpsc.gov/PageFiles/96037/rov.pdf.

When Vehicle A reached its dynamically unstable condition, the lateral acceleration suddenly increased in less than 1 second, and the vehicle rolled over. In contrast, Vehicle H never reaches a dynamically unstable condition because the condition does not develop in understeering vehicles. The increase in Vehicle H's lateral acceleration remains linear, and Vehicle H rolls over more than 5 seconds later than Vehicle A.

3. Occupant Protection

ANSI/ROHVA 1–2011and ANSI/OPEI B71.9 include similar provisions to address occupant retention during a rollover event.

Voluntary Standard Requirement: ANSI/ROHVA 1–2011 Section 11.2 Seat Belt Reminder and ANSI/OPEI B71.9–2012 Section 5.1.3.2 Seat Belt Reminder System specify that ROVs shall be equipped with a seat belt reminder system that activates a continuous or flashing warning light visible to the operator for at least 8 seconds after the vehicle is started.

Adequacy: The CPSC believes the requirement for an 8-second reminder light is not adequate to increase meaningfully seat belt use rates in ROVs because the system is not intrusive enough to motivate drivers and passengers to wear their seat belts. Results from past studies on automotive seat belt reminders conclude that visual reminders are ineffective. Numerous studies also conclude that reminder systems must be intrusive enough to motivate users to buckle their seat belts. The more intrusive reminders are more effective at changing user behavior, as long as the reminder is not so intrusive that users bypass the system.

The Commission's analysis of ROV-related incidents indicates that 91 percent of fatal victims, and 73 percent of all victims (fatal and nonfatal), were not wearing a seat belt at the time of the incident. Without seat belt use, occupants experience partial to full ejection from the ROV, and many occupants are struck by the ROV after ejection. Based on review of ROV incident data and CPSC's testing described above, the Commission believes that many ROV deaths and injuries can be eliminated if occupants are wearing seat belts.

Automotive researchers have developed technology that motivates drivers to buckle seat belts by making it more difficult to drive faster than 20–25 mph if the driver's seat belt is not buckled.[34] This concept shows promise in increasing seat belt use because the technology was acceptable to users and was 100 percent effective in motivating drivers to buckle their seat belts. One ROV manufacturer has also introduced a technology that limits the vehicle speed if the driver's seat belt is not buckled. ROVs with the speed-limitation technology have been in the market since 2010.

[34] Van Houten, R., Hilton, B., Schulman, R., and Reagan, I. (2011). Using Haptic Feedback to Increase Seat Belt Use of Service Vehicle Drivers. (DOT HS 811 434). Washington, DC: National Highway Traffic Safety Administration, U.S. Department of Transportation. Hilton, Bryan W. (2012). The Effect of Innovative Technology on Seatbelt Use. Masters Theses. Paper 103.

Given the low seat belt use rate in ROV-related incidents, as well as the substantial potential reduction in injuries and deaths if seat belt use were higher, the CPSC believes that the requirement for seat belt reminders should be more stringent and should incorporate the most recent advances in technology developed in the automotive and ROV market.

Voluntary Standard Requirement: ANSI/ROHVA 1–2011 Section 11.3 ORS Zones specifies construction and performance requirements for four zones that cover the leg/foot, shoulder/hip, arm/hand, and head/neck areas of an occupant. (Occupant retention system (ORS) is defined in ANSI/ROHVA 1–2011 as a system, including three-point seat belts, for retaining the occupant(s) of a vehicle to reduce the probability of injury in the event of an accident.) The construction requirements specify a force application test to set minimum guidelines for the design of doors, nets, and other barriers that are intended to keep occupants within the protection zone of the ROPS. The performance requirements use a tilt table and a Hybrid III 50th percentile male anthropomorphic test device (ATD) to determine occupant excursion when the vehicle is tilted 45 degrees laterally.

Adequacy: The CPSC believes the tilt table performance requirements for Zone 2—Shoulder/Hip are not adequate to ensure that occupants remain within the protective zone of the vehicle's ROPS during a rollover event. The tilt table test method measures the torso ejection outside the vehicle width, not the ejection outside the protective zone of the ROPS. The CPSC's test results indicate the tilt table test allows unacceptable occupant head excursion beyond the protective zone of the vehicle ROPS. The Commission also believes the tilt table test method is not an accurate simulation of an ROV rollover event because the test method does not reproduce the lateral acceleration and roll experienced by the vehicle, and by extension, the occupants, during a rollover.

CPSC staff also believes the construction-based test method for Zone 2 is inadequate because the specified point of application (a single point) and 3-inch diameter test probe do not accurately represent contact between an occupant and the vehicle during a rollover event. Specifying a single point does not ensure adequate coverage because a vehicle with a passive barrier at only that point would pass the test. Similarly, a 3 inch diameter probe does not represent the upper arm of an occupant and therefore does not ensure adequate coverage.

Voluntary Standard Requirement: ANSI/OPEI B71.9–2012 Section 5.1.4 Occupant Side Retention Devices specifies ROVs shall be equipped with occupant side retention devices that reduce the probability of entrapment of a properly belted occupant's head, upper torso, and limbs between the vehicle and the terrain, in the event of a lateral rollover. Physical barriers or design features of the vehicle may be used to comply with the requirement, but no performance tests are specified to determine compliance with the requirement.

Adequacy: The Commission believes the occupant side retention requirements are not adequate because they lack performance requirements to gauge occupant protection performance. Performance requirements, based on occupant protection performance tests of ROV rollovers, are needed to ensure that occupants remain within the protective zone of the vehicle's ROPS during a rollover event.

VIII. Response to Comments

In this section, we describe and respond to comments to the ANPR for ROVs. We present a summary of each of the commenter's topics, followed by the Commission's response. The Commission received 116 comments. The comments can be viewed on: *www.regulations.gov,* by searching under the docket number of the ANPR, CPSC–2009–0087. Letters with multiple and detailed comments were submitted by the following:

- Joint comments submitted on behalf of Arctic Cat Inc., Bombardier Recreational Products Inc., Polaris Industries Inc., and Yamaha Motor Corporation, U.S.A. (Companies);
- Carr Engineering, Inc. (CEI);
- The OPEI/ANSI B 71.9 Committee (Committee); and
- ROHVA.

The respondents were ROV manufacturers and their associations, consultants to ROV manufacturers, and more than 110 consumers. Eighteen commenters supported developing regulatory standards for ROVs. The other commenters opposed rulemaking action. The commenters raised issues in five areas:

- Voluntary standard activities,
- Static stability metrics,
- Vehicle handling,
- Occupant protection, and
- Consumer behavior.

The comment topics are separated by category.

Voluntary Standard Activities

1. *Comment:* Comments from the Companies, ROHVA, and several individuals state that the CPSC should work with ROHVA to develop a consensus voluntary standard for ROVs.

Response: As described in detail in the previous section of this preamble, CPSC staff has been engaged actively with ROHVA since 2009, to express staff's concerns about the voluntary standard and to provide specific recommendations for the voluntary standard and supply ROHVA with CPSC's test results and data supporting the staff's recommendations.

CPSC believes the history of engagement with ROHVA, as detailed above, shows that CPSC staff has tried to work with ROHVA to improve the voluntary standard requirements to address low lateral stability, lack of vehicle handling requirements, and inadequate occupant protection requirements. The Commission does not believe deferring to ROHVA will address those areas of concern because, although ROHVA has made changes to the voluntary standard, the requirements still do not improve the lateral stability of ROVs, do not eliminate sub-limit oversteer handling, and do not improve occupant protection in a rollover event.

2. *Comment:* Comments from the Committee and ROHVA state that the Commission should defer to the current voluntary standards for ROVs. Several comments state that the current voluntary standards are adequate.

Response: In the previous section of this preamble, we explain in detail why the requirements in ANSI/ROHVA 1–2011 and ANSI/OPEI B71.9–2012 do not adequately address the risk of injury and death associated with ROVs. We summarize that explanation below.

Lateral Stability. The Commission believes the static stability requirements and the dynamic lateral stability requirements specified in both voluntary standards do not measure the vehicle's resistance to rollover. Static and dynamic tests conducted by SEA on a sample of ROVs available in the U.S. market indicate that the tests specified in ANSI/ROHVA 1–2011 and the ANSI/OPEI B71.9 will not promote improvement in the rollover resistance of ROVs.

Vehicle Handling. In addition, ANSI/ROHVA 1–2011 and ANSI/OPEI B71.9–2012 do not have requirements for vehicle handling. The Commission believes that a requirement for sub-limit understeer is necessary to reduce ROV rollovers that may be produced by sub-limit oversteer in ROVs. Tests conducted by SEA show that ROVs in sub-limit oversteer transition to a condition where the lateral acceleration increases suddenly and exponentially. The Commission believes this runaway increase in lateral acceleration can lead to untripped ROV rollovers or cause ROVs to slide into limit oversteer and experience tripped rollover.

Occupant Protection. ANSI/ROHVA 1–2011 and ANSI/OPEI B71.9—2012 require only an 8-second reminder light to motivate users to buckle seat belts. This requirement is similar to the Federal Motor Vehicle Safety Standard (FMVSS) seat belt reminder requirements for automobiles. Manufacturers in the automotive industry have long since exceeded such minimal seat belt reminder requirements because numerous studies have proven that the FMVSS requirements, and indeed visual-only reminders, are not effective.[35]

Lastly, the occupant protection requirements in ANSI/ROHVA 1–2011 and ANSI/OPEI B71.9–2012 are not based on valid occupant protection performance tests that simulate conditions of vehicle rollover. ANSI/OPEI B71.9–2012 does not include any performance requirements for occupant protection. ANSI/ROHVA 1–2011 includes performance requirements based on static tilt tests that allow unacceptable occupant head ejection beyond the protective zone of the vehicle ROPS.

3. *Comment:* On February 21, 2014, OPEI sent a letter to CPSC staff requesting that the CPSC exclude multipurpose off-highway utility vehicles (MOHUVs) from CPSC's rulemaking efforts. OPEI states that there are key differences between work-utility vehicles and recreational vehicles. The differences include: Maximum vehicle speed, engine and powertrain design, cargo box configuration and capacity, towing provisions, and vehicle usage.

Response: The Commission's proposed requirements for lateral stability, vehicle handling, and occupant protection are intended to reduce deaths and injuries caused by ROV rollover and occupant ejection. ROVs are motorized vehicles that are designed for off-highway use and have four or more tires, steering wheel, non-straddle seating, accelerator and brake pedals, ROPS, restraint system, and maximum vehicle speed greater than 30 mph. ''MOHUVs,'' as defined by ANSI/OPEI B71.9–2012, are vehicles with four or more wheels, a steering wheel, non-straddle seating, and maximum speed between 25 and 50 mph. Therefore, the Commission believes that an MOHUV that exceeds 30 mph is an ROV that is subject to the scope of the proposed rulemaking. The differences cited by OPEI between work-utility vehicles and recreational vehicles, *e.g.,* the cargo capacity or the powertrain of a vehicle, do not exclude these ROVs from the hazard of rollover and occupant ejection.

Static Stability Metrics

1. *Comment:* Comments from CEI state that the Static Stability Factor (SSF), defined as T/2H, is not an appropriate metric for stability because there is no correlation between SSF values and ROV rollovers.

Response: The Commission agrees that the SSF is not an appropriate metric for ROV lateral stability because CPSC staff compared the actual lateral acceleration at rollover threshold of several ROVs, as measured by the J-turn test, and found that static measures (whether K_{st}, SSF, or TTA) are not accurate predictors of the vehicle's rollover resistance. The static tests are unable to account fully for the dynamic tire deflections and suspension compliance exhibited by ROVs. The Commission believes that the threshold lateral acceleration at rollover (Ay) is the most appropriate metric to use because it is a direct measure of the vehicle's resistance to rollover.

2. *Comment:* Comments from the Companies and the Committee state that NHTSA decided not to implement a minimum SSF standard for on-road vehicles because it would have forced the radical redesign of the characteristics of many, and in some cases, all vehicles of certain classes, which would have raised issues of public acceptance and possibly even the elimination of certain classes of vehicles.

Response: Contrary to the comment's implication that setting a minimum lateral stability (in this case SSF) is detrimental to vehicle design, and that NHTSA abandoned the use of SSF, NHTSA concluded that there is a causal relationship between SSF and rollover, and NHTSA has incorporated the SSF in its New Car Assessment Program (NCAP) rating of vehicles. In June 1994, NHTSA terminated rulemaking to establish a minimum standard for rollover resistance because it would be difficult to develop a minimum stability standard that would not disqualify whole classes of passenger vehicles (light trucks and sport utility vehicles) that consumers demand. Instead, by January 2001, NHTSA concluded that consumer information on the rollover risk of passenger cars would influence consumers to purchase vehicles with a lower rollover risk and inspire manufacturers to produce vehicles with a lower rollover risk.[36] NHTSA found consistently that given a single-vehicle crash, the SSF is a good statistical predictor of the likelihood that the vehicle will roll over.[37] The number of single-vehicle crashes was used as an index of exposure to rollover because this method eliminates the additional complexity of multi-vehicle impacts and because about 82 percent of light vehicle rollovers occur in single-vehicle crashes. NHTSA decided to use the SSF to indicate the risk of rollover in single-vehicle crashes and to incorporate the new rating into NHTSA's New Car Assessment Program (NCAP). Based on NHTSA's statistical analysis of single-vehicle crash data and vehicle SSF value, the NCAP provides a 5-star rating system. One star represents a 40 percent or higher risk of rollover in a single vehicle crash; two stars represent a risk of rollover between 30 percent and 40 percent; three stars represent a risk of rollover between 20 percent and 29 percent; four stars represent a risk of rollover between 10 percent and 19 percent; and five stars represent a risk of rollover of less than 10 percent.

A subsequent study of SSF trends in automobiles found that SSF values increased for all vehicles after 2001, particularly SUVs, and SUVs tended to have the worst SSF values in the earlier years. NHTSA's intention that manufacturers improve the lateral stability of passenger vehicles was achieved through the NCAP rating, a rating based predominantly on the SSF value of the vehicle.

Based on dynamic stability tests conducted by SEA and improvements in the Yamaha Rhino after the repair program was initiated, the Commission believes that setting a minimum rollover resistance value for ROVs can improve the lateral stability of the current market of ROVs, without forcing radical designs or elimination of any models. The Commission also believes continued increase in ROV lateral stability can be achieved by making the value of each model vehicle's threshold lateral

[35] Westefeld, A. and Phillips, B.M. (1976). Effectiveness of Various Safety Belt Warning Systems. (DOT HS 801 953). Washington, DC: National Highway Traffic Safety Administration, U.S. Department of Transportation.

[36] Walz, M. C. (2005). Trends in the Static Stability Factor of Passenger Cars, Light Trucks, and Vans. DOT HS 809 868. Retrieved from *http://www.nhtsa.gov/cars/rules/regrev/evaluate/809868/pages/index.html.*

[37] Rollover Prevention Docket No. NHTSA–2000–6859 RIN 2127–AC64. Retrieved from *http://www.nhtsa.gov/cars/rules/rulings/rollover/Chapt05.html.*

acceleration at rollover available to consumers. Publication of an ROV model's rollover resistance value on a hang tag will allow consumers to make informed purchasing decisions regarding the comparative lateral stability of ROVs. In addition, publication of rollover resistance will provide a competitive incentive for manufacturers to improve the rollover resistance of their ROVs.

3. *Comment:* Comments from the Companies and the Committee state that K_{st} is the more appropriate stability factor than SSF because it accounts for differences in the rear and track width, as well as differences in the fore and aft location of the vehicle's center of gravity.

Response: K_{st} is a three-dimensional calculation of the two-dimensional SSF, and when the front and rear track widths are equal, K_{st} equals SSF. For practical purposes, K_{st} and SSF provide the same information on ROVs. Occupant-loaded values of K_{st} and SSF are informative to the design process of ROVs; however, K_{st} and SSF values do not account for all the dynamic factors that affect actual rollover resistance. Therefore, they do not represent the best stability metric for ROVs.

The Commission compared the actual lateral acceleration at rollover threshold of several ROVs, as measured by the J-turn test, and found that the static measures (whether K_{st}, SSF, or TTA) are not accurate predictors of the vehicle's actual lateral stability. Direct dynamic measurement of the vehicle's resistance to rollover is possible with ROVs. Therefore, the Commission believes that J-turn testing to determine the threshold lateral acceleration at rollover should be used as the standard requirement to determine lateral stability.

4. *Comment:* Comments from CEI and the Companies state that tilt table angle or tilt table ratio should be used as a measure of lateral stability.

Response: As stated above, the staff compared the actual lateral acceleration at rollover threshold of several ROVs, as measured by the J-turn test, and found that the static measures (whether it is K_{st} or SSF or TTA) are not accurate predictors of the vehicle's actual lateral stability.

The Commission believes that the tilt table requirement in ANSI/ROHVA 1–2011 does not adequately address lateral stability in ROVs. A comparison of how the vehicles would rank if the TTA were used instead of the direct measurement of lateral acceleration at rollover (A_y) illustrates how poorly the TTA correlates to the actual rollover resistance of the vehicle. The tilt table test does not account for dynamic effects of tire compliance, suspension compliance, and vehicle handling, which are important factors in the vehicle's lateral stability.

Direct dynamic measurement of the vehicle's resistance to rollover is possible with ROVs. Therefore, the Commission believes that J-turn testing to determine the threshold lateral acceleration at rollover should be used as the standard requirement to determine lateral stability.

5. *Comment:* Comments from the Companies state that the ANSI/ROHVA 1, *American National Standard for Recreational Off-Highway Vehicles,* lateral stability requirement of $K_{st} = 1$ and TTA = 30 degrees is adequate and should be adopted by CPSC.

Response: SEA tested 10 representative ROV samples to the tilt table requirements in ANSI/ROHVA 1–2011. All of the ROVs tested pass the minimum 30-degree TTA, which indicates that the tilt table requirement is a status quo test. Vehicle D, the vehicle with the lowest rollover resistance ($A_y = 0.625$ g, TTA = 33.7 degrees), exceeds the TTA requirement by 3.7 degrees, or 12 percent above the 30-degree minimum requirement. Vehicle A, the ROV that was part of a repair program to increase its roll resistance, exceeds the TTA requirement by 3.0 degrees, or 10 percent above the 30-degree minimum.

CPSC believes the ANSI/ROHVA and ANSI/OPEI tilt table requirement is a requirement that all ROVs can pass and will not promote improvement among vehicles that have lower rollover resistance. The TTA requirement in the voluntary standard does not correlate to the actual rollover resistance of ROVs; the requirement allows the Yamaha Rhino to pass the test without having undergone the repair; and the requirement provides no incentive for manufacturers to improve the lateral stability of ROVs. The Commission believes that the threshold lateral acceleration at rollover value is a direct measure for rollover resistance, and its use would eliminate the need for tilt table testing as a requirement.

6. *Comment:* Comments from the Companies, the Committee, and several individuals state that the SSF values recommended by CPSC staff for ROVs would make the vehicles unusable for off-road use and would eliminate this class of vehicle.

Response: Based on the testing and data discussed in this preamble, CPSC staff no longer recommends using the SSF value as a measure of an ROV's rollover resistance. The SSF value of a vehicle represents the best theoretical lateral stability that the vehicle can achieve. CPSC staff compared the actual lateral acceleration at rollover threshold of several ROVs, as measured by the J-turn test, and found that the static measures (whether it is $K_{st,}$ or SSF, or TTA) are not accurate predictors of the vehicle's actual lateral stability due to the extreme compliance in the vehicle's suspension and tires. Therefore, the Commission believes that neither the $K_{st,}$ nor the SSF is an accurate measure of an ROV's lateral stability. Rather, the vehicle's actual lateral acceleration at rollover threshold is the appropriate measure of the vehicle's lateral stability.

Vehicle Handling

1. *Comment:* Comments from CEI and the Companies state that measurements of understeer/oversteer made on pavement are not applicable to non-pavement surfaces. ROVs are intended for off-highway use and any pavement use is product misuse, they assert.

Response: Both the ANSI/ROHVA and ANSI/OPEI standards specify dynamic testing on a paved surface. This indicates that ROHVA and OPEI agree that testing of ROVs on pavement is appropriate because pavement has a uniform high-friction surface. Tests conducted on pavement show how the vehicle responds at lateral accelerations that range from low lateral accelerations (associated with low friction surfaces like sand) up to the highest lateral acceleration that can be generated by friction at the vehicle's tires. This provides a complete picture of how the vehicle handles on all level surfaces. The amount of friction at the tires, and thus, the lateral accelerations generated, varies on non-paved surfaces. However, the vehicle's handling at each lateral acceleration does not change when the driving surface changes.

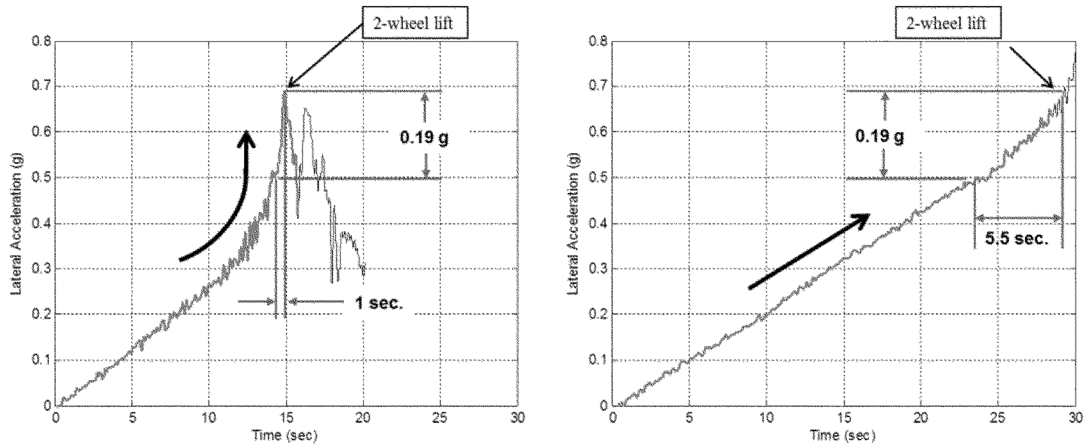
2. *Comment:* Comments from CEI state that CEI has performed various tests and analyses on ROVs that demonstrate that ROVs that exhibit oversteer are not unstable.

Response: The Commission disagrees with the statement that ROVs that exhibit oversteer are stable. Vehicles that exhibit sub-limit oversteer have a unique and undesirable characteristic, marked by a sudden increase in lateral acceleration during a turn. This dynamic instability is called critical speed and is described by Thomas D. Gillespie in the *Fundamentals of Vehicle Dynamics* as the speed ''above which the vehicle will be unstable.'' [38] Gillespie further explains that an oversteer vehicle ''becomes

[38] Gillespie, T. (1992). Fundamentals of Vehicle Dynamics. Society of Automotive Engineers, Inc. p. 204–205.

directionally unstable at and above the critical speed'' because the lateral acceleration gain approaches infinity.

CEI states that their tests demonstrate that ROVs that exhibit oversteer are not unstable. However, testing performed by SEA shows that oversteering ROVs can exhibit a sudden increase in lateral acceleration resulting in a roll over. Plots from SIS tests illustrate this sudden increase in lateral acceleration, which is found only in vehicles that exhibit sub-limit oversteer (see Figure 15). Vehicle A is an ROV that transitions to oversteer; Vehicle H is the same model ROV, but a later model year in which the oversteer has been corrected to understeer.



Vehicle A (Oversteer) Vehicle H (Understeer)

Figure 15. SIS Plot of Lateral Acceleration Gain Over Time

Source: Heydinger, G. (2011) Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles . Retrieved from http://www.cpsc.gov/PageFiles/96037/rov.pdf.

When Vehicle A reached its dynamically unstable condition, the lateral acceleration suddenly increased from 0.50 g to 0.69 g (difference of 0.19 g) in less than 1 second, and the vehicle rolled over. (Outriggers on the vehicle prevented full rollover of the vehicle.) In contrast, Vehicle H never reached a dynamically unstable condition because the condition does not develop in understeering vehicles. The increase in Vehicle H's lateral acceleration remains linear, and the lateral acceleration increase from 0.50 g to 0.69 g (same difference of 0.19 g) occurs in 5.5 seconds. A driver in Vehicle H has more margin to correct the steering to prevent rollover than a driver in Vehicle A because Vehicle H remains in understeer during the turn, while Vehicle A transitions to oversteer and becomes dynamically unstable.

SEA test results indicate that ROVs that exhibited sub-limit oversteer also exhibited a sudden increase in lateral acceleration that caused the vehicle to roll over. An ROV that exhibits this sudden increase in lateral acceleration is directionally unstable and uncontrollable.[39] Tests conducted by SEA provide strong evidence that sub-limit oversteer in ROVs is an unstable condition that can lead to a rollover incident, especially given the low rollover resistance of ROVs.

[39] Bundorf, R. T. (1967). The Influence of Vehicle Design Parameters on Characteristic Speed and Understeer. SAE 670078; Segel, L. (1957). Research in the Fundamentals of Automobile Control and Stability. SAE 570044.

3. *Comment:* Comments from CEI and the Companies state that all vehicles, whether they understeer or oversteer, can be driven to limit conditions and can spin or plough. Any vehicle can exhibit ''limit oversteer'' through manipulation by the driver.

Response: The Commission does not dispute that operator input and road conditions can affect limit oversteer or understeer in a vehicle. The vehicle handling requirements proposed by the Commission specify that vehicles exhibit sub-limit understeer. The Commission believes that sub-limit oversteer is an unstable condition that can lead to a rollover incident. Ten sample ROVs were tested by SEA; five of the 10 vehicles exhibited a desirable sub-limit understeer condition, and five exhibited a transition to undesirable sub-limit oversteer condition. CPSC's evaluation indicates that ROVs can be designed to understeer with minimal cost and without diminishing the utility or recreational value of this class of vehicle.

4. *Comment:* Comments from the Companies state that oversteer is desirable for path-following capability. Specifically, vehicles in oversteer will generally follow the path and allow directional control of the vehicle. High rear tire slip angles and tire longitudinal slip are needed for traction on off-highway surfaces, such as loose soil.

Response: The Commission is not aware of any studies that define ''path-following capability'' and its relation to the sub-limit understeer or oversteer design of the vehicle. Of the 10 sample ROVs tested by SEA, five vehicles exhibited a desirable sub-limit understeer condition. The Commission is not aware of any reports of the steering of sub-limit understeering vehicles causing loss of control or preventing the driver from navigating off-road terrain.

A significant body of research has been developed over many years regarding the science of vehicle dynamic handling and control. The Commission has reviewed technical papers regarding vehicle handling research and finds no agreement with the statement that ''a vehicle in an oversteer condition will generally follow the path and allow directional control of the vehicle to be maintained longer.'' In fact, the Commission's research finds universal characterization of sub-limit oversteer as directionally unstable, highly undesirable, and dynamically unstable at or above the critical speed.[40] The Commission's review of 80 years of automotive research did not find support for the suggestion that sub-limit oversteer provides superior precision in handling and control.

Likewise, limit oversteer is described by the Companies as the result of the driver ''operating the vehicle in a turn at a speed beyond what is safe and reasonable for that turn or applying excessive power in a turn.'' A vehicle in limit oversteer is essentially sliding with the rear of the vehicle rotating about the yaw axis. A vehicle in a slide is susceptible to a tripped rollover. ROVs have low rollover resistance and are at high risk of a violent, tripped rollover. Autonomous vehicle testing by SEA has duplicated these limit oversteer conditions and found that tripped rollovers can create in excess of 2 g to 3 g of instantaneous lateral acceleration, which produces a violent rollover event. CPSC's evaluation indicates that eliminating sub-limit oversteer will reduce unintentional transitions to limit oversteer.

The Commission does not agree that producing power oversteer by spinning the rear wheels is a necessity for negotiating low-friction, off-highway surfaces. Drifting or power oversteering is a risky practice that presents tripped rollover hazards and does not improve the vehicle's controllability. However, the practice of power oversteering is the result of driver choices that are not under the control of the manufacturer or the CPSC, and will not be significantly affected by the elimination of sub-limit oversteer.

5. *Comment:* Comments from the Companies state that requiring ROVs to exhibit understeer characteristics could create unintended and adverse risk, such as gross loss of mobility. These commenters assert that CPSC would be trading one set of purported safety issues for another, equally challenging set of safety issues, and running against 100 years of experience in off-highway vehicle design and driving practice, which suggests that for off-highway conditions, limit oversteer is at least sometimes, if not most often, preferable to limit understeer.

Response: ROVs that exhibit sub-limit understeering are currently in the U.S. market in substantial numbers. The Commission is not aware of any reports of the steering of sub-limit understeering vehicles causing loss of control or preventing the driver from navigating off-road terrain. The CPSC is not aware of any reports of sub-limit understeering vehicles that exhibit the unintended consequences described by the Companies.

The Commission believes that sub-limit oversteer is an unstable condition that can lead to a rollover incident. Based on the Yamaha Rhino repair program and the SEA test results indicating that half of the sample ROVs tested already exhibit sub-limit understeer, the CPSC believes that ROVs can be designed to understeer with minimum cost and without diminishing the utility or recreational value of this class of vehicle.

6. *Comment:* Comments from CEI, the Companies, and the Committee state that no correlation can be shown between understeer/oversteer and ROV crashes or rollovers.

Response: From a design and engineering perspective, the physics of vehicle rollover inherently support the fact that increasing a vehicle's resistance to rollover will make the vehicle more stable. In addition, eliminating a vehicle characteristic that exhibits a sudden increase in lateral acceleration during a turn will reduce the risk of rollover. The constant radius tests and SIS tests conducted by SEA provide strong evidence that sub-limit oversteer is an unstable condition that can lead to a rollover incident.

Of the 428 ROV-related incidents reviewed by the CPSC, 291 (68 percent) involved lateral rollover of the vehicle, and more than half of these (52 percent) occurred while the vehicle was turning. Of the 147 fatal incidents that involved rollover, 26 (18 percent) occurred on a paved surface. A vehicle exhibiting oversteer is most susceptible to rollover in a turn where the undesirable sudden increase in lateral acceleration can cause rollover to occur quickly, especially on paved surfaces, where an ROV can exhibit an untripped rollover.

The Commission believes that improving the rollover resistance and vehicle steering characteristics of ROVs is a practical strategy for reducing the occurrence of ROV rollover events.

Occupant Protection

1. *Comment:* Comments from CEI, the Companies, and the Committee state that seat belt use is critically important. Increasing seat belt use is the most productive and effective way to reduce ROV-related injuries and deaths because seat belt use is so low among those injured in ROV incidents. A major challenge is clearly how to get occupants to use the seat belt properly.

Response: The Commission agrees that the use of seat belts is important in restraining occupants in the event of a rollover or other accident. Results of the Commission's testing of belted and unbelted occupants in simulated ROV rollover events indicate that seat belt use is required to retain occupants within the vehicle. Without seat belt use, occupants experience partial to full ejection from the vehicle. This scenario has been identified as an injury hazard in the CPSC's review of ROV-related incidents. Of those incidents that involved occupant ejection, many occupants suffered crushing injuries caused by the vehicle.

After reviewing the literature regarding automotive seat belts, the Commission believes that an 8-second reminder light, as required in ANSI/ROHVA 1–2011 and ANSI/OPEI B71.9–2012, is not adequate to increase meaningfully seat belt use rates in ROVs because the system is not intrusive enough to motivate drivers and passengers to wear their seat belts. Results from past studies on automotive seat belt reminders conclude that visual reminders are ineffective. Numerous studies conclude further that effective reminder systems have to be intrusive enough to motivate users to buckle their seat belts. The more intrusive reminders are more effective at changing user behavior, as long as the reminder is not so intrusive that users bypass the system.

Based on literature and results from the Westat study, the Commission believes that a seat belt speed limiting system that restricts the maximum speed of the vehicle to 15 mph, if the driver seat and any occupied front seats are not buckled, is the most effective method to increase meaningfully seat belt use rates in ROVs. The system is transparent to users at speeds of 15 mph and below, and the system consistently motivates occupants to buckle their seat belts to achieve speeds above 15 mph.

2. *Comment:* Comments from CEI state that four-point and five-point seat belts are not appropriate for ROVs. In contrast, several individual comments state that five-point seat belts should be required on ROVs.

Response: The Commission identified lack of seat belt use as an injury hazard in the CPSC's review of ROV-related incidents. The majority of safety restraints in the ROV incidents were

[40] Olley, M. (1934). Independent Wheel Suspension—Its Whys and Wherefores. SAE 340080.; Stonex, K. A. (1941). Car Control Factors and Their Measurement. SAE 410092.; Segel, L. (1957). Research in the Fundamentals of Automobile Control and Stability. SAE 570044.; Bergman, W. (1965). The Basic Nature of Vehicle Understeer—Oversteer. SAE 650085.; Bundorf, R. T. and Leffert, R. L. (1976). The Cornering Compliance Concept for Description of Vehicle Directional Control Properties. SAE 760713.; and Milliken, William F., Jr., et al. (1976). The Static Directional Stability and Control of the Automobile. SAE 760712.

three-point restraints, and to some extent, two-point seat belts. Although four-point seat belts might be superior to three-point seat belts in retaining occupants in a vehicle, three-point seat belts have been shown to be effective in reducing the risk of death and serious injury in automotive applications. The Commission believes that it is unlikely that users who already do not use three-point seat belts will use the more cumbersome four-point and five-point seat belts.

A more robust seat belt reminder system than the current voluntary standard requirement for a visual reminder light is necessary to motivate users to wear their seat belts because automotive studies of seat belt reminders indicate that visual reminders do not increase seat belt use. Dynamic rollover tests of ROVs indicate that a three-point seat belt, in conjunction with a passive shoulder restraint, is effective in restraining an occupant inside the protective zone of the vehicle's ROPS during a quarter-turn rollover.

3. *Comment:* Comments from CEI state that occupant protection requirements should be based on meaningful tests.

Response: The Commission agrees that ROV occupant protection performance evaluations should be based on actual ROV rollovers or simulations of real-world rollovers. Occupant protection performance requirements for ROVs in the voluntary standard developed by ROHVA (ANSI/ROHVA 1–2011) and the voluntary standard developed by OPEI (ANSI/OPEI B71.9–2012) are not supported by data from rollover tests.

The SEA roll simulator is the most accurate simulation of an ROV rollover event because it has been validated by measurements taken during actual ROV rollovers. Rollover tests indicate that a seat belt, used in conjunction with a passive shoulder barrier, is effective at restraining occupants within the protective zone of the vehicle's ROPS during quarter-turn rollover events.

ROV Incident Analysis

1. *Comment:* Comments from CEI state that ROV rollover incidents are caused by a small minority of drivers who intentionally drive at the limits of the vehicle and the driver's abilities, and intentionally drive in extreme environments.

Response: Of the 224 reported ROV incidents that involved at least one fatality, 147 incidents involved lateral rollover of the vehicle. Of the 147 lateral rollover fatalities, it is reported that the ROV was on flat terrain in 56 incidents (38 percent) and on a gentle incline in 18 incidents (12 percent). Of the 224 fatal ROV incidents, the vehicle speed is unknown in 164 incidents (73 percent); 32 incidents (14 percent) occurred at speeds of 20 miles per hour (mph) or less; and 28 incidents (13 percent) occurred at speeds more than 20 mph. (Vehicle speeds were reported (*i.e.*, not measured by instrumentation); so these speeds can be used qualitatively only and not as accurate values of speed at which incidents occurred.) Of the 224 fatal ROV incidents, the age of the driver was less than 16 years old in 61 incidents (27 percent). Of the 231 fatalities, 77 victims (33 percent) were children less than 16 years of age.

A review of the incident data shows no indication that the majority of rollover incidents are caused by drivers who ''purposely push the vehicle to and beyond its limits by engaging in stunts, racing, and intentional use of extreme environments.'' An analysis of the reported ROV incidents indicates that many of the details of the circumstances of the event, such as vehicle speed or terrain slope, are not known. In cases in which details of the event are known, roughly 50 percent of the fatal lateral rollover incidents occurred on flat or gentle slope terrain; and 14 percent occurred at speeds below 20 miles per hour. Twenty-seven percent of the drivers in fatal rollover incidents are children under 16 years of age; and 33 percent of all ROV-related fatalities are children under 16 years of age.

2. *Comment:* Comments from the Companies state that the CPSC failed to use data from the NEISS in its analysis of ROV hazards. The comments suggest further that analysis of the NEISS data on utility-terrain vehicles (UTVs) indicate that UTVs, and therefore, ROVs, have a low hospitalization rate.

Response: The joint comment's conclusions based on the commenters' analyses of the NEISS UTV data are not technically sound because the NEISS results do not specifically identify ROVs. NEISS has a product code for UTVs and several product codes for ATVs, but there is no separate product code for ROVs. ATVs have a straddle seat for the operator and handlebars for steering. UTVs have bucket or bench seats for the operator/passengers, a steering wheel for steering, and UTVs may or may not have a ROPS. ROVs are a subset of UTVs and are distinguished by having a ROPS, seat belts, and a maximum speed above 30 mph. However, many official entities, news media, and consumers refer to ROVs as ATVs. Injuries associated with ROVs are usually assigned to either an ATV product category or to the UTV product category in NEISS. At a minimum, ROVs can be thought of as a subset of UTVs and/or ATVs, and cannot be identified on a consistent basis through the NEISS case records because NEISS requires knowledge of the make/model of the vehicle (which is not coded in the NEISS for any product). Occasionally, the NEISS narrative contains make/model identification, but this cannot be used to identify ROVs accurately and consistently.

CPSC conducted a special study in 2010, in which all cases coded as ATVs or UTVs were selected for telephone interviews to gather information about the product involved. Sixteen of the 668 completed surveys had responses that identified the vehicle as an ROV. Staff's analysis shows that many ROVs are coded as ATVs; many UTVs are also coded as ATVs; and identification of ROVs and UTVs is difficult because the NEISS narratives often do not include enough information to identify the product. The miscoding rate for UTVs and ROVs is high, and most likely, the miscoding is due to consumer-reported information in the emergency department.

The CPSC added the UTV product code 5044 to the NEISS in 2005. In the years 2005 to 2008 (the years cited in the joint comment document), the UTV product code had mostly out-of-scope records, with a large number of utility trailers and similar records. After these out-of-scope records are removed, the only viable estimate is obtained by aggregating the cases across 2005 to 2008, to get an estimated 1,300 emergency department-treated injuries related to UTVs (see Tab K, Table 1). This estimate is considerably less than the estimate reported by Heiden in the joint comment. This estimate also does not include the UTV-related injuries that were miscoded as ATVs in the ATV product codes.

As the years have passed and the UTV product code is being used more as intended, a completely different picture is seen for UTVs. From 2009 to 2012, there are an estimated 6,200 emergency department-treated, UTV-related injuries (which can be attributed to an increase in the number of UTV-related injuries, a larger portion of injuries being identified in NEISS as UTVs, or a combination of all of these and other factors not identified). Of these estimated 6,200 injuries, only 80.2 percent are treated and released. The proportion of treated and released injuries for UTVs is significantly below the proportion of treated and released for all consumer products (92.0 percent of estimated consumer product-related, emergency department-treated injuries were treated and released from 2009 to 2012). This illustrates a hazard of more severe injuries associated with UTVs.

In conclusion, data are insufficient to support the argument that UTV injuries are not as severe as those associated with other products. As more data have become available in recent years, it appears that about 80 percent of the injuries associated with UTVs have been treated and released as compared to about 92 percent of the injuries associated with all consumer products.

3. *Comment:* The Companies provided their own analysis of ROV-related reports that were used in the CPSC's ANPR analysis. In particular, the Companies criticize Commission staff's analysis because asserting that staff's analysis did not include factors related to incident conditions and user behavior.

Response: Commission staff's analysis of incidents for the ANPR was a preliminary review of reported incidents to understand the overall hazard patterns. For the NPR, Commission staff conducted an extensive, multidisciplinary review of 428 reported ROV-related incidents resulting in at least one death or injury. The results of this study are summarized in two reports in the NPR briefing package, along with analyses of victim characteristics, hazard patterns, environmental characteristics, and make and model characteristics. (The approach taken in the comments from the Companies, to remove reports from the analysis because there is unknown information, is not the Commission's approach in analyzing ROV-related incidents.) Unknowns from all reports are included with the knowns to ensure that the full picture is seen because every report will have at least one piece of unknown information, and every report will have at least one piece of known information. The unknowns are reported in all tables, if unknowns were recorded for the variables used.

The analysis of IDIs summarized in the comments from the Companies does not define ''excessive speed,'' ''dangerous maneuver,'' or ''sharp turn.'' In fact, in other places in the comments, the companies mention: ''There is also no evidence suggesting that speed is an important factor in preventing accidents.'' The companies also state: ''Tight steering turn capability is an important feature in certain ROVs, particularly those for trail use, because of the need to respond quickly to avoid obstacles and trail-edge drop-offs, and otherwise navigate in these off-highway terrains'' Thus, there is ambiguity in what the definitions could mean in the analysis of the IDIs (When is the vehicle at an excessive speed? When is a turn too sharp? When is a maneuver dangerous?). The Commission's approach to analyzing the 428 incidents summarized in the reports available in the NPR briefing package is to consider the sequence of events, the vehicle, the driver, any passenger, and environment characteristics across all incidents. All definitions are set and used consistently by the multidisciplinary review team to understand the hazard patterns and incident characteristics across all incidents, not to set responsibility in one place or another.

4. *Comment:* Comments from CEI state that the CPSC should begin to address human factors that pertain to risk-taking behavior of the small minority of ROV users who operate the vehicles at their limits without crash-worthiness concerns. In particular, CEI proposes that the CPSC focus primarily on changing consumer behavior to wearing seat belts, wearing helmets, and refraining from driving ROVs irresponsibly.

Response: The Commission agrees that human factors and behavior affect the risk of death and injury for ROV users. However, the CPSC believes that establishing minimum requirements for ROVs can also reduce the hazards associated with ROVs. As explained in this preamble, the ANSI/ROHVA voluntary standard does not adequately addresses the risk of injury and death associated with lateral rollovers of ROVs because the standards do not have robust lateral stability requirements, do not have vehicle handling requirement to ensure understeer, and do not have robust occupant restraint requirements to protect occupants from vehicle rollover.

An analysis of the reported ROV incidents indicates that many of the details of an event, such as vehicle speed or terrain slope, are not known. Where details of the event are known, roughly 50 percent of the fatal lateral rollover incidents occurred on flat or gentle slope terrain, and 14 percent occurred at speeds below 20 miles per hour. Twenty-seven percent of the drivers in fatal rollover incidents are children under 16 years of age; and 33 percent of all ROV-related fatalities are children under 16 years of age. There is no indication that the majority of rollover incidents are caused by drivers who intentionally drive under extreme conditions.

Regarding seat belt use, results from past studies on automotive seat belt reminders conclude that visual seat belt reminders are ineffective. Numerous studies further conclude that effective reminder systems have to be intrusive enough to motivate users to buckle their seat belts. The more intrusive reminders are more effective at changing user behavior, as long as the reminder is not so intrusive that users bypass the system.

The Commission believes that a seat belt speed-limiting system that restricts the maximum speed of the vehicle to 15 mph if the driver seat and any occupied front seats are not buckled is the most effective method to increase meaningfully seat belt use rates in ROVs. The system is transparent to users at speeds of 15 mph and below, and the system consistently motivates occupants to buckle their seat belts to achieve speeds above 15 mph.

IX. Description of the Proposed Rule

A. Scope, Purpose, and Compliance Dates—§ 1422.1

The proposed standard would apply to ''recreational off-highway vehicles'' (ROVs), as defined, which would limit the scope to vehicles with a maximum speed greater than 30 mph. The proposed standard would include requirements relating to lateral acceleration, vehicle handling, and occupant protection. The requirements are intended to reduce or eliminate an unreasonable risk of injury associated with ROVs. The proposed standard would specifically exclude ''golf cars,'' ''all-terrain vehicles,'' ''fun karts,'' ''go karts,'' and ''light utility vehicles,'' as defined by the relevant voluntary standards. The Commission proposes two compliance dates: ROVs would be required to comply with the lateral stability and vehicle handling requirements (§§ 1422.3 and 1422.4) 180 days after publication of the final rule in the **Federal Register**. ROVs would be required to comply with the occupant protection requirements (§ 1422.5) 12 months after publication of the final rule in the **Federal Register**. The Commission recognizes that some ROV manufacturers will need to redesign and test new prototype vehicles to meet the occupant protection requirements. This design and test process is similar to the process that manufacturers use when introducing new model year vehicles. As described more fully in Section X, staff estimates that it will take approximately 9 person-months per ROV model to design, test, implement, and begin manufacturing vehicles to meet the occupant protection performance requirements. Therefore, the Commission believes that 12 months is a reasonable time period for manufacturers to comply with all of new mandatory requirements.

B. Definitions—§ 1422.2

The proposed standard would provide that the definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2051) apply. In addition, the proposed standard would include the following definitions:

- ''Recreational off-highway vehicle''—a motorized vehicle designed for off-highway use with the following features: Four or more wheels with pneumatic tires; bench or bucket seating for two or more occupants; automotive-type controls for steering, throttle, and braking; rollover protective structures (ROPS); occupant restraint; and maximum speed capability greater than 30 mph.
- ''two-wheel lift''—point at which the inside wheels of a turning vehicle lift off the ground, or when the uphill wheels of a vehicle on a tilt table lift off the table. Two-wheel lift is a precursor to a rollover event. We use the term ''two-wheel lift'' interchangeably with ''tip-up.''
- ''threshold lateral acceleration''—minimum lateral acceleration of the vehicle at two-wheel lift.

C. Requirements for Dynamic Lateral Stability—§ 1422.3

1. Proposed Performance Requirement

a. Description of Requirement

The proposed rule would require that all ROVs meet a minimum requirement for lateral stability. The dynamic lateral stability requirement would set a minimum value for the lateral acceleration at rollover of 0.70 g, as determined by a 30 mph drop-throttle J-turn test. The 30 mph drop-throttle J-turn test uses a programmable steering controller to turn the test vehicle traveling at 30 mph at prescribed steering angles and rates to determine the minimum steering angle at which two-wheel lift is observed. These are the conditions and procedures that were used in testing with SEA. Under the proposed requirements, the data collected during these tests are analyzed to compute and verify the lateral acceleration at rollover for the vehicle. The greater the lateral acceleration value, the greater is the resistance of the ROV to tip or roll over.

b. Rationale

The J-turn test is the most appropriate method to measure the rollover resistance of ROVs because the J-turn test has been evaluated by NHTSA as the most objective and repeatable method for vehicles with low rollover resistance. As discussed previously, static metrics, such as SSF and TTR, cannot be used to evaluate accurately ROV rollover resistance because static tests are unable to account fully for the dynamic tire deflections and suspension compliance exhibited by ROVs during a J-turn maneuver. The Commission also verified that the J-turn test is objective and repeatable for ROVs by conducting numerous J-turn tests on several ROVs.

As explained above, testing conducted by CPSC staff and SEA supports the proposed requirement that ROVs demonstrate a minimum threshold lateral acceleration at rollover of 0.70 g or greater in a J-turn. Results of J-turn tests performed on a sample of 10 ROVs available in the U.S. market indicate that six of the 10 ROVs tested measured threshold lateral accelerations below 0.70 g (values ranged from 0.625 g to 0.690 g). The Commission believes that minor changes to vehicle suspension and/or track width spacing, similar to the changes in the Yamaha Rhino repair program, can increase the threshold lateral acceleration of these vehicles to 0.70 g or greater. The Yamaha repair program improved the rollover resistance of the Yamaha Rhino from 0.670 g (unrepaired Yamaha Rhino) to 0.705 g (repaired Yamaha Rhino).

Based on CPSC's evaluation of ROV testing and the decrease in injuries and deaths associated with Yamaha Rhino vehicles after the repair program was implemented, the Commission believes that improving the rollover resistance of all ROVs can reduce injuries and deaths associated with ROV rollover events.

2. Proposed Requirements for Hang Tag

a. Description of Requirement

The Commission is proposing a requirement that ROV manufacturers provide technical information for consumers on a hangtag at the point of purchase.

As discussed previously, the Commission is proposing a requirement that ROVs meet a minimum lateral acceleration of 0.70 g at rollover, as identified by J-turn testing. The Commission proposes requiring a hangtag on each ROV that would state the actual measured lateral acceleration at rollover (as identified by the J-turn testing) of each ROV model. The Commission believes that the hang tag will allow consumers to make informed decisions on the comparative lateral stability of ROVs when making a purchase and will provide a competitive incentive for manufacturers to improve the rollover resistance of ROVs.

The proposed rule specifies the content and format for the hang tag, and includes an example hang tag. Under the proposal, the hang tag must conform in content, form, and sequence as specified in the proposed rule.

The Commission proposes the following ROV hangtag requirements:

- Content. Every ROV shall be offered for sale with a hangtag that graphically illustrates and textually states the lateral acceleration threshold at rollover for that ROV model. The hangtag shall be attached to the ROV and may be removed only by the first purchaser.
- Size. Every hangtag shall be at least 15.24 cm (6 inches) wide by 10.16 cm (4 inches) tall.
- Attachment. Every hangtag shall be attached to the ROV and be conspicuous to a person sitting in the driver's seat; and the hangtag shall be removable only with deliberate effort.
- Format. The hang tag shall provide all of the elements shown in the example hangtag (see Figure 16).

b. Rationale

Section 27(e) of the CPSA authorizes the Commission to require, by rule, that manufacturers of consumer products provide to the Commission performance and technical data related to performance and safety as may be required to carry out the purposes of the CPSA, and to give notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of the product. 15 U.S.C. 2076(e)). Section 2 of the CPSA provides that one purpose of the CPSA is to ''assist consumers in evaluating the comparative safety of consumer products.'' 15 U.S.C. 2051(b)(2).

Other federal government agencies currently require on-product labels with information to help consumers in making purchasing decisions. For example, NHTSA requires automobiles to come with comparative information on vehicles regarding rollover resistance. 49 CFR 575.105. NHTSA believes that consumer information on the rollover risk of passenger cars would influence consumers to purchase vehicles with a lower rollover risk and inspire manufacturers to produce vehicles with a lower rollover risk.[41] A subsequent study of SSF trends in automobiles found that SSF values increased for all vehicles after 2001, particularly SUVs, which tended to have the worst SSF values in the earlier years.[42]

[41] Walz, M. C. (2005). Trends in the Static Stability Factor of Passenger Cars, Light Trucks, and Vans. DOT HS 809 868. Retrieved from *http://www.nhtsa.gov/cars/rules/regrev/evaluate/809868/pages/index.html.*

[42] Walz, M.C. (2005). Trends in the Static Stability Factor of Passenger Cars, Light Trucks, and Vans.

Continued

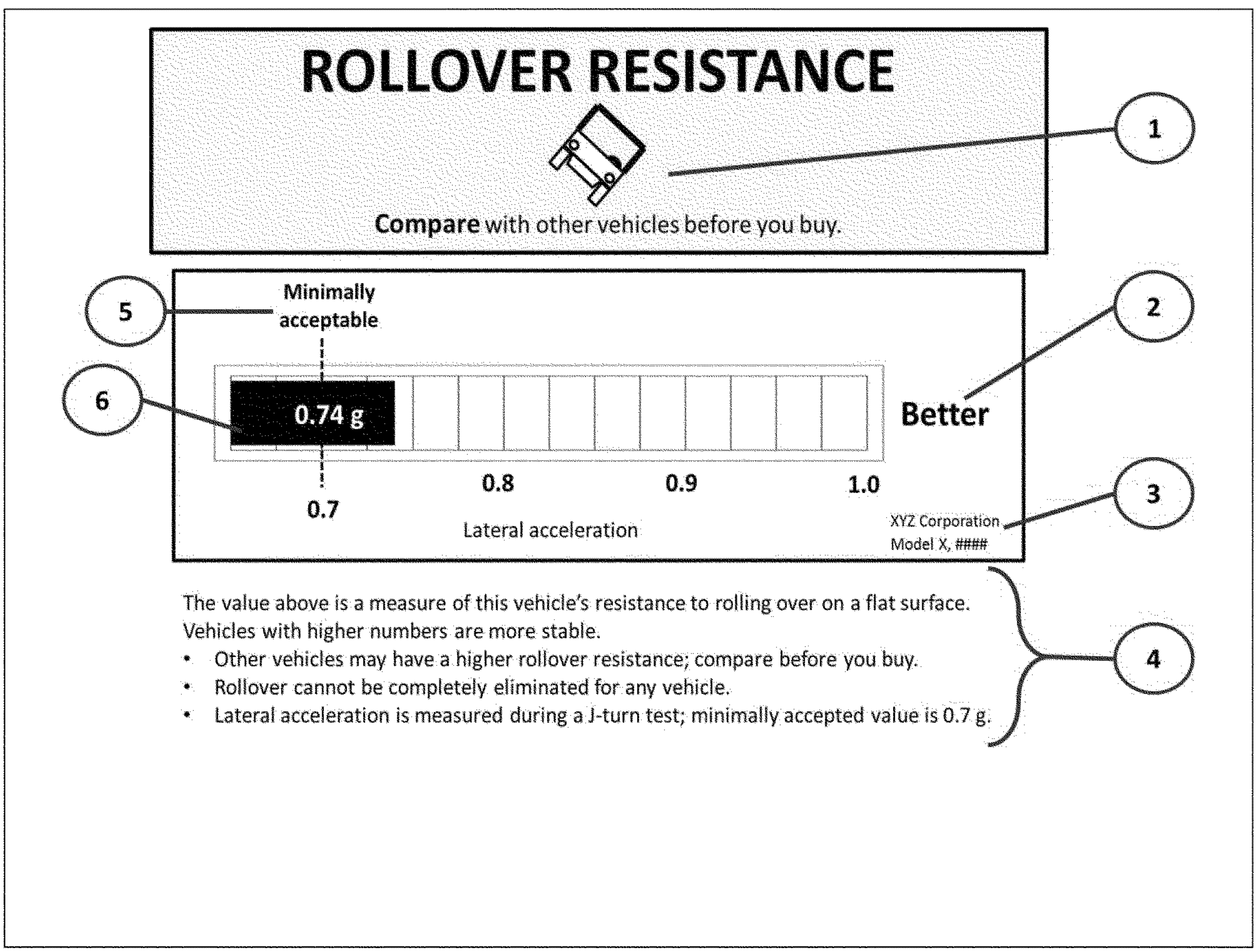
EnergyGuide labels, required on most appliances, are another example of federally-mandated labels to assist consumers in making purchase decisions. 16 CFR part 305. Detailed operating cost and energy consumption information on these labels allows consumers to compare competing models and identify higher efficiency products. The EnergyGuide label design was developed based on extensive consumer research and following a two-year rulemaking process.

Like NHTSA rollover resistance information and EnergyGuide labels, the proposed ROV hang tags are intended to provide important information to consumers at the time of purchase. Providing the value of each ROV model vehicle's threshold lateral acceleration to consumers will assist consumers with evaluating the comparative safety of the vehicles in terms of resistance to rollover. Requiring that ROV lateral acceleration test results be stated on a hangtag may motivate manufacturers to increase the performance of their ROV to achieve a higher reportable lateral acceleration, similar to incentives created as a result of NHTSA's NCAP program.

The proposed hangtag is based, in part, on the point-of-purchase hangtag requirements for ATVs. ATVs must have hangtags that include general warning information regarding operation and operator and passenger requirements, as well as behavior that is warned against. Most ROV manufacturers are also manufacturers of ATVs. Accordingly, ROV manufacturers are likely to be familiar with the hangtag requirements for ATVs. The ANSI/SVIA 1–2010 voluntary standard that applies to ATVs requires ATVs to be sold with a hangtag that is to be removed only by the purchaser and requires ATV hangtags to be 6-inches tall x 4-inches wide. Because ROV manufacturers are likely to be familiar with the hangtag requirements for ATVs, the Commission is proposing the same size requirements for ROV hang tags.

The hang tag graph draws its format from well-recognized principles in effective warnings. When presenting graphical information, it is important to include labels so that the data can be understood. Graphs should have a unique title, and the axes should be fully labeled with the units of measurement. Graphs should also be distinguished from the text, by adding white space, or enclosing the graphs in a box.[43]

Figure 16—Hang tag[44]



DOT HS 809868. Retrieved from *http://www.nhtsa.gov/cars/rules/regrev/evaluate/809868/pages/index.html.*

[43] Markel, M. (2001). Technical Communication. Boston, MA: Bedford/St. Martin's.

(1) The ROV icon helps identify the product. The icon is presented at a slight angle to help consumers readily identify the label as addressing ROV rollover characteristics. Research has shown that pictorial symbols and icons make warnings more noticeable and easier to detect than warnings without such symbols and icons.[45]

(2) Graph label, ''Better,'' indicates that the higher the value (as shading increases to the right), the higher the ROV's resistance to rolling over during a turn on a flat surface.

(3) The Manufacturer, Model, Model number, Model year help the consumer identify the exact ROV described by the label. Likewise, the EnergyGuide label provides information on the manufacturer, model, and size of the product so that consumers can identify exactly what appliance the label describes.[46] The Commission is proposing a similar identification of the ROV model on the hangtag so that consumers can compare values among different model ROVs.

(4) Textual information. Technical communication that includes graphs should also include text to paraphrase the importance of the graphic and explain how to interpret the information presented.[47] Additionally, including a graphic before introducing text may serve as a valuable reference for consumers, by maintaining attention and encouraging further reading.[48] The textual informational in the hangtag provides consumers with more definition of the values given in the graph.

(5) Linear scale, and anchor showing minimally acceptable value on the scale. Currently, the EnergyGuide label uses a linear scale with the lowest and highest operating costs for similar models so that consumers can compare products; the yearly operating cost for the specific model is identified on the linear scale.[49] The Commission is proposing a linear scale format for the ROV hangtag, as well. The text identifies the minimally accepted lateral acceleration at rollover as being 0.7 g. When providing this on the scale, people are able to determine visually how a specific model compares to the minimal value.

(6) Scale starts at 0.65 g to allow a shaded bar for those ROVs meeting only the minimally acceptable lateral acceleration value.

D. Vehicle Handling—§ 1422.4

1. Description of Requirement

The proposed rule would require that all ROVs meet a vehicle handling requirement, which requires that ROVs exhibit understeer characteristics. The understeer requirement would mandate that ROVs exhibit understeer characteristics in the sublimit range of the turn circle test. The test for vehicle handling or understeer performance involves driving the vehicle around a 100-foot radius circle at increasing speeds, with the driver making every effort to maintain compliance of the vehicle path relative to the circle. SEA testing was based on a 100-foot radius circle. Data collected during these tests are analyzed to determine whether the vehicle understeers through the required range. The proposed rule would require that all ROVs exhibit understeer for values of ground plane lateral acceleration from 0.10 to 0.50 g.

2. Rationale

The CPSC believes that the constant radius test is the most appropriate method to measure an ROV's steering gradient because SAE J266, Surface Vehicle Recommended Practice, Steady-State Directional Control Test Procedures for Passenger Cars and Light Trucks, establishes the constant radius test as a method to measure understeer/oversteer in passenger cars. The test procedures are also applicable to ROVs because ROVs are similar to cars, have four steerable wheels and a suspension system, and thus, ROVs obey the same principles of motion as automobiles.

The Commission believes that the appropriate lateral acceleration range to measure steering gradient is from 0.10 g to 0.50 g because SEA test results indicate that spurious data occur at the beginning and end of a constant radius test conducted up to vehicle rollover. Data collected in the range of 0.10 g to 0.50 g of lateral acceleration provide the most accurate plots of the vehicle's steering characteristic.[50]

Tests conducted by SEA show that ROVs in sub-limit oversteer transition to a condition where the lateral acceleration increases suddenly and exponentially. Based on testing and relevant literature, the CPSC believes that this condition can lead to untripped ROV rollovers or may cause ROVs to slide into limit oversteer and experience tripped rollover. Ensuring sub-limit understeer eliminates the potential for sudden and exponential increase in lateral acceleration that can cause ROV rollovers.

The decrease in Rhino-related incidents after the repair program was initiated and the low number of vehicle rollover incidents associated with repaired Rhino vehicles are evidence that increasing the lateral stability of an ROV and correcting oversteer characteristics to understeer reduces the occurrence of ROV rollover on level terrain. In particular, the Commission believes the elimination of runaway lateral acceleration associated with oversteer contributed to a decrease in Rhino-related rollover incidents.

As mentioned previously, ROVs can be designed to understeer in sub-limit operation with minimum cost and without diminishing the utility or recreational value of this class of vehicle. Half of the vehicles CPSC tested already exhibit sub-limit understeer condition for the full range of the test, and this includes both utility and recreational model ROVs.

E. Occupant Retention System—§ 1422.5

The proposed rule includes two requirements that are intended to keep the occupant within the vehicle or the ROPs. First, each ROV would be required to have a means to restrict occupant egress and excursion in the shoulder/hip zone defined by the proposed rule. This requirement could be met by a fixed barrier structure or structure on the ROV or by a barrier or structure that can be put into place by the occupant using one hand in one operation, such as a door. Second, the proposed rule would require that the speed of an ROV be limited to a maximum of 15 mph, unless the seat belts for both the driver and any front seat passengers are fastened. The purpose of these requirements is to prevent deaths and injury incidents, especially incidents that involve full or partial ejection of the rider from the vehicle.

1. Speed Limitation

a. Requirement

The Commission proposes a performance requirement that limits the maximum speed that an ROV can attain to 15 mph or less when tested with unbuckled front seat belts during the maximum speed test. Section 5 of ANSI/

[44] Hang tag not shown to scale.

[45] Wogalter, M., Dejoy, D., and Laughery, K. (1999). Warnings and Risk Communication. Philadelphia, PA: Taylor & Francis, Inc.

[46] Guide to EnergyGuide label retrieved at *http://www.consumer.ftc.gov/articles/0072-shopping-home-appliances-use-energyguide-label.*

[47] Markel, M. 2001.

[48] Smith, T.P. (2003). Developing consumer product instructions. Washington, DC: U.S. Consumer Product Safety Commission.

[49] FTC. Retrieved from: *https://www.consumer.ftc.gov/articles/0072-shopping-home-appliances-use-energyguide-label.*

[50] Heydinger, G. (2011) Vehicle Characteristics Measurements of Recreational Off-Highway Vehicles. Retrieved from *http://www.cpsc.gov/PageFiles/96037/rov.pdf.* Page 18.

ROHVA 1–2011, ''Maximum Speed,'' establishes test protocols to measure maximum speed on level ground. Because ROV manufacturers are already familiar with these test procedures and the proposed test would add elements to a test procedure manufacturers already conduct to meet the voluntary standard, the CPSC believes that the maximum speed test from ANSI/ROHVA 1–2011 is the most appropriate method to measure the limited speed of an ROV.

b. Rationale

i. Importance of Seat Belts

As discussed in section V of this preamble, results of the CPSC's exploratory testing of belted and unbelted occupants in simulated ROV rollover events indicate that seat belt use is required to retain occupants within the vehicle. This conclusion corresponds with the incident data for ROV rollovers, in which 91 percent of the fatal victims who were partially or fully ejected from the vehicle were not wearing seat belts. Of the incidents that involved occupant ejection, many occupants were injured when struck by the vehicle after ejection. The Commission believes that many of the ROV occupant ejection deaths and injuries can be eliminated if occupants wear seat belts.

Studies have shown that automobile seat belt reminders do not increase seat belt use, unless the reminders are aggressive enough to motivate users to buckle seat belts without alienating the user into bypassing or rejecting the system. Based on the Commission's testing and literature review and the low seat belt use rates in ROV-related incidents, the Commission believes that a seat belt speed limiting system that restricts the maximum speed of the vehicle to 15 mph if any occupied front seats are not buckled, is the most effective method to increase seat belt use rates in ROVs.

ii. Likely Acceptance of Speed-Limitation Technology

The Commission believes that in-vehicle technology that limits the speed of the ROV if the front occupied seats are not buckled will be accepted by ROV users because the technology does not interfere with the operation of the ROV below the threshold speed, and users will be motivated to wear seat belts if they wish to exceed the threshold speed. This conclusion is based on automotive studies that show drivers accepted a system that reduced vehicle function (*i.e.,* requiring more effort to depress the accelerator pedal) after a threshold speed, if the driver's seat belt was not buckled. The system did not interfere with the operation of the vehicle below the threshold speed, and drivers were willing to buckle their seat belts to access unhindered speed capability of the vehicle.

The Commission also believes that speed-limitation technology will be accepted by ROV users because the technology is already included on the BRP Can-Am Commander and Can-Am Maverick model ROVs, and the manufacturer with the largest ROV market share, Polaris, announced that it will introduce the technology on model year 2015 Ranger and RZR ROVs.

The Commission's literature review concludes that intrusive reminders are effective at changing user behavior, as long as the reminder is not so intrusive that users bypass the system. Limitation of vehicle speed is the intrusive reminder for ROV users to buckle their seat belt; therefore, the Commission believes that the threshold speed for a seat belt speed-limitation system should be as high as possible to gain user acceptance (and reduce bypass of the system), but low enough to allow relatively safe operation of the vehicle.

iii. Choice of 15 MPH

The Commission believes 15 mph is the appropriate speed threshold for a seat belt speed-limitation system. Based on information about ROVs and vehicles similar to ROVs, the Commission concludes that ROVs can be operated relatively safely at 15 mph. For example:

- ANSI/NGCMA Z130.1–2004, American National Standard for Golf Carts—Safety and Performance Specifications, specifies the maximum speed for golf carts at 15 mph. This standard establishes 15 mph as the maximum acceptable speed for unbelted drivers and passengers (golf carts do not have seat belts or ROPS) in vehicles that are often driven in off-road conditions.
- SAE J2258, Surface Vehicle Standard for Light Utility Vehicles, specifies a speed of 15 mph as acceptable for a vehicle, with a lateral stability of at least 25 degrees on a tilt table test, without seat belts or ROPS. This standard also establishes 15 mph as the maximum acceptable speed for unbelted drivers and passengers in vehicles that are driven in off-road conditions.
- Polaris Ranger and RZR model year 2015 ROVs will be equipped with a seat belt speed limiter that limits the vehicle speed to 15 mph if the driver's seat belt is not buckled. The decision by the largest manufacturer of ROVs establishes 15 mph as the maximum acceptable speed for unbelted ROV drivers.

Additionally, the principles of physics support this conclusion. The fundamental relationship between speed and lateral acceleration is:

$A = V^2/R$ where A = lateral acceleration
V = velocity
R = radius of turn

The minimum proposed lateral acceleration threshold at rollover for ROVs is 0.70 g, and the typical turn radius of an ROV is 16 feet.[51] Therefore, without any additional effects of tire friction, the speed at which rollover would occur during a turn on level ground is 13 mph. (The CPSC recognizes that on a slope, the lateral acceleration due to gravity can cause ROV rollover at speeds below 15 mph. However, the CPSC believes that it is appropriate to use level ground as a baseline.) In reality, friction at the tires would increase the speed at which rollover occurs to above 13 mph.

iv. User Acceptance of 15 mph

Based on CPSC's study and the experience of some ROVs that have speed limitations, the Commission believes that ROV users are likely to accept a 15 mph threshold speed limitation. The following reasons support this conclusion:

- Results of Westat's Phase 1 focus group study of ROV users indicate that ROV users value easy ingress and egress from an ROV and generally drive around 15 mph to 30 mph during typical use of the ROV. Users had mixed reactions to a speed threshold of 10 mph and were more accepting of a speed-limitation technology if the threshold speed was 15 mph.
- There are many situations in which an ROV is used at slow speeds, such as mowing or plowing, carrying tools to jobsites, and checking property. The Commission believes that a speed-limitation threshold of 15 mph allows the most latitude for ROV users to perform utility tasks where seat belt use is often undesired.
- The Commission believes that ROV user acceptance of a seat belt speed-limitation system will be higher at 15 mph than the speed threshold of 9 mph on the Commander ROV. Although BRP continues to sell the Can-Am Commander and Can-Am Maverick ROVs with speed limitations set at around 10 mph, focus group responses indicate that many ROV users believe that 10 mph is too low a speed limit to

[51] Turn radius values retrieved at: *http://www.atv.com/features/choosing-a-work-vehicle-atv-vs-utv-2120.html* and *http://www.utvunderground.com/2014-kawasaki-teryx-4-le-6346.html.*

be acceptable, and therefore, these users will bypass the system. The 15 mph threshold is 50 percent higher than a 10 mph threshold, and staff believes that the difference in the speed threshold will increase user acceptance of the system. Polaris's decision to include seat belt speed limiters with a 15 mph threshold speed in model year 2015 Ranger and RZR ROVs supports the Commission's belief that user acceptance of a speed-limitation system will be higher at 15 mph than 10 mph.

2. Shoulder Probe Test

a. Requirement

CPSC is proposing a performance requirement that ROVs pass a probe test at a defined area near the ROV occupants' shoulder. The probe test is the most appropriate method to measure the occupant protection performance in the shoulder area of the ROV because various forms of the probe test are already used in the voluntary standard for ROVs and ATVs to determine occupant protection performance.

The test applies a probe with a force of 163 lbs., to a defined area of the vehicle's ROPS near the ROV occupants' shoulder. The vertical and forward locations for the point of application of the probe are based upon anthropometric data. The probe dimensions are based on the upper arm of a 5th percentile adult female, and the dimensions of a 5th percentile adult female represent the smallest size occupant that may be driving or riding an ROV. The 163 lb. force application represents a 50th percentile adult male occupant pushing against the barrier during a rollover event. The probe is applied for 10 seconds and the vehicle structure must absorb the force without bending more than 1 inch.

b. Rationale

After exploring several methods to test occupant protection performance of ROVs during a rollover event, CPSC believes the SEA roll simulator is the most accurate simulation of a rollover because the roll simulator is able to reproduce the lateral acceleration and roll rate experienced by ROVs in rollover events. SEA conducted simulations of tripped and untripped rollovers on ROVs with belted and unbelted ATD occupants. CPSC's analysis of SEA's test results indicate that the best occupant retention performance results, where occupants remain within the protective zone of the vehicle's ROPS, occurred when a seat belt is used in conjunction with a passive shoulder barrier restraint.

F. Prohibited Stockpiling—§ 1422.6

The proposed rule contains anti-stockpiling provisions to prohibit excessive production or importation of noncomplying ROVs during the period between the final rule's publication and its effective date. Anti-stockpiling provisions typically exist to prevent the production or importation of significant numbers—significantly beyond typical rates—of noncomplying products that can be sold after the effective date of a safety standard, which could present an unreasonable risk of injury to consumers. In order to balance the protection of consumers and the burden to manufacturers and importers of compliance with the effective date of a rule, a production limit is typically set at some minimal percentage above a single year's production rate as selected by the manufacturer or importer. This allows the manufacturer or importer to select the date most conductive to compliance, even if production or importation occurs at an unusually robust pace during the selected period.

The prohibited stockpiling provision herein limits the production or importation of noncomplying products to 10% of the amount produced or imported in any 365-day period designated, at the option of each manufacturer or importer, beginning on or after October 1, 2009, and ending on or before the date of promulgation of the rule.

G. Findings—§ 1422.7

In accordance with the requirements of the CPSA, we are proposing to make the findings stated in section 9 of the CPSA. The proposed findings are discussed in section XVI of this preamble.

X. Preliminary Regulatory Analysis

The Commission is proposing to issue a rule under sections 7 and 9 of the CPSA. The CPSA requires that the Commission prepare a preliminary regulatory analysis and that the preliminary regulatory analysis be published with the text of the proposed rule. 15 U.S.C. 2058(c). The following discussion is extracted from staff's memorandum, ''Draft Proposed Rule Establishing Safety Standard for Recreational Off-Road Vehicles: Preliminary Regulatory Analysis.''

A. Introduction

The CPSC is issuing a proposed rule for ROVs. This rulemaking proceeding was initiated by an ANPR published in the **Federal Register** on October 28, 2009. The proposed rule includes: (1) Lateral stability and vehicle handling requirements that specify a minimum level of rollover resistance for ROVs and requires that ROVs exhibit sublimit understeer characteristics, and (2) occupant retention requirements that would limit the maximum speed of an ROV to no more than 15 miles per hour (mph), unless the seat belts of both the driver and front passengers, if any, are fastened; and in addition, would require ROVs to have a passive means, such as a barrier or structure, to limit further the ejection of a belted occupant in the event of a rollover.

Following is a preliminary regulatory analysis of the proposed rule, including a description of the potential costs and potential benefits. Each element of the proposed rule is discussed separately. For some elements, the benefits and costs cannot be quantified in monetary terms. Where this is the case, the potential costs and benefits are described and discussed conceptually.

B. Market Information

1. Manufacturers and Market Shares

The number of manufacturers marketing ROVs in the United States has increased substantially in recent years. The first utility vehicle that exceeded 30 mph, thus putting the utility vehicle in the ROV category, was introduced in the late 1990s. No other manufacturer offered an ROV until 2003. In 2013, there were 20 manufacturers known to CPSC to be supplying ROVs to the U.S. market. One manufacturer accounted for about 60 percent of the ROVs sold in the United States in 2013. Another seven manufacturers, including one based in China, accounted for about 36 percent of the ROVs sold in the same year. None of these seven manufacturers accounted for more than 10 percent of the market. The rest of the market was divided among about 12 other manufacturers, most of which were based in China or Taiwan.[52] Commission staff's analysis attempted to exclude vehicles that had mostly industrial or commercial applications and were not likely to be purchased by consumers. The Commission has identified more than 150 individual ROV models from among these manufacturers. However, this count includes some models that appear to be very similar to other models produced by the same manufacturer but sold through different distributors in the United States.

About 92 percent of ROVs sold in in the United States are manufactured in North America. About 7 percent of the ROVs sold in the United States are

[52] Market share is based upon Commission analysis of sales data provided by Power Products Marketing, Eden Prairie, MN (2014).

manufactured in China (by nine different manufacturers). Less than 1 percent of ROVs are produced in other countries other than the United States or China.[53]

Seven recreational vehicle manufacturers, which together account for more than 90 percent of the ROV market, established ROHVA. The stated purpose of ROHVA is ''to promote the safe and responsible use of recreational off-highway vehicles (ROVs) manufactured or distributed in North America.'' ROHVA is accredited by the American National Standards Institute (ANSI) to develop voluntary standards for ROVs. ROHVA members have developed a voluntary standard (ANSI/ROHVA 1–2011) that sets some mechanical and performance requirements for ROVs. Some ROV manufacturers that emphasize the utility applications of their vehicles have worked with the Outdoor Power Equipment Institute (OPEI) to develop another ANSI voluntary standard that is applicable to ROVs (ANSI/OPEI B71.9–2012). This voluntary standard also sets mechanical and performance requirements for ROVs. The requirements of both voluntary standards are similar, but not identical.

2. Retail Prices

The average manufacturer's suggested retail price (MSRP) of ROVs in 2013 was approximately $13,100, with a range of about $3,600 to $20,100. The average MSRP for the eight largest manufacturers (in terms of market share) was about $13,300. The average MSRP of ROVs sold by the smaller, mostly Chinese manufacturers was about $7,900.[54]

The retail prices of ROVs tend to be somewhat higher than the retail prices of other recreational and utility vehicles. The MSRPs of ROVs are about 10 percent higher, on average, than the MSRPs of low-speed utility vehicles. A comparison of MSRPs for the major manufacturers of ATVs and ROVs indicates that ROVs are priced about 10 percent to 35 percent higher than ATVs offered by the same manufacturer.[55] Another source indicates that the price of one ROV or other utility vehicle is about two-thirds the price of two ATVs.[56] Go-karts usually retail for between $2,500 and $8,000.[57]

3. Sales and Number in Use

Sales of ROVs have increased substantially since their introduction. In 1998, only one firm manufactured ROVs, and fewer than 2,000 units were sold. By 2003, when a second major manufacturer entered the market, almost 20,000 ROVs were sold. The only dip in sales occurred around 2008, which coincided with the worst period of the credit crisis and a recession that also started about the same time. In 2013, an estimated 234,000 ROVs were sold by 20 different manufacturers.[58] The chart below shows ROV sales from 1998 through 2013.

The number of ROVs available for use has also increased substantially. Because ROVs are a relatively new product, we do not have specific information on the expected useful life of ROVs. However, using the same operability rates that CPSC uses for ATVs, we estimate that there were about 570,000 ROVs available for use in 2010.[59] By the end of 2013, there were an estimated 1.2 million ROVs in use. (See Figure 17).

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[53] This information is based upon a Commission analysis of sales data provided by Power Products Marketing, Eden Prairie, MN (2012).

[54] MSRPs for ROVs were reported by Power Products Marketing, Eden Prairie, MN (2014).

[55] This information is based upon a Commission analysis of data provided by Power Products Marketing, Eden Prairie, MN, (2014), and an examination of the suggested retail prices on several manufacturers' Internet sites.

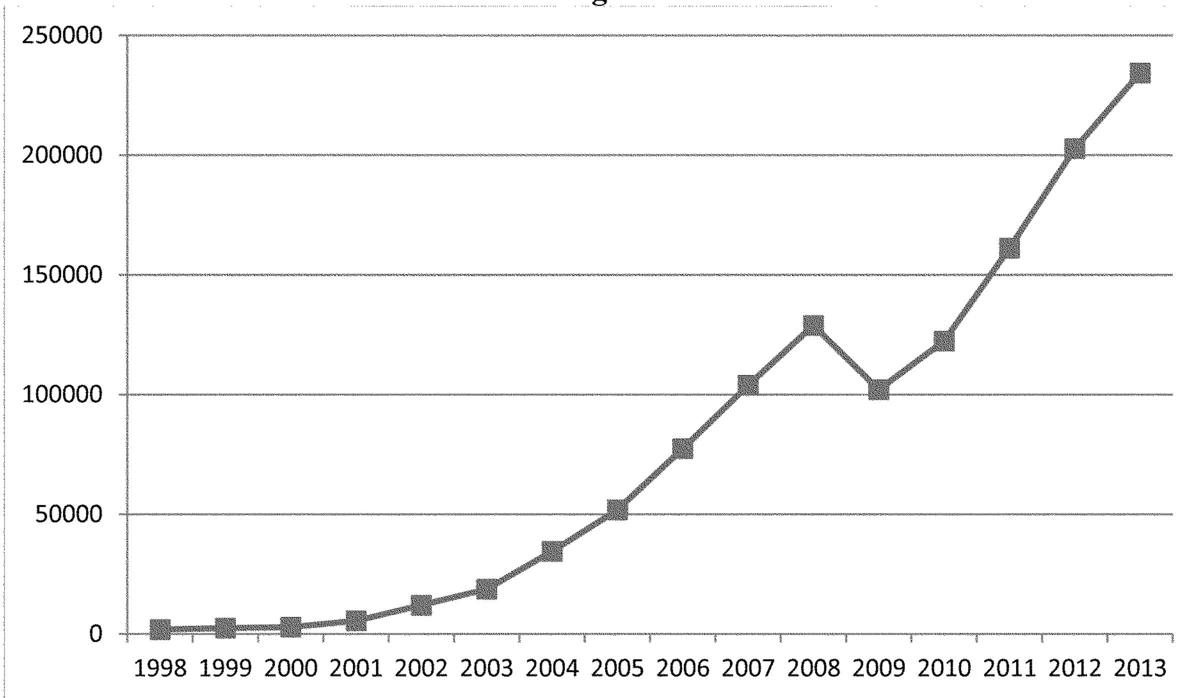
[56] ''2009 Utility Vehicle Review,'' *Southern Sporting Journal,* October 2008, Vol. 14, Issue 5, pp. 58–70, accessed through: *http://web.ebscohost.com* on March 17. 2011.

[57] Tom Behrens, ''Kart Racing: Fast times out on the prairie,'' *The Houston Chronicle,* November 27, 2008, p. 4. (accessed from *http://www.chron.com* on January 17, 2014).

[58] This information is based upon a Commission analysis of sales data provided by Power Products Marketing, Eden Prairie, MN.

[59] CPSC Memorandum from Mark S. Levenson, Division of Hazard Analysis, to Susan Ahmed, Associate Executive Director, Directorate for Epidemiology, ''2001 ATV Operability Rate Analysis,'' U.S. Consumer Product Safety Commission, Bethesda Maryland (19 August 2003). ''Operability rate'' refers to the probability that an ATV will remain in operation each year after the initial year of production.

ROV Sales (units), 1998–2013
Figure 17



Source: CPSC analysis of data compiled by Power Products Marketing.

Most ROVs are sold through retail dealers. Generally, dealers that offer ROVs also offer other products, such as motorcycles, scooters, ATVs, and similar vehicles. ROVs are also sold through dealers that carry farm equipment or commercial turf management supplies.

While sales of ROVs have increased over the last several years, sales of competing vehicles have leveled off, or declined. Low-speed utility vehicles have been on the market since the early 1980s. Their sales increased from about 50,000 vehicles in 1998, to about 150,000 vehicles in 2007. In 2011, however, sales fell to about 110,000 vehicles. A substantial portion of these sales were for commercial applications rather than consumer applications.[60]

After several years of rapid growth, U.S. sales of ATVs peaked in 2006, when more than 1.1 million ATVs were sold.[61] Sales have declined substantially since then. In 2012, less than 320,000 ATVs were sold, including those intended for adults, as well as those intended for children under the age of 16 years.[62]

One factor that could account for part of the decline in ATV sales is that after many years of increasing sales, the market may be saturated. Consequently, a greater proportion of future sales will likely be replacement vehicles or vehicles sold due to population growth. Another factor could be the increase in sales of ROVs. Some riders find that ROVs offer a more comfortable or easier ride, and ROVs are more likely to appeal to people who prefer the bench or bucket seating on ROVs over the straddle seating of ATVs. It is also easier to carry passengers on ROVs. Most ATVs are not intended to carry passengers, and the side-by-side seating offered by ROVs appears to be preferred over the tandem seating on the few ATVs intended to carry passengers.[63] A disadvantage of an ROV compared to an ATV is that many ROVs are too wide to travel on some trail systems intended for ATVs. However, some of the more narrow ROVs are capable of negotiating many ATV trails.[64]

Of the several types of vehicles that could be substitutes for ROVs, go-karts appear to be the smallest market segment. After increasing sales for several years, go-kart sales peaked at about 109,000 vehicles in 2004. Sales of go-karts have since declined significantly. In 2013, fewer than 20,000 units were sold. However, many of these are aimed at young riders or intended for use on tracks or other prepared surfaces and would not be reasonable substitutes for ROVs for some purposes.[65] The decline in go-kart sales may be due to the influx of inexpensive ATVs imported from China, which may have led some consumers to purchase an ATV rather than a go-kart.[66]

C. Societal Costs of Deaths and Injuries Associated With ROVs

The intent of the proposed rule is to reduce the risk of injury and death associated with incidents involving ROVs. Therefore, any benefits of the proposed rule could be measured as a

[60] This information is based upon a Commission analysis of information provided by Power Products Marketing of Eden Prairie, MN.

[61] Mathew Camp, ''Nontraditional Quad Sales Hit 465,000,'' *Dealer News,* April 28, 2008. Available at: *http://www.dealernews.com/dealernews/article/nontraditional-quad-sales-hit-465000?page=0,0,* accessed June 19, 2013.

[62] Estimates of ATV sales are based on information provided by the Specialty Vehicle Manufacturers Association and on confidential data purchased from Power Products Marketing of Minneapolis, MN.

[63] ''UTV Sales Flatten Out in 2008,'' *Dealer News,* August 2009, p. 40(4). ''2009 Kawasaki Teryx 750 FI 4x4 Sport RUV Test Ride Review,'' article posted on: *http://www.atvriders.com,* accessed 20 August 2009 and Tom Kaiser, ''Slowing sales: It's now a trend,'' *Powersports Business,* 12 February 2007, p. 44(1).

[64] Chris Vogtman, ''Ranger shifts into recreation mode,'' *Powersports Business,* 12 February 2007, p. 46(2).

[65] ''U.S. Go-Kart Market in Serious Decline,'' *Dealer News,* October, 2009, p. 38.

[66] (''Karts Feel the Chinese Crunch,'' *Dealer News,* November 2007, p. 44(2).

reduction in the societal costs of injuries and deaths associated with ROVs. This section discusses the societal costs of injuries and deaths.

1. ROV Injuries

a. Nonfatal Injuries

To estimate the number of nonfatal injuries associated with ROVs that were treated in hospital emergency departments, CPSC undertook a special study to identify cases that involved ROVs that were reported through the National Electronic Injury Surveillance System (NEISS) from January 1, 2010 to August 31, 2010. NEISS is a stratified national probability sample of hospital emergency departments that allows the Commission to make national estimates of product-related injuries. The sample consists of about 100 of the approximately 5,400 U.S. hospitals that have at least six beds and provide 24-hour emergency service.[67]

NEISS does not contain a separate product code for ROVs. Injuries associated with ROVs are usually assigned to either an ATV product code (NEISS product codes 3286–3287) or to the utility vehicle category (NEISS product code 5044). Therefore, the Commission reviewed all NEISS cases that were coded as involving an ATV or a UTV that occurred during the first 8 months of 2010 and attempted follow-up interviews with each victim (or a relative of the victim) to gather more information about the incidents and the vehicles involved. The Commission determined whether the vehicle involved was an ROV based on the make and model of the vehicle reported in the interviews. If the make and model of the vehicle was not reported, the case was not counted as an ROV. Out of 2,018 NEISS cases involving an ATV or UTV during the study period, a total of 668 interviews were completed for a response rate of about 33 percent. Sixteen of the completed interviews were determined to involve an ROV. To estimate the number of ROV-related injuries initially treated in an emergency department in 2010, the NEISS weights were adjusted to account for both non-response and the fact that the survey only covered incidents that occurred during the first 8 months of the year. Variances were calculated based on the adjusted weights. Based on this work, the Directorate for Epidemiology estimated that there were about 3,000 injuries (95 percent confidence interval of 1,100 to 4,900) involving ROVs in 2010 that were initially treated in hospital emergency departments.[68]

NEISS injury estimates are limited to injuries initially treated in hospital emergency departments. NEISS does not provide estimates of the number of medically attended injuries that were treated in other settings, such as physicians' offices, ambulatory care centers, or injury victims who bypassed the emergency departments and were directly admitted to a hospital. However, the Injury Cost Model (ICM), developed by CPSC for estimating the societal cost of injuries, uses empirical relationships between cases initially treated in hospital emergency departments and cases initially treated in other medical settings to estimate the number of medically attended injuries that were treated outside of a hospital emergency department.[69] According to ICM estimates, based on the 16 NEISS cases that were identified in the 2010 study, injuries treated in hospital emergency departments accounted for about 27 percent of all medically treated injuries involving ROVs. Using this percentage, the estimate of 3,000 emergency department-treated injuries involving ROVs suggests that there were about 11,100 medically treated injuries involving ROVs in 2010 (*i.e.,* 3,000 injuries initially treated in emergency departments and 8,100 other medically attended injuries) or 194 medically attended injuries per 10,000 ROVs in use ($11{,}100 \div 570{,}000 \times 10{,}000$).[70]

b. Fatal Injuries

In addition to the nonfatal injuries, there are fatal injuries involving ROVs each year. As of April 5, 2013, the Commission had identified 49 fatalities involving ROVs that occurred in 2010, or about 0.9 deaths per 10,000 ROVs in use ($(49 \div 570{,}000) \times 10{,}000$). The actual number of deaths in 2010 could be higher because reporting is ongoing for 2010. Overall, CPSC has counted 335 ROV deaths that occurred from January 1, 2003 to April 5, 2013. There were no reported deaths in 2003, when relatively few ROVs were in use. As of April 5, 2013, there had been 76 deaths reported to CPSC that occurred in 2012.[71]

2. Societal Cost of Injuries and Deaths Associated With ROVs

a. Societal Cost of Nonfatal Injuries

The CPSC's ICM provides comprehensive estimates of the societal costs of nonfatal injuries. The ICM is fully integrated with NEISS and provides estimates of the societal costs of injuries reported through NEISS. The major aggregated components of the ICM include: Medical costs; work losses; and the intangible costs associated with lost quality of life or pain and suffering.[72]

Medical costs include three categories of expenditure: (1) Medical and hospital costs associated with treating the injury victim during the initial recovery period and in the long run, the costs associated with corrective surgery, the treatment of chronic injuries, and rehabilitation services; (2) ancillary costs, such as costs for prescriptions, medical equipment, and ambulance transport; and (3) costs of health insurance claims processing. Cost estimates for these expenditure categories were derived from a number of national and state databases, including the National Healthcare Cost and Utilization Project—National Inpatient Sample and the Medical Expenditure Panel Survey, both sponsored by the Agency for Healthcare Research and Quality.

Work loss estimates, based on information from the National Health Interview Survey and the U.S. Bureau of Labor Statistics, as well as a number of published wage studies, include: (1) The forgone earnings of parents and visitors, including lost wage work and household work, (2) imputed long term work losses of the victim that would be associated with permanent impairment, and (3) employer productivity losses, such as the costs incurred when employers spend time juggling schedules or training replacement workers. The earnings estimates were updated most recently with weekly earnings data from the Current

[67] Schroeder T, Ault K. The NEISS Sample (Design and Implementation): 1999 to Present. Bethesda, MD: U.S. Consumer Product Safety Commission; 2001. Available at: *http://www.cpsc.gov/neiss/2001d011-6b6.pdf.*

[68] Sarah Garland, Directorate for Hazard Analysis, ''NEISS Injury Estimates for Recreational Off-Highway Vehicles (ROVs),'' U.S. Consumer Product Safety Commission (September 2011).

[69] For a more complete discussion of the Injury Cost Model see Ted R. Miller, et al., The Consumer Product Safety Commission's Revised Injury Cost Model, (December 2000). Available at: *http://www.cpsc.gov/PageFiles/100269/costmodept1.PDF. http://www.cpsc.gov/PageFiles/100304/costmodept2.PDF.*

[70] Using the ICM estimates for all cases involving ATVs and UTVs, injuries that were initially treated in a hospital emergency department accounted for about 35 percent of all medically-attended injuries. If this estimated ratio, which is based on a larger sample, but that includes vehicles that are not ROVs, was used instead of the ratio based strictly on the 16 known ROV NEISS cases in 2010, the estimated number of medically-attended injuries would be 8,600.

[71] Memorandum from Sarah Garland, Division of Hazard Analysis, ''Additional ROV-related incidents reported from January 1, 2012 through April 5, 2013,'' U.S. Consumer Product Safety Commission, Bethesda, MD (8 April 2013).

[72] A detailed description of the cost components, and the general methodology and data sources used to develop the CPSC's Injury Cost Model, can be found in Miller et al. (2000), available at *http://www.cpsc.gov//PageFiles/100269/costmodept1.PDF* and *http://www.cpsc.gov//PageFiles/100304/costmodept2.PDF.*

Population Survey conducted by the Bureau of the Census in conjunction with the Bureau of Labor Statistics.

Intangible, or non-economic, costs of injury reflect the physical and emotional trauma of injury as well as the mental anguish of victims and caregivers. Intangible costs are difficult to quantify because they do not represent products or resources traded in the marketplace. Nevertheless, they typically represent the largest component of injury cost and need to be accounted for in any benefit-cost analysis involving health outcomes.[73] The Injury Cost Model develops a monetary estimate of these intangible costs from jury awards for pain and suffering. While these awards can vary widely on a case-by-case basis, studies have shown them to be systematically related to a number of factors, including economic losses, the type and severity of injury, and the age of the victim.[74] Estimates for the Injury Cost Model were derived from a regression analysis of about 2,000 jury awards in nonfatal product liability cases involving consumer products compiled by Jury Verdicts Research, Inc.

In addition to estimating the costs of injuries treated in U.S. hospital emergency departments and reported through NEISS, the Injury Cost Model uses empirical relationships between emergency department injuries and those treated in other settings (*e.g.,* physicians' offices, clinics, ambulatory surgery centers, and direct hospital admissions) to estimate the number, types, and costs of injuries treated outside of hospital emergency departments. Thus, the ICM allows us to expand on NEISS by combining (1) the number and costs of emergency department injuries with (2) the number and costs of medically attended injuries treated in other settings to estimate the total number of medically attended injuries and their costs across all treatment levels.

In this analysis, we use injury data from 2010, as a baseline from which to estimate the societal cost of injuries associated with ROVs. We use the year 2010 because 2010 is the year for which we have the most comprehensive estimates of both fatal and nonfatal injuries associated with ROVs. According to ICM, the average societal cost of a medically attended injury associated with ROVs in 2010 was $29,383 in 2012 dollars. Based on this estimate, the total societal costs of the medically attended injuries involving ROVs in 2010 was about $326.2 million in 2012 dollars (11,100 injuries × $29,383). About 75 percent of the cost was related to the pain and suffering. About 9 percent of the cost was related to medical treatment, and about 16 percent was related to work and productivity losses victim, caregivers, visitors, and employers. Less than 1 percent of the cost was associated with the costs of the legal and liability system.

These cost estimates are based on a small sample of only 16 NEISS cases. This sample is too small to reflect the full range of injury patterns (*i.e.,* the different combinations of injury diagnoses, body parts, and injury dispositions) and rider characteristics (*i.e.,* age and sex) associated with ROV injuries. In fact, because the 16 NEISS cases did not include any case in which the victim required admission to a hospital, the cost estimates are probably low. Nevertheless, this estimate will be used in this analysis with the knowledge that the estimate's use probably leads to an underestimate of the societal costs associated with ROVs and underestimates of the potential benefits of the proposed rule intended to reduce the risk of injury associated with ROVs.[75]

b. Societal Cost of Fatal Injuries

As discussed above, there were at least 49 fatal injuries involving ROVs in 2010. If we assign a cost of $8.4 million for each death, then the societal costs associated with these deaths would amount to about $411.6 million (49 deaths × $8.4 million). The estimate of $8.4 million is the estimate of $7.4 million (in 2006 dollars) developed by the U.S. Environmental Protection Agency (EPA) updated to 2012 dollars and is consistent with willingness-to-pay estimates of the value of a statistical life (VSL). According to OMB's *2013 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act,* willingness-to-pay-estimates of the VSL generally vary from about $1.3 million to $12.2 million in 2010 dollars. In 2012 dollars, the range would be $1.3 million to 13.0 million.[76]

c. Societal Cost of Injuries per ROV in Use

Based on the previous discussion, the total estimated societal costs of deaths and injuries associated with ROVs were $737.8 million in 2010 (expressed in 2012 dollars). The estimate does not include the costs associated with any property damage, such as property damage to the ROVs involved or other property, such as another vehicle or object that might have been involved in an incident.

Given the earlier estimate that about 570,000 ROVs were in use at the end of 2010, the estimated societal costs of deaths and medically attended injuries was about $1,294 per ROV in use ($737.8 million ÷ 570,000) in 2010. However, because the typical ROV is expected to be in use for 15 to 20 years, the expected societal cost of fatalities or deaths per ROV over the vehicle's useful life is the present value of the annual societal costs summed over the ROV's expected useful life. CPSC has not estimated the operability rates of ROVs as they age. However, CPSC has estimated the operability rates for ATVs as they age, based on the results of exposure surveys.[77] ROVs and ATVs are similar vehicles in that they are both off-road recreational vehicles generally produced by the same manufacturers. If ROVs have the same operability rates as they age as ATVs, the present value of the societal cost of injuries over the expected useful life of an ROV (at a 3 percent discount rate) is $17,784.[78]

[73] Rice, D.P. & MacKenzie, E.J. (1989). Cost of injury in the United States: A report to Congress, Institute for Health and Aging. San Francisco, CA: University of California and The Johns Hopkins University.

[74] Viscusi, W.K. (1988). Pain and suffering in product liability cases: Systematic compensation or capricious awards? *Int. Rev. Law Econ. 8,* 203–220 and Rodgers, G.B. (1993). Estimating jury compensation for pain and suffering in product liability cases involving nonfatal personal injury. *J. For. Econ.* 6(3), 251–262.

[75] An alternative method for estimating the injury costs would be to assume that the patterns of injury associated with ROVs are similar to the injury patterns associated with all ATVs and UTVs. According to ICM estimates for all ATVs and UTVs (NEISS Product Codes 3285–3287 and 5044), injuries treated in hospital emergency departments accounted for about 35 percent of the medically attended injuries. This would suggest that the number of medically attended injuries involving an ROV was about 8,600. The average cost of a medically attended injury involving an ATV or UTV was $42,737. Therefore, the total societal cost of medically attended injuries would be $367.5 million.

[76] The estimate of the VSL developed by the EPA is explained EPA's *Guidelines* for Preparing Economic Analysis, Appendix B: Mortality Risk Valuation Estimates (Environmental Protection Agency, 2014) and is available at *http://yosemite.epa.gov/ee/epa/eerm.nsf/vwAN/EE-0568-50.pdf/$file/EE-0568-50.pdf.* The OMB's 2013 Draft Report to Congress is available at: *http://www.whitehouse.gov/sites/default/files/omb/inforeg/2013_cb/draft_2013_cost_benefit_report.pdf.* Both reports were accessed on August 6, 2014.

[77] CPSC Memorandum from Mark S. Levenson, Division of Hazard Analysis, to Susan Ahmed, Associate Executive Director, Directorate for Epidemiology, ''2001 ATV Operability Rate Analysis,'' U.S. Consumer Product Safety Commission, Bethesda MD (19 August 2003).

[78] The choice of discount rate is consistent with research suggesting that a real rate of 3 percent is an appropriate discount rate for interventions involving public health (see Gold, Marthe R, Joanna E. Siegel, Louise B. Russell and Milton C.

Continued

D. Requirements of the Proposed Rule: Costs and Benefits

The proposed rule would establish a mandatory safety standard for ROVs. The requirements of the proposed rule can be divided into two general categories: (1) Lateral stability and vehicle handling requirements, and (2) occupant-retention requirements. Following is a discussion of the costs and benefits that are expected to be associated with the requirements of the proposed rule. As discussed earlier, we use 2010 as the base year for this analysis because it is the only year for which we have estimates of both fatal and nonfatal injuries associated with ROVs. However, where quantified, the costs and benefits are expressed in 2012 dollars.

In general, the cost estimates were developed in consultation with the Directorate for Engineering Sciences (ES staff). Estimates are based on ES staff's interactions with manufacturers and knowledge related to ROV design and manufacturing process as well as direct experience with testing ROVs and similar products. In many cases, we relied on ES staff's expert judgment. Consequently, we note that these estimates are preliminary and welcome comments on their accuracy and the assumptions underlying their constructions. We are especially interested in data that would help us to refine our estimates to more accurately reflect the expected costs of the draft proposed rule as well as any alternative estimates that interested parties can provide.

1. Lateral Stability and Vehicle Handling Requirements

The lateral stability and vehicle handling requirements of the proposed rule would require that all ROVs meet a minimum level of rollover resistance and that ROVs exhibit sub-limit understeer characteristics. The dynamic lateral stability requirement would set a minimum value for the lateral acceleration at roll-over of 0.70 g (unit of standard gravity), as determined by a 30 mph drop-throttle J-turn test. The greater the lateral acceleration value, the greater the resistance of the ROV is to tipping or rolling over. The understeer requirement would mandate that ROVs exhibit understeer characteristics in the sublimit range of the turn circle test described in the proposed rule.

The proposed rule would also require manufacturers to place a hangtag on all new vehicles that provides the lateral acceleration at rollover value for the model and provides information to the consumer about how to interpret this value. The intent of the hangtag is to provide the potential consumer with information about the rollover propensity of the model to aid in the comparison of ROV models before purchase. The content and format of the hangtag are described in Section IX.C.2.

The proposed rule describes the test procedures required to measure the dynamic rollover resistance and the understeering performance of the ROV, including the requirements for the test surface, the loading of test vehicles, and the instrumentation required for conducting the tests and for data-acquisition during the tests. The test for rollover resistance would use a 30 mph drop-throttle J-turn test. This test uses a programmable steering controller to turn the test vehicle traveling at 30 mph at prescribed steering angles and rates to determine the minimum steering angle at which two-wheel lift is observed. The data collected during these tests are analyzed to compute and verify the lateral acceleration at rollover for the vehicle.

The test for vehicle handling or understeer performance involves driving the vehicle around a 100-foot radius circle at increasing speeds, with the driver making every effort to maintain compliance of the vehicle path relative to the circle. Data collected during the tests are analyzed to determine whether the vehicle understeers through the required range. The proposed rule would require that all ROVs exhibit understeer for values of ground plane lateral acceleration from 0.10 to 0.50 g.

a. Cost of Lateral Stability and Vehicle Handling Requirements

All manufacturers would have to conduct the tests prescribed in the proposed rule to determine whether their models meet the requirements and to obtain the information on dynamic lateral stability that must be reported to consumers on the hangtag. If any model fails to meet one or both of the requirements, the manufacturer would have to make adjustments or modifications to the design of the model. After the model has been modified, the manufacturer would have to conduct tests on the modified models to check that the model meets the requirements.

There is substantial overlap in the conditions under which the tests for dynamic lateral stability and vehicle handling must be performed. The test surfaces are the same, and the vehicle condition, loading, and instrumentation required for both tests are virtually the same. The one difference is that the test for dynamic lateral stability also requires that the test vehicle be equipped with a programmable steering controller. Because there is substantial overlap in the conditions under which the tests must be conducted, manufacturers likely will conduct both sets of tests on the same day. This would save manufacturers the cost of loading and instrumenting the test vehicle twice and renting a test facility for more than one day.

We estimate that the cost of conducting the dynamic lateral stability tests and the vehicle handling tests will be about $24,000 per model.[79] This includes the cost of conducting both sets of tests, measuring the center of gravity of the test vehicle, which is required for the dynamic lateral stability test, transporting the test vehicle to and from the test site, outfitting the test vehicles with the needed equipment and instruments, and the cost of renting the test facility. This estimate also assumes that both tests are being conducted on the same day and that the manufacturer only needs to rent the test facility for one day and pay for loading and instrumenting the test vehicles once.

If the model meets the requirements of both tests, the manufacturer would have no additional costs associated with these requirements. The tests would not have to be conducted again, unless the manufacturer makes changes to the model that could affect the vehicle's performance in these tests.

If the model does not meet the requirements of one or both of the tests, the manufacturer will incur costs to adjust the vehicle's design. Engineers specializing in the design of utility and recreational vehicles are likely to have a good understanding of vehicle characteristics that influence vehicle stability and handling. Therefore, these engineers should be able to modify easily the design of a vehicle to meet the stability and handling requirements. The Yamaha Rhino repair program demonstrated that an ROV that did not meet the lateral stability and vehicle handling requirements was successfully modified to meet the requirements by increasing the track width and reducing the rear suspension stiffness (by removing the sway bar) of the ROV. Based on experience with automotive

Weinstein, 1996, *Cost-Effectiveness in Health and Medicine,* New York: Oxford University Press).

[79] This estimate is based on the rates that CPSC has most recently paid a contractor for conducting these tests. For example, see contract CPSC–D–11–0003, which provides the following costs estimates: $3,000 for static measurement to determine center of gravity location, $19,000 to perform dynamic test, and $2,000 to ship vehicles. This amounts to approximately $24,000.

manufacturing, ES staff believes that less than 1 or 2 person-months would be required to modify an ROV model that did not comply with the requirements. A high estimate would be that a manufacturer might require as many as 4 person-months (or about 700 hours) to modify. Assuming an hourly rate of $61.75, which is the estimated total hourly compensation for management, professional, and related workers, the cost to modify the design of an ROV model to meet the stability and handling requirements, using the high estimate, would be about $43,000.

The Commission believes that most modifications that might be required to meet the lateral stability and vehicle handling requirements will have minimal, if any, impact on the production or manufacturing costs because the assembly of an ROV already includes installation of a wheel axle and installing a longer wheel axle or wheel spacer would not change the current assembly procedure; likewise, the assembly of an ROV already includes installation of sway bars and shock absorbers and installing different variations of these suspension components would not affect the current assembly procedure.

Once an ROV model has been modified to comply with the requirements, the manufacturer will have to retest the vehicle to check that the model does comply with the requirements. Both the dynamic stability and vehicle handling tests will have to be conducted on the redesigned model, even if the original model failed only one of the tests. This is because the design changes could have impacted the ROVs ability to comply with either requirement. Therefore, the full cost of the proposed lateral stability and vehicle handling requirements could range from a low of about $24,000 for a model that already met the requirements, up to $91,000, for a scenario in which the model was tested, the manufacturer required 4 person-months to modify the vehicle, and the vehicle was retested to check that the modified vehicle complied with the requirements.[80]

Although the plausible range for the cost of the lateral stability and vehicle handling requirement is $24,000 to $91,000 per model, the Commission believes that the average cost per model will be toward the low end of this range because CPSC tested 10 ROVs that represented the recreational and utility oriented ROVs available in 2010, and found that four out of 10 ROVs met the lateral stability requirement and five out of 10 ROVs met the vehicle handling requirements. As discussed previously, for models that already meet the requirements, the manufacturer will incur no additional costs other than the cost of the testing. Based upon CPSC examination of models that do not meet the requirements, CPSC believes in most cases the manufacturers should be able to bring the model into compliance with the requirements by making simple changes to the track width, or to the suspension of the vehicle. These are relatively modest modifications that probably can be accomplished in less time than the high estimate of 4 months. However, the Commission welcomes comments on our underlying rationale for the estimates as well as the estimates themselves.

It is frequently useful to compare the benefits and costs of a rule on a per-unit basis. Based on 2011 sales data, the average unit sales price per ROV model was about 1,800.[81] ROVs are a relatively new product and the average number of years a ROV model will be produced before being redesigned is uncertain. It is often observed that automobile models are redesigned every 4 to 6 years. If a ROV model is produced for about 5 years before being redesigned, then the cost of testing the model for compliance with the dynamic lateral stability and vehicle handling requirements, and, if necessary, modifying the design of the vehicle to comply with the requirements and retesting the vehicle would apply to about 9,000 units. (The Commission welcomes comments on this assumption.) Therefore, the average per-unit cost of the proposed dynamic lateral stability and vehicle handling requirements would be about $3 per unit ($24,000 ÷ 9,000), if the model already complies with the requirements. Using the high estimate of the time that it could take to modify a model that fails or one or both of the tests, the per-unit cost would be about $10 per unit ($91,000 ÷ 9,000).[82]

The proposed rule requires that the manufacturer attach a hangtag on each new ROV that provides the ROV's lateral acceleration at rollover value, which can be used by the consumer to compare the rollover resistance of different ROVs. We estimate that the cost of the hangtag, including the designing and printing of the hangtag, and attaching the hang tag to the vehicle, will be less than $0.25 per vehicle. Our estimates are based on the following assumptions: (1) The cost of printing the hang tag and the wire for attaching the hang tag is about 8 cents per vehicle, (2) placing the hang tag on each vehicle will require about 20 seconds at an hourly rate of $26.11[83] and (3) designing and laying out the hang tag for each model will require about 30 minutes at an hourly rate of $61.75.[84] The estimate of 30 minutes for the hang tag design reflects that the proposed rule provides a sample of the required hang tag and guidance regarding the layout of the hang tag for manufacturers to follow. Also, if the manufacturer has multiple models, the same template could be used across models; the manufacturer would simply need to change the lateral acceleration number and model identification. In light of these considerations, CPSC believes that 30 minutes per model represents a reasonable estimate of the effort involved, but we welcome comments on this estimate, especially comments that will assist us in refining the estimate.

According to several ROV manufacturers, some ROV users ''might prefer limit oversteer in the off-highway environment.'' This assertion appeared in a public comment on the ANPR for ROVs (Docket No. CPSC–2009–0087), submitted jointly on behalf of Arctic Cat, Inc., Bombardier Recreational Products, Inc., Polaris Industries, Inc., and Yamaha Motor Corporation, USA. To the extent that the requirements in the proposed rule would reduce the ability of these users to reach limit

[80] If the ROV already met the lateral stability and vehicle handling requirements, the low estimate of $24,000 could overstate the incremental cost of meeting the requirements if the manufacturer was already performing the tests prescribed in the proposed rule.

[81] In 2011, the average number of units sold per model was about 1,800. Depending on the particular model, the units sold ranged from less than 10 for some models, to more than 10,000 for others (based on an analysis by CPSC staff of a database obtained from Power Products Marketing of Eden Prairie, MN).

[82] These per-unit cost estimates are an attempt to estimate the average per-unit costs across all ROV models. The actual per-unit cost for any ROV model would depend upon the sales volume for that model. If the sales were substantially more than 1,800 units annually, then the per-unit cost would be substantially lower than the estimate above. If sales were substantially less than 1,800 units annually, then the per-unit cost of the proposed requirements would be substantially higher.

[83] U.S. Bureau of Labor Statistics, Table 9 (Employer Costs for Employee Compensation (ECEC), total compensation for production, transportation, and material moving for all workers in private industry), June 2012. U.S. Department of Labor. Accessed on January 9, 2014. Available at: *http://www.bls.gov/news.release/archives/ece0c_09112012.pdf*

[84] U.S. Bureau of Labor Statistics, Table 9 (Employer Costs for Employee Compensation (ECEC), total compensation for all management, professional, and related for all workers in private industry), June 2012. U.S. Department of Labor. Accessed on January 9, 2014. Available at: *http://www.bls.gov/news.release/archives/ecec_09112012.pdf.*

oversteer intentionally, the proposed rule could have some adverse impact on the utility or enjoyment that these users receive from ROVs. These impacts would probably be limited to a small number of recreational users who enjoy activities or stunts that involve power oversteering or limit oversteer.

Although the impact on consumers who prefer limit oversteer cannot be quantified, the Commission expects that the impact will be low. Any impact would be limited to those consumers who wish to engage intentionally in activities involving the loss of traction or power oversteer. The practice of power oversteer, such as the speed at which a user takes a turn, results from driver choice. The proposed rule would not prevent ROVs from reaching limit oversteer under all conditions; nor would the rule prevent consumers from engaging in these activities. At most, the proposed rule might make reaching limit oversteer in an ROV to be somewhat more difficult for users to achieve.

b. Benefits of the Lateral Stability and Vehicle Handling Requirements

The benefit of the dynamic lateral stability and vehicle handling or understeer requirements would be the reduction of injuries and deaths attributable to these requirements. The intent of the dynamic lateral stability requirement is to reduce rollover incidents that involve ROVs. A CPSC analysis of 428 ROV incidents showed that at least 68 percent involved the vehicle rolling sideways. More than half of the overturning incidents (or 35 percent of the total incidents) occurred during a turn. There were other incidents (24 percent of the total incidents) in which the vehicle rolled sideways, but it is not known whether the incident occurred during a turn.[85] The dynamic lateral stability requirement is intended to ensure that all ROVs on the market have at least a minimum level of resistance to rollover during turns, as determined by the test in the proposed rule. Additionally, by requiring through the use of hang tags that consumers be informed of the rollover resistance of ROV models, the proposed rule would make it easier for consumers to compare the rollover resistance of ROV models before making a purchase. Manufacturers might be encouraged to develop ROV models with greater resistance to rollover if consumers show a clear preference for ROVs with the higher values for lateral acceleration threshold at rollover when they purchase new ROVs. As a similar example, in 2001, NHTSA began including rollover resistance information in its new car assessment program (NCAP).[86] NHTSA believed that consumer information on the rollover risk of passenger cars would influence consumers to purchase vehicles with a lower rollover risk and inspire manufacturers to produce vehicles with a lower rollover risk.[87] A subsequent study of static stability factor (SSF) trends in automobiles found that SSF values increased for all vehicles after 2001, particularly SUVs, which tended to have the worst SSF values in the earlier years.[87]

The understeer requirement is intended to reduce the likelihood of a driver losing control of an ROV during a turn, which can lead to the vehicle rollover, striking another vehicle, or striking a fixed object. Oversteer is an undesirable trait because it is a directionally unstable steering response that leads to dynamic instability and loss of control. For this reason, automobiles are designed to exhibit understeer characteristics up to the traction limits of the tires. Sub-limit oversteer is also undesirable for off-highway vehicles due to the numerous trip hazards that exist in the off-highway environment and can cause the vehicles to roll over.

Although the Commission believes that the dynamic lateral stability and vehicle handling requirements will reduce the number of deaths and injuries involving ROVs, it is not possible to quantify this benefit because we do not have sufficient data to estimate the injury rates of models that already meet the requirements and models that do not meet the requirements. Thus, we cannot estimate the potential effectiveness of the dynamic lateral stability and vehicle handling requirements in preventing injuries. However, these requirements are intended to reduce the risk of an ROV rolling sideways when making a turn. Because the estimated societal cost of deaths and injuries associated with ROVs is $17,784 over the useful life of an ROV, and because at least 35 percent of the injuries occurred when an ROV rolled sideways when making a turn, these requirements would address approximately $6,224 in societal costs per ROV ($17,784 × .35). Consequently, given that the estimated cost of the lateral stability and handling requirements is less than $10 per ROV, the requirements would have to prevent less than about 0.2 percent of these incidents ($10 ÷ $6,224) for the benefits of the requirements to exceed the costs.

2. Occupant Retention Requirements

The occupant retention requirements of the proposed rule are intended to keep the occupant within the vehicle or within the rollover protective structure (ROPs). First, each ROV would be required to have a means to restrict occupant egress and excursion in the shoulder/hip zone, as defined by the proposed rule. This requirement could be met by a fixed barrier or structure on the ROV or by a barrier or structure that can be put into place by the occupant using one hand in one operation, such as a door. Second, the proposed rule would require that the speed of an ROV be limited to a maximum of 15 mph, unless the seat belts for both the driver and any front seat passengers are fastened. The purpose of these requirements is to prevent deaths and injuries, especially incidents involving full or partial ejection of the rider from the vehicle.

a. Costs of Occupant Retention Requirements

i. Means To Restrict Occupant Egress or Excursion

Most ROVs already have some occupant protection barriers or structures. In some cases, these structures might already meet the requirements of the proposed rule. In other cases, they could be modified or repositioned to meet the requirements of the proposed rule. A simple barrier that would meet the requirements of the proposed rule could be fabricated out of a length of metal tubing that is bent and bolted or welded to the ROPs or other suitable structure of the vehicle in the shoulder/hip zone of the vehicle, as defined in the proposed rule. ES staff believes that any additional metal tubing required to form such a barrier could be obtained for a cost of about $2 per barrier. ES also believes that the additional time that would be required to bolt or weld the barrier to the vehicle would be less than 1 minute. Assuming an hourly labor cost of $26.11, the labor time required would be less than $0.50. ES staff also believes that it would take manufacturers only a few hours to determine how an existing ROV model would need to be modified to comply with the requirement and to make the necessary drawings to implement the change. When spread over the

[85] Sarah Garland, Ph.D., *Analysis of Reported Incidents Involving Deaths or Injuries Associated with Recreational Off-Highway Vehicles (ROVs),* U.S. Consumer Product Safety Commission, Bethesda, MD (May 2012).

[86] 65 FR 34988 (June 1, 2000).

[87] Walz, M. C. (2005). Trends in the Static Stability Factor of Passenger Cars, Light Trucks, and Vans. DOT HS 809 868. Retrieved from *http://www.nhtsa.gov/cars/rules/regrev/evaluate/809868/pages/index.html.*

production of the model, this cost would only amount to a few cents per vehicle. Therefore, the estimated cost is expected to be less than $3 per barrier.

Based on a cost of less than $3 per barrier, the cost per vehicle would be less than $6 for ROVs that do not have rear seats and $12 for ROVs with rear seats. One exposure study found that about 20 percent of ROVs had a seating capacity of 4 or more, which indicates that these ROVs have rear seats. Therefore, if all ROV models required modification to meet the standard, the weighted average cost per ROV would be about $7 ($6 × 0.8 + $12 × 0.2). However, CPSC tested 10 ROVs that represented the recreational and utility oriented ROVs available in 2010, and found that four out 10 ROVs had a passive shoulder barrier that passed a probe test specified in ANSI/ROHVA 1–2011. Therefore, this estimate of the average cost is high because there would be no additional cost for models that already meet the proposed requirement. We welcome comments on these costs and the assumptions underlying their constructions. We are especially interested in data that would help us to refine our estimates to more accurately reflect the expected costs of this proposed requirement as well as any alternative estimates that interested parties can provide.

ii. Requirement To Limit Speed If the Driver's Seat Belt Is Not Fastened

The requirement that the speed of the vehicle be limited if the driver's seat belt is unfastened does not mandate any specific technology. Therefore, manufacturers would have some flexibility in implementing this requirement. Nevertheless, based on staff's examination of and experience with speed-limiting technology, including examination of current ROV models with this feature, most systems to meet this requirement will probably include the following components:

1. A seat belt use sensor in the seat belt latch, which detects when the seat belt is fastened;

2. a means to limit the speed of the vehicle when the seat belt is not fastened;

3. a means to provide a visual signal to the driver of the vehicle when the speed of the vehicle is limited because the seat belt is not fastened;

4. wiring or other means for the sensor in the seat belt latch to send signals to the vehicle components used to limit the speed of the vehicle and provide feedback to the driver.

Before implementing any changes to their vehicles to meet the requirement, manufacturers would have to analyze their options for meeting the requirement. This process would include developing prototypes of system designs, testing the prototypes, and refining the design of the systems based on this testing. Once the manufacturer has settled upon a system for meeting the requirement, the system will have to be incorporated into the manufacturing process of the vehicle. This will involve producing the engineering specifications and drawings of the system, parts, assemblies, and subassemblies that are required. Manufacturers will need to obtain the needed parts from their suppliers and incorporate the steps needed to install the system on the vehicles in the assembly line.

ES staff believes that it will take about nine person-months per ROV model to design, test, implement, and begin manufacturing vehicles that meet the requirements. The total compensation for management, professional, and related occupations as of 2012, is about $61.75 per hour.[88] Therefore, if designing and implementing a system to meet the requirement entails about nine person months (or 1,560 hours), the cost to the company would be about $100,000 per ROV model.[89]

Manufacturers would be expected to perform certification tests, following the procedure described in the proposed rule, at least once for each model the manufacturer produces, to ensure that the model, as manufactured, meets the rule's requirements. Additionally, manufacturers would be expected to perform the certification testing again if they make any changes to the design or components used in a vehicle that could impact the ROV's compliance with this requirement. We estimate that the cost of this testing would be about $4,000 per model. This estimate assumes that the testing will require three professional employees 4 hours to conduct the testing at $61.75 per hour, per person. Additionally, the rental of the test facility will cost $1,000; rental of the radar gun will cost $400; and transportation to the test facility will cost $1,400, and that the test vehicle can be sold after the testing is completed.

In addition to the cost of developing and implementing the system, manufacturers will incur costs to acquire any parts required for the system and to install the parts on the vehicles. We estimate the cost of adding a seat belt-use sensor to detect when the seat belt is fastened to be about $7 per seat belt. This estimate is based on figures used by the National Highway Traffic Safety Administration (NHTSA) in its preliminary economic assessment of an advanced air bag rule.[90] This is a widely used technology; virtually all passenger cars have such sensors in their driver side seat belt latches to signal the seat belt reminder system in the car. The sensors and seat belt latches that would be expected to be used to meet this requirement in ROVs are virtually the same as the sensors used in passenger cars.

There is more than one method manufacturers could use to limit the maximum speed of the vehicle when the driver's seat belt is unfastened. One method would be to use a device, such as a solenoid, that limits mechanically the throttle opening. Based on observed retail prices for solenoid valves used in automotive applications, the cost to manufacturers of such a solenoid should be no more than about $25 per vehicle. One retailer had 24 different solenoids available at retail prices ranging from about $24 to $102. We expect that a manufacturer would be able to obtain similar solenoids for substantially less than the retail price. Thus, using the low end of the observed retail prices suggests that manufacturers would probably be able to acquire acceptable solenoids for about $25 each.

Manufacturers of ROVs equipped with electronic throttle control (ETC or ''throttle by wire'') would have at least one other option for limiting the maximum speed of the vehicle. Instead of using a mechanical means to limit the throttle opening, the engine control unit (ECU) of the vehicle, which controls the throttle, could be reprogrammed or ''mapped'' in a way that would limit the speed of the vehicle if the seat belt was not fastened. If the ECU can be used to limit the maximum speed of the ROV, the only cost would be the cost of reprogramming or mapping the ECU, which would be completed in the implementation stage of development, discussed previously. There would be no additional manufacturing costs involved.

There would be at least two options for providing a visual signal to the driver that the speed of the vehicle is limited because seat belts are not

[88] U.S. Bureau of Labor Statistics, Table 9 (Employer Costs for Employee Compensation (ECEC), total compensation for all management, professional, and related for all workers in private industry), June 2012. U.S. Department of Labor. Accessed on January 9, 2014. Available at: *http://www.bls.gov/news.release/archives/ecec_09112012.pdf.*

[89] The estimate has been rounded to the nearest $10,000.

[90] NHTSA estimated the cost of a seat belt use sensor to be $2 to $5 in 1997 dollars. The cost has been adjusted to 2012 dollars using the CPI Inflation Calculator at: *http://www.bls.gov/data/inflation_calculator.htm.*

fastened. One option would be to use an LCD display. Most ROV models already have an LCD display in the dashboard that could be used for this purpose. If an LCD display is present, the only cost would be the cost of the programming required for the display to show this message. This cost would be included in the estimated cost of the research and development, and there would be no additional manufacturing cost.

Another option for providing a visual signal to the driver that the speed of the vehicle is limited would be to use a lighted message or icon on the dashboard or control panel of the vehicle. Both voluntary standards already require a ''lighted seat belt reminder.'' To comply with this proposed requirement, the current visual reminder would have to be modified. For example, the wording or icons of the reminder would change, and the reminder would probably require a somewhat larger area on the dashboard or control panel. There could be some additional cost for an extra bulb or lamp to illuminate the larger area or icon. Based on its experience, ES staff believes that the cost of an additional bulb or lamp would be about $1 or less per vehicle.

There will be some labor costs involved in installing the components needed to meet this requirement, including installing and connecting the wires. We expect that the components would be installed at the stage of assembly that would minimize the amount of labor required. If the amount of additional labor per vehicle was about 5 minutes, and assuming a total labor compensation rate of $26.11 an hour,[91] the labor cost is estimated to amount to approximately $2 per vehicle.

In addition to the certification testing discussed previously, most manufacturers would be expected to conduct some quality assurance testing on vehicles as the vehicles come off the assembly line. Virtually all manufacturers already perform some quality control or quality assurance tests on their vehicles. The tests are intended to ensure, among other things, that the vehicle starts properly, that the throttle and brakes function properly, and that any lights function properly. Testing of the system limiting the maximum speed when the driver's seat belt is not fastened would likely be incorporated into this testing to ensure that the system is working as intended. These tests could simply involve running the vehicle once with the seat belt unfastened to determine whether speed was limited and running the vehicle again with the seat belt fastened to determine whether the maximum speed was no longer limited. If this testing added an additional 10 minutes to the amount of time it takes to test each vehicle, the cost would be about $4 per vehicle, assuming a total hourly compensation rate of $26.11.

The manufacturing costs that would be associated with meeting the seat belt reminder and speed limitation requirement of the proposed rule are summarized in Table 8. These costs include the cost of one seat belt-use sensor, the throttle or engine control, the visual feedback to the driver, and about 5 minutes of labor time and about 10 minutes for testing.

TABLE 8—ESTIMATED MANUFACTURING COSTS OF REQUIREMENT, PER ROV

Component	Cost
Seat Belt-Use Sensor	$7.
Throttle or Engine Control	$0 to $25.
Visual Signal to Driver	$1.
Labor	$2.
Quality Control Testing	$4.
Total	$14 to $39.

As discussed previously, we estimate the upfront research, design, and implementation costs to be about $100,000 per model, and the certification testing costs are estimated to be about $4,000 per model. Assuming, as before, that the average annual sales per model are 1,800 units, and assuming that the typical model is produced for 5 years, then the research, design, and certification testing costs would average about $12 per vehicle. The average cost for models produced at lower volumes would be higher, and the average cost for models produced at higher-than-average volumes would be lower. Given the average cost of the design and development and the costs of the parts and manufacturing, we estimate that this requirement would cost between $26 ($14 + $12) and $51 ($39 + 12) per vehicle.

Unquantifiable Costs to Users—The requirement could impose some unquantifiable costs on certain users who would prefer not to use seat belts. The cost to these users would be the time required to buckle and unbuckle their seat belts and any disutility cost, such as discomfort caused by wearing the seat belt. We cannot quantify these costs because we do not know how many ROV users choose not to wear their seat belts. Nor do we have the ability to quantify any discomfort or disutility that ROV users would experience from wearing seat belts. However, the proposed rule does not require that the seat belts be fastened, unless the vehicle is traveling 15 mph or faster. This requirement should serve to mitigate these costs because many people who would be inconvenienced or discomforted by the requirement, such as people using the vehicle for work or utility purposes, or people who must get on and off the vehicle frequently, are likely to be traveling at lower speeds.

iii. Requirement To Limit Speed If Seat Belts for Front Passengers Are Not Fastened

The proposed rule would also require that the speed of the ROV be limited to no more than 15 mph if the seat belt of any front passenger, who is seated in a location intended by the manufacturer as a seat, is not fastened. Based on conversations with ES staff, designing a system that also limits the speed of the vehicle if the seat belt of a passenger is not fastened would require only minor adjustments to the system limiting the speed if the driver's seat belt is not fastened. The speed-limiting system uses sensor switches (seat belt latch sensors and/or occupant presence sensors) to determine if seat belts are in use, and the speed-limiting system controls the vehicle's speed based on whether the switch is activated or not. ES staff believes adding requirements for front passenger seat belt use will not add significant time to the research and design effort for a speed-limitation system because the system would only have to incorporate additional switches to the side of the system that determines whether vehicle speed should be limited.

However, incorporating the front passenger seats into the requirement would require additional switches or sensors. A seat belt-use sensor like the one used on the driver's side seat belt latch, would be required for each passenger seat belt. The cost of a seat belt-use sensor was estimated to be about $7. Additionally, there would likely be a sensor switch in each front passenger seat to detect the presence of a passenger. This switch could be similar to the seat switches in riding lawn mowers that shut off the engine if a rider is not detected. Similarly, in a ROV, if the presence of a passenger is not detected, the switch would not include the passenger seat belt sensor in circuit for determining whether the speed of the ROV should be limited. We

[91] U.S. Bureau of Labor Statistics, Table 9 (Employer Costs for Employee Compensation (ECEC), total compensation for production, transportation, and material moving for all workers in private industry), June 2012. U.S. Department of Labor. Accessed on January 9, 2014. Available at: *http://www.bls.gov/news.release/archives/ecec_09112012.pdf*

estimate that the cost of this switch is $13 per seat, based on the retail price of a replacement switch for the seat switch in a riding lawn mower.

There will be labor costs involved in installing the components needed to meet this requirement. The components would probably be installed at the stage of assembly that would minimize the amount of labor required and would probably not require more than about 5 minutes. Additionally, manufacturers will need to conduct tests of the system to ensure that the system functions as required. These tests could take an additional 5 minutes per vehicle. Assuming a total labor compensation rate of $26.11 an hour,[92] the labor cost would probably amount to about $4 per vehicle. Therefore, the full cost of meeting this requirement would be about $24 per passenger seat ($7 for seat belt latch sensor + $13 for seat switch + $4 for labor). Therefore, the quantifiable cost of extending the seat belt/speed limitation requirement to include the front passenger seat belts would be $24 for ROVs with only two seating positions in the front, (*i.e.,* the driver and right front passenger) and $48 for ROVs that have three seating positions in the front. According to a survey by Heiden Associates, about 9 percent of ROVs were reported to have a seating capacity of three.[93] Therefore, the average cost of extending the seat belt/speed limitation requirement per ROV would be $26 ($24 + 0.09 x $24).

An additional cost that is unquantifiable but should be considered nevertheless, is the impact that the failure of a component of the system could have on consumers. The more components that a system has, or the more complicated that a system is, the more likely it is that there will be a failure of a component somewhere in the system. A system that limits the speed of an ROV if a front passenger's seat belt is unbuckled would consist of more components and the system would be more complicated than a system that only limited the speed of the vehicle if the driver's seat belt is unfastened. Failure in one or more of the components would impose some costs on the consumer, and this failure could possibly affect consumer acceptance of the requirement. For example, if the sensor in a passenger's seat belt failed to detect that the seat belt was latched, the speed of the vehicle could be limited, even though the seat belts were fastened. The consumer would incur the costs of repairing the vehicle and the loss in utility because the speed was limited until the repairs were made.

b. Benefits of the Occupant Retention Requirements

The benefit of the occupant-retention requirement is the reduction in the societal cost of fatal and nonfatal injuries that could be attributable to the requirements. In passenger cars, NHTSA assumes that a belted driver has a 45 percent reduction in the risk of death.[94] Research confirms the validity of that estimate.[95] The effectiveness of seat belts in reducing the number or severity of nonfatal injuries is less certain than in the cases resulting in deaths. Nevertheless, there is evidence that the use of seat belts is associated with a reduction in injury severity. A study by Robert Rutledge and others found statistically significant decreases in the severity of injuries in belted patients versus unbelted patients admitted to trauma center hospitals in North Carolina for variables such as the trauma scores, the Glasgow coma scale, days on a ventilator, days in an intensive care unit, days in a hospital, and hospital charges.[96] This study found, for example, that the mean stay in the hospital for belted patients was about 20 percent shorter than for unbelted patients: 10.5 days for belted patients as opposed to 13.2 days for unbelted patients. The hospital charges for belted patients were 31 percent less than the charges incurred by unbelted patients: $10,500 versus $15,250.[97]

In this analysis, we assume that the effectiveness estimate that NHTSA uses for seat belts in automobiles is a reasonable approximation of the effectiveness of seat belts at reducing fatalities in ROVs. However, according to Kahane (2000), the effectiveness of seat belts was significantly higher in accidents involving rollover and other incidents where the potential for ejection was high.[98] A significant portion of the fatal and nonfatal injuries associated with ROVs are associated with rollovers, which suggests that a higher effectiveness estimate could be warranted.

The work by Rutledge, et al., showed that mean hospital stays were about 20 percent less and hospital charges were 31 percent less for belted patients. This work provides some evidence that seat belts can reduce some components of the societal costs of nonfatal injuries by 20 to 31 percent. In this analysis we use the low end of this range, 20 percent, and assume that it applies to all components of the societal costs associated with nonfatal ROV injuries, including work losses and pain and suffering. The assumed 20 percent reduction in societal costs could come about because some injuries were prevented entirely or because the severity of some injuries was reduced.

These assumptions are justified because the seat belts used in ROVs are the same type of seat belts used in automobiles. Additionally, the requirement that ROVs have a passive means to restrict the egress or excursion of an occupant in the event of a rollover would ensure that there would be some passive features on ROVs that will help to retain occupants within the protective structure of the ROV just as there are in automobiles. We welcome comment on the accuracy of these estimates and underlying assumptions and will consider alternative estimates or assumptions that commenters wish to provide.

A separate estimate of the benefit of the requirement for a passive means to restrict occupant egress or excursion is not calculated. The primary benefit of this requirement is to ensure that ROVs have passive features that are more effective at retaining occupants within the protective zone of the vehicle in the event of a rollover. Therefore, the passive means to restrict occupant egress or excursion acts synergistically with the seat belt requirements to keep occupants within the protective zone of

[92] U.S. Bureau of Labor Statistics, Table 9 (Employer Costs for Employee Compensation (ECEC), total compensation for production, transportation, and material moving for all workers in private industry), June 2012. U.S. Department of Labor. Accessed on January 9, 2014. Available at: *http://www.bls.gov/news.release/archives/ecec_09112012.pdf.*

[93] Heiden Associates et al. provided results from a 2009 ROV Survey, which is included in Appendix 2 of Docket No. CPSC—2009–0087).

[94] Charles J. Kahane, ''Fatality Reduction by Safety Belts for Front-Seat Occupants of Cars and Light Trucks: Updated and Expanded Estimates Based on 1986–99 FARS Data,'' U.S. Department of Transportation, Report No. DOT HS 809 199, (December 2000).

[95] ''*Analysis of Reported Incidents Involving Deaths or Injuries Associated with Recreational Off-Highway Vehicles (ROVs),*'' U.S. Consumer Product Safety Commission, Bethesda, MD (May 2012).

[96] Robert Rutledge, Allen Lalor, Dale Oller, et al., ''The Cost of Not Wearing Seat Belts: A Comparison of Outcome in 3396 Patients,'' Annals of Surgery, Vol. 217, No. 2, 122–127 (1993).

[97] Note that the Rutledge study looked only at the difference in the severity of cases involving belted, as opposed to unbelted victims. It did not estimate the number of injuries that were actually prevented. It should also be noted that the Rutledge study focused only on patients that were hospitalized for at least one day. It might not be as applicable to patients who were treated and released without being admitted to a hospital.

[98] In these incidents, the researchers found the effectiveness of seat belts was 74 percent in passenger cars and 80 percent in light trucks. Incidents involving overturning of the vehicle or the ejection of the victim are associated with a larger proportion of the fatal injuries involving ROVs. At least 65 percent of the fatalities were in incidents where the vehicle rolled sideways and at least 70 percent of those injured or killed were either fully or partially ejected.

the vehicle or ROPS, and in addition, provides justification for applying to the proposed rule for ROVs estimates from studies on the effectiveness of seat belts in automobiles.

i. Benefit of Limiting Speed If Driver's Seat Belt Is Not Fastened

As noted previously, the benefit of the occupant-retention requirements would be the reduction in the societal costs of fatal and nonfatal injuries that would be expected. The incremental benefit of applying the requirement to limit the speed of the vehicle if the driver's seat belt is not fastened is discussed below. The incremental benefit of applying the same requirement to the front passengers is discussed separately.

Potential Reduction in Fatal Injuries

Table 9 shows the 231 fatality cases that CPSC has reviewed according to the seating location of the victim and whether the victim was wearing a seat belt. Ignoring the cases in which the location of the victim or the seat belt use by the victim is unknown (and thereby, erring on the side of underestimating the benefits), the data show that about 40 percent (92 ÷ 231) of the deaths happened to drivers who were not wearing seat belts. If the pattern of deaths in 2010 is presumed to match the overall pattern of the deaths reviewed by CPSC, then about 20 of the reported 49 deaths associated with ROVs in 2010 [99] would have been to drivers who did not have their seat belts fastened. (The actual pattern of deaths in any given year will likely be higher or lower than the overall or average pattern. In this analysis, we imposed the overall pattern to the reported fatalities in 2010, so that the results would be more representative of all reported ROV fatalities.)

TABLE 9—ROV FATALITIES BY VICTIM LOCATION AND SEAT BELT USE

[2003 through 2011]

Location	Seat belt use			
	Yes	No	Unknown or N/A	Total
Driver	16	92	33	141
Right Front Passenger	10	33	6	49
Middle Front Passenger	0	6	0	6
Rear Passenger	0	3	1	4
Unknown Location	1	6	5	12
Cargo Area	1	8	1	10
Bystander or Other	0	3	6	9
Total	28	150	53	231

Source: CPSC Directorate for Epidemiology.

The requirement limiting the maximum speed would apply only to incidents involving unbelted drivers that occurred at speeds of greater than 15 mph. Of the ROV incidents that the Commission has reviewed, the speed of the vehicle was reported for only 89 of the 428 incidents. Therefore, estimates based on this data need to be used cautiously. Nevertheless, for victims who are known to have been injured and for which both their the seat belt use and the speed of the vehicle are known, about 73 percent of the unbelted victims were traveling at speeds greater than 15 mph. (Victims who were involved in an ROV incident but were not injured, or whose injury status is not known, were not included in this analysis.) Consequently, if we assume that 73 percent of the fatalities occurred to unbelted drivers who were traveling at speeds greater than 15 mph, then about 15 (20 × 0.73) of the fatalities in 2010 would have been addressed, although not necessarily prevented, by the proposed requirement.

As discussed previously, in passenger cars, NHTSA assumes that a belted driver has a 45 percent reduction in the risk of death. If seat belts have the same effectiveness in reducing the risk of death in ROVs, the seat belt/speed limitation requirement would have reduced the number of fatal injuries to drivers of ROVs by about 7 (15 × 0.45) in 2010, if all ROVs in use at the time had met this requirement.[100] This represents an annual risk reduction of 0.0000123 deaths per ROV in use (7 ÷ 570,000).

As discussed previously, in this analysis, we assume a value of $8.4 million for each fatality averted. However, in this analysis, we assume that each fatal injury prevented by the use of seat belts still resulted in a serious, but nonfatal, injury. The average societal cost of a hospitalized injury involving all ATVs and UTVs in 2010 was about $350,000 in 2012 dollars. (Based on the ICM estimates of the cost of a hospitalized injury using NEISS Product Codes 3285, 3286, 3287, and 5044.) Subtracting this from the assumed societal cost of $8.4 million per death results in a societal cost reduction of $8.05 million per death averted. Thus, a reduction in societal costs of fatal injuries of about $99 per ROV in use (0.0000123 × $8.05 million) per year could be attributable to the seat belt/speed limitation requirement.

Potential Reduction in Societal Cost of Nonfatal Injuries

As discussed previously, for this analysis, we assumed that the seat belt/speed limitation requirement will reduce the societal cost of nonfatal ROV injuries by 20 percent. The assumed 20 percent reduction in societal costs could result because some injuries were prevented entirely, or because the severity of some injuries was reduced. The CPSC has investigated several hundred nonfatal injuries associated with ROVs. Table 10 summarizes the nonfatal injuries according to seating location and seat belt use. (Cases in which the occupant was not injured, or cases in which it is unknown whether the occupant was injured, were not included in this analysis.) Again, ignoring the cases in which the location of the victim or the seat belt use by the victim is unknown (and thereby, erring

[99] The collection of fatalities associated with ROVs in 2010 was ongoing at the time this analysis was conducted. The actual number of deaths associated with ROVs in 2010 could be higher.

[100] Alternatively, the drivers could opt to leave their seat belts unfastened and accept the lower speed. Because the risk of having an accident is probably directly related to the speed of the vehicle, this option would also be expected to reduce the number of fatal injuries.

on the side of underestimating the benefits), the data indicate that about 12 percent (46 ÷ 388) of the nonfatal injuries happened to drivers who were not wearing seat belts. This suggests that 1,332 (11,100 × 0.12) of the approximately 11,100 medically attended injuries in 2010 would have involved unbelted drivers. Assuming, as with the fatal injuries, that 73 percent were traveling at a speed greater than 15 mph at the time of incident, 972 (1,332 × 0.73) of the injuries in 2010 could have been addressed by the proposed seat belt/speed limitation requirement. These 972 injuries in 2010 represent an injury rate of about 0.00170526 (972 ÷ 570,000) per ROV in use.

TABLE 10—NONFATAL ROV INJURIES BY VICTIM LOCATION AND SEAT BELT USE

[2003 to 2011]

Location of victim	Seat belt use			
	Yes	No	Unknown or N/A	Total
Driver	23	46	51	120
Right Front Passenger	28	35	9	72
Middle Front Passenger	0	14	1	15
Rear Passenger	2	3	0	5
Unknown Location	8	21	128	157
Cargo Area	3	13	0	16
Bystander	0	0	3	3
Total	64	132	192	388

Source: CPSC Directorate for Epidemiology.

Based on estimates from the CPSC's ICM, the average societal cost of the injuries addressed is estimated to be $29,383. Applying this cost estimate to the estimated injuries per ROV that could be addressed by the standard results in an annual societal cost of about $50 per ROV in use (0.00170526 × $29,383). If wearing seat belts could have reduced this cost by 20 percent (by reducing either the number or severity of injuries), the societal benefit, in terms of the reduced costs associated with nonfatal injuries, would be about $10 per ROV in use.

Total Benefit Over the Useful Life of an ROV

The total benefit of the seat belt/speed limitation requirement per ROV would be the present value of the expected annual benefit per ROV in use, summed over the vehicle's expected useful life. Above, using 2010 as the base year, we estimated that the annual benefit per ROV was about $99 in terms of reduced deaths and $10 in terms of reduced nonfatal injuries, for a total of $109 per ROV. Assuming that ROVs have the same operability rates as ATVs, the present value of the estimated benefit over the useful life of an ROV would be approximately $1,498 per vehicle, at a 3 percent discount rate.

The cost of the requirement to limit the speed of the vehicle if the driver's seat belt is not fastened was estimated to be between $26 and $51 per vehicle. Additionally, the cost of the requirement for a means to restrict occupant egress and excursion via a passive method was estimated to be about $7 per vehicle. Therefore, the total cost would be between $33 and $58 per vehicle. The benefit of the requirement, estimated to be about $1,498 per vehicle, is substantially greater than the estimated cost of the requirement.

ii. Benefit of Limiting Speed If a Front Passenger's Seat Belt Is Not Fastened

The potential incremental benefit of limiting the speed of an ROV if a front passenger's seat belt is not fastened can be calculated following the same procedure used to calculate the benefits of a requirement limiting the maximum speed when the driver's seat belt is not fastened. From the data presented in Table 9 (and ignoring the cases in which the seating location of the victim or the seat belt use is unknown), there were 33 victims seated in the right front passenger position, and six who were seated in the middle front passenger position were not using a seatbelt. However, some of the victims listed as a middle front seat passenger were not seated in places intended to be a seat. In some cases, the victim might have been seated on a console; in other cases, the victim might have been sharing the right front passenger seat and not a separate seat. Based on the information available about the incidents, we believe that only three of the six victims reported to be ''middle front passengers,'' were actually in positions intended by the manufacturer to be middle seats. Therefore, about 16 percent (36 ÷ 231) of the fatal injuries involved front seat passengers who were not wearing seat belts.

Applying this estimate to the fatalities in 2010 suggests that about 8 of the 49 fatalities happened to front passengers who were not wearing seat belts. Assuming that about 73 percent of the incidents involved vehicles traveling faster than 15 mph, about 6 of the fatalities would have been addressed, but not necessarily prevented, by the requirement. Assuming that seat belts reduce the risk of fatal injuries by 45 percent, about 3 fatalities might have been averted. This represents a risk reduction of 0.00000526 deaths per ROV in use (3 ÷ 570,000). Assuming a societal benefit of $8.05 million for each death averted results in an estimated annual benefit of about $42 per ROV in use ($8.05 million × 0.00000526) in reduced fatal injuries.

Similarly, the data show that 35 of the victims who suffered nonfatal injuries were seated in the right front passenger location, and 14 were seated in the middle front position. However, we believe that only 8 of the 14 were actually seated in a position intended by the manufacturer to be a seat. Therefore, 43 of the 388 victims (or about 11 percent of the total) with nonfatal injuries were front passengers who were not wearing seat belts. This suggests that 1,221 of the estimated 11,100 medically attended injuries in 2010 involved unbelted front passengers. Using the assumption that 73 percent of these incidents occurred at speeds greater than 15 mph, then about 891 of the injuries might have been addressed by the requirement, or about 0.00156315 injuries per ROV in use (891 ÷ 570,000). Assuming that the average cost of a nonfatal injury involving ROVs is $29383, the estimated societal cost of these injuries is about $46 per ROV in use. If wearing seat belts could have reduced the societal cost of the nonfatal injuries by 20 percent, then the benefits of the requirement would have been about $9 per ROV in use, per year.

Combining the benefits of the reduction in the societal cost of deaths ($42 per ROV in use) and the societal cost of injuries ($9 per ROV in use) yields an estimated benefit of $51 per ROV in use. Assuming that ROVs have the same operability rates as ATVs over time, and assuming a discount rate of 3 percent, the estimated benefit would be $701 over the expected useful life of an ROV. This is greater than the expected cost of this potential requirement of $26 per vehicle.

iii. Impact of Any Correlation in Seat Belt Use Between Driver and Passengers

The analysis above used a simplifying assumption that the use of seat belts by the passenger is independent of the use of seat belts by the driver. Therefore, we assumed that limiting the maximum speed of the ROV if the driver's seat belt was not fastened would have no impact on the seat belt use by any passenger. However, there is some evidence that the use of seat belts by passengers is correlated with the seat belt use of the driver. In the incidents examined by the Commission, of the 121 right front passengers with known seat belt usage, the driver and right passenger had the same seat belt use status most of the time (about 82 percent). In other words, most of the time, the driver's and right passenger's seat belts were either both fastened or both unfastened. This suggests that if the drivers were required to fasten his or her seat belt, at least some of the passengers would also fasten their seat belts.

The implication that a correlation exists between seat belt use by drivers and by passengers indicates that the benefits of requiring the driver's seat belt to be fastened were underestimated and the benefits of extending the requirement to include the right front passenger are over estimated. For example, if 80 percent of the passengers who would not normally wear their seat belts were to wear their seat belts because the driver was required to wear his or her seat belt (for the ROV to exceed 15 mph), then 80 percent of the benefit, or $561 ($701 × 0.80) attributed above to extending the speed limitation requirement to the front passengers would be attributed rightfully to the requirement that the driver's seat belt be fastened; and only 20 percent, or $140 ($701 × 0.20) would be attributable to the requirement that the front passengers' seat belts be fastened. In this example, the $140 in benefits attributed to extending the speed limitation requirement to include the front passenger's seat belts would still exceed the quantifiable cost of doing so, which was estimated to be $26.

E. Summary of the Costs and Benefits of the Proposed Rule

As described previously, manufacturers would incur costs of $128,000 to $195,000 per model to test ROV models for compliance with the requirements of the proposed rule and to research, develop, and implement any needed changes to the models so that they would comply with the requirements. These costs would be incurred before the model is brought to market. To express these costs on a per-unit basis, we assumed that, on average, 1,800 units of a model were produced annually and that a typical model is produced for 5 years. These costs are summarized in Table 11.

TABLE 11—SUMMARY OF CERTIFICATION TESTING AND RESEARCH AND DEVELOPMENT COSTS

Description	Cost per model	Cost per unit*
Lateral Stability and Vehicle Handling Requirements:		
Compliance Testing	$24,000	$3
Redesign of Noncomplying Models	$43,000	$5
Retesting of Redesigned Models	$24,000	$3
Total Costs for Lateral Stability and Vehicle Handling	*$24,000 to $91,000*	*$3 to $10*
Occupant Retention Requirements:		
Research, Design, Implementation	$100,000	$11
Certification Testing	$4,000	<$1
Total R&D and Testing Costs for Seat Belt Requirement	*$104,000*	*$12*
Total Certification Testing and Research and Development Costs	*$128,000 to $195,000*	*$14 to $22*

* Per-unit costs are rounded to the nearest whole dollar. The sums might not equal the totals due to rounding.

In addition to the testing, research, and development costs described above, manufacturers will incur some additional manufacturing costs for extra parts or labor required to manufacture ROVs that meet the requirements for the proposed rule. These costs are summarized in Table 12. As for the vehicle handling requirements, some modifications to vehicles that do not comply might increase manufacturing costs; other modifications could decrease manufacturing costs. Therefore, we have assumed, on average, that there will not be any additional manufacturing costs required to meet the vehicle handling requirements. However, most manufacturers will incur additional manufacturing costs to meet the occupant-retention requirements. These costs are expected to average between $47 and $72 per vehicle. Adding the estimated upfront testing, research, development, and implementation costs per unit from Table 11 brings the total cost of the proposed rule to an estimated $61 to $94 per vehicle.

TABLE 12—SUMMARY OF PER-UNIT COSTS AND BENEFITS

Description	Value per unit
Costs	
Manufacturing Costs:	
Lateral Stability and Vehicle Handling Requirements	$0
Passive Occupant Retention Requirement	$7
Seat Belt/Speed Limitation Requirement—Driver Seats	$14 to $39
Seat Belt/Speed Limitation Requirement—Front Passenger Seats	$26
Total Manufacturing Costs	*$47 to $72*
Certification Testing and Research and Development Costs (from Table 4)	*$14 to $22*
Total Quantifiable Cost	$61 to $94
Benefits	
Lateral Stability and Vehicle Handling Requirements	(not quantifiable)
Occupant Retention Requirements	$2,199
Total Quantifiable Benefits	$2,199
Net Quantifiable Benefits	$2,105 to $2,138

We were able to estimate benefits for the occupant retention requirement. Applying this requirement to just the driver's seat belt would result in benefits of about $1,498 per unit. Applying the seat belt/speed limitation requirement to the front passenger seat belts could result in an additional benefit of $701 per unit. Therefore, the quantifiable benefits of the proposed rule would be $2,199 per unit. The benefit associated with the vehicle handling and lateral stability requirement could not be quantified. Therefore, the benefits of the proposed rule could exceed the $2,199 estimated above.

The fact that the potential benefits of the lateral stability and vehicle handling requirements could not be quantified should not be interpreted to mean that they are low or insignificant. This only means that we have not developed the data necessary to quantify these benefits. The purpose of the occupant retention requirements is to reduce the severity of injuries, but this requirement is not expected to reduce the risk of an incident occurring. The lateral stability and vehicle handling requirement, on the other hand, is intended to reduce the risk of an incident occurring that involves an ROV, and therefore, prevent injuries from happening in the first place. At this time, however, we do not have a basis for estimating what would be the effectiveness of the lateral stability and vehicle handling requirements.

Notably, to the extent that the lateral stability and vehicle handling requirements are effective in reducing the number of incidents, the incremental benefit of the occupant retention requirements also would be reduced. Additionally, if the lateral stability and vehicle handling requirements can reduce the number of accidents involving ROVs, there would be fewer resulting injuries whose severity would be reduced by the occupant retention requirements. However, the resulting decrease in the incremental benefit of the seat belt/speed limitation requirement would be less than the benefit attributable to the lateral stability and vehicle handling requirements. Again, this is largely because the benefit of preventing an injury from occurring in the first place is greater than the benefit of reducing the severity of harm of the injury.

Although some assumptions used in this analysis would serve to reduce the estimated benefit of the draft proposed rule (*e.g.,* ignoring incidents in which the use of seat belts was unknown), the analysis also assumes that all drivers and front seat passengers would opt to fasten their seat belts if the speed of the vehicle was limited; and the analysis also would assume that no driver or passenger would attempt to defeat the system, which could be accomplished simply by passing the belt behind the rider, or passing the belt behind the seat before latching the belt. To the extent that consumers attempt to defeat the seat belt/speed limitation system, the benefits are overestimated.

The estimated costs and benefits of the rule on an annual basis can be calculated by multiplying the estimated benefits and costs per-unit by the number of ROVs sold in a given year. In 2013, 234,000 ROVs were sold. If the proposed rule had been in effect that year, the total quantifiable cost would have been between $14.3 million and $22.0 million ($61 and $94 multiplied by 234,000 units, respectively). The total quantifiable benefits would have been at least $515 million ($2,199 × 234,000). Of the benefits, about $453 million (or about 88 percent) would have resulted from the reduction in fatal injuries, and about $62 million (or about 12 percent) of the benefits would have resulted from a reduction in the societal cost of nonfatal injuries. About $47 million of the reduction in the societal cost of nonfatal injuries would have been due to a reduction in pain and suffering.

F. Alternatives

The Commission considered several alternatives to the requirements in the proposed rule. The alternatives considered included: (1) Not issuing a mandatory rule, but instead, relying on voluntary standards; (2) including the dynamic lateral stability requirement or the understeer requirement, but not both; (3) requiring a more intrusive audible or visual seatbelt reminder, instead of limiting the speed of the vehicle if the seatbelt is not fastened; (4) extending the seatbelt/speed limitation requirement to include rear seats; (5) requiring an ignition interlock if the seatbelts are not fastened instead of limiting the maximum speed; and (6) limiting the maximum speed to 10 mph, instead of 15 mph, if the seatbelts are not fastened. Each of these alternatives is discussed below. The discussion includes the reasons that the Commission did not include the alternative in the proposed rule as well as qualitative discussion of costs and benefits where possible.

1. No Mandatory Standard/Rely on Voluntary Standard

If CPSC did not issue a mandatory standard, most manufacturers would comply with one of the two voluntary standards that apply to ROVs. However, neither voluntary standard requires that ROVs understeer, as required by the proposed rule. According to ES staff, drivers are more likely to lose control of vehicles that oversteer, which can lead to the vehicle rolling over or causing other types of accidents.

Both voluntary standards have requirements that are intended to set standards for dynamic lateral stability. ANSI/ROHVA 1–2011 uses a turn-circle test for dynamic lateral stability that is more similar to the test in the proposed rule (for whether the vehicle understeers) than it is to the test for dynamic lateral stability. The dynamic stability requirement in ANSI/OPEI B71.9–2012 uses a J-turn test, like the proposed rule, but measures different variables during the test and uses a different acceptance criterion. However, ES staff does not believe that the tests procedures in either standard have been validated properly to be deemed capable of providing useful information about the dynamic stability of the vehicle. Moreover, the voluntary standards would find some vehicles to be acceptable, even though their lateral acceleration at rollover is less than 0.70 g, which is the acceptance criterion in the proposed rule.

Both voluntary standards require manufacturers to include a lighted seat-belt reminder that is visible to the driver and remains on for at least 8 seconds after the vehicle is started, unless the driver's seatbelt is fastened. However, virtually all ROVs on the market already include this feature; and therefore, relying only on the voluntary standards would not be expected to raise seatbelt use over current levels of use.

The voluntary standards include requirements for retaining the occupant within the protective zone of the vehicle if a rollover occurs, including two options for restraining the occupants in the shoulder/hip area. However, testing performed by CPSC identified weaknesses in the performance-based tilt table test option that allows unacceptable occupant head ejection beyond the protective zone of the vehicle ROPs. CPSC testing indicated that a passive shoulder barrier could reduce the head excursion of a belted occupant during quarter-turn rollover events. The Commission believes that this can be accomplished by a requirement for a passive barrier, based on the dimensions of the upper arm of a 5th percentile adult female, at a defined area near the ROV occupants' shoulder, as contained in the proposed rule.

In summary, not mandating a standard would not impose any additional costs on manufacturers, but neither would it result in any additional benefits in terms of reduced deaths and injuries. Therefore, not issuing a mandatory standard was not proposed by the Commission.

2. Removing Either the Lateral Stability Requirement or the Handling Requirement

The CPSC considered including a requirement for either dynamic stability or vehicle handling, but not both. However, the Commission believes that both of these characteristics need to be addressed. According to ES staff, a vehicle that meets both the dynamic stability requirement and the understeer requirement should be safer than a vehicle that meets only one of the requirements. Moreover, the cost of meeting just one requirement is not substantially lower than the cost of meeting both requirements. The cost of testing a vehicle for compliance with both the dynamic lateral stability requirement and the vehicle handling/understeer requirement was estimated to be about $24,000. However, the cost of testing for compliance with just the dynamic stability requirement would be about $20,000, or only about 17 percent less than the cost of testing for compliance with both requirements. This is because the cost of renting and transporting the vehicle to the test site, instrumenting the vehicle for the tests, and making some initial static measurements are virtually the same for both requirements and would only have to be done once, if the tests for both requirements were conducted on the same day. Moreover, changes in the vehicle design that affect the lateral stability of the vehicle could also impact the handling of the vehicle. For these reasons, the proposed rule includes a dynamic stability requirement and a vehicle handling requirement.

3. Require Intrusive Seatbelt Reminder in Lieu of the Speed Limitation Requirements

Instead of seatbelt/speed limitation requirements in the proposed rule, the Commission considered a requirement for ROVs to have loud or intrusive seatbelt reminders. Currently, most ROVs meet the voluntary standards that require an 8-second visual seatbelt reminder. Some more intrusive systems have been used on passenger cars. For example, the Ford ''BeltMinder'' system resumes warning the driver after about 65 seconds if his or her seatbelt is not fastened and the car is traveling at more than 3 mph. The system flashes a warning light and sounds a chime for 6 seconds every 30 seconds for up to 5 minutes so long as the car is operating and the driver's seatbelt is not fastened. Honda developed a similar system in which the warning could last for longer than 9 minutes if the driver's seatbelt is not fastened. Studies of both systems found that a statistically significant increase in the use of seatbelts of 5 percent (from 71 to 76 percent) and 6 percent (from 84 to 90 percent), respectively.[101] However, these more intrusive seatbelt warning systems are unlikely to be as effective as the seatbelt speed limitation requirement in the proposed rule. The Commission believes that the requirement will cause most drivers and passengers who wish to exceed 15 mph to fasten their seatbelts. Research supports this position. One experiment used a haptic feedback system to increase the force the driver needed to exert to depress the gas pedal when the vehicle exceeded 25 mph if the seatbelt was not fastened. The system did not prevent the driver from exceeding 25 mph, but it increased the amount of force required to depress the gas pedal to maintain a speed greater than 25 mph. In this experiment all seven participants chose to fasten their seatbelts.[102]

The more intrusive seatbelt reminder systems used on some passenger cars have been more limited in their effectiveness. The Honda system, for example, reduced the number of unbelted drivers by about 38 percent; the Ford system reduced the number of unbelted drivers by only 17 percent.[103] Additionally, ROVs are open vehicles and the ambient noise is likely higher than in the enclosed passenger compartment of a car. It is likely that some ROV drivers would not hear the warning and be motivated to fasten their seatbelts unless the warning was substantially louder than the systems used in passenger cars.

[101] Caroleene Paul, ''Proposal for Seatbelt Speed Limiter On Recreational Off-Highway Vehicles (ROVs),'' CPSC Memorandum (2013).

[102] Ron Van Houten, Bryan Hilton, Richard Schulman, and Ian Reagan, ''Using Haptic Feedback to Increase Seatbelt Use of Service Vehicle Drivers,'' U.S. Department of Transportation, Report No. DOT HS 811 434 (January 2011).

[103] The Honda system increased seatbelt use from 84 percent to 90 percent. Therefore, the percentage of unbelted drivers was reduced by about 38 percent, or 6 percent divided by 16 percent. The Ford system increased seatbelt use from 71 percent to 76 percent. Therefore, the percentage of unbelted drivers was reduced by about 17 percent, or 5 percent divided by 29 percent.

The cost to manufacturers of some forms of more intrusive seat belt reminders could be less than the cost of the speed limitation requirement in the draft proposed rule. However, the cost of the seat belt/speed limitation requirement was estimated to be less than $72 per ROV.[104] If the experience with the Honda and Ford systems discussed above are relevant to ROVs, the benefits of a more intrusive seat belt reminder system could be less than 38 percent of the benefits estimated for the requirement in the draft proposed rule or less than $835 per ROV. Therefore, even if the cost of a more intrusive seat belt reminder system was close to $0, the net benefits would be less than the seat belt/speed limitation requirement in the draft proposed rule, which were estimated to be at least $2,105. Therefore, the alternative of a more intrusive seat belt reminder was not included in the proposed rule.

4. Extending the Seatbelt/Speed Limitation Requirement To Include Rear Seats

The Commission considered extending the seatbelt/speed limitation requirement to include the rear passenger seats, when present. According to one exposure survey, about 20 percent of the respondents reported that their ROVs had a seating capacity of at least four occupants, which indicates that the ROV had rear passenger seating locations.[105]

The cost of extending this requirement to include the rear passenger seats would be expected to be the same per seat as extending the requirement to include the right-front and middle-front passengers, or $24 per seat. Therefore, the cost of this requirement would be $48 to $72 per ROV, depending upon whether the ROV had two or three rear seating locations.

Three of the 231 fatalities (or 1.3 percent) involved a person in a rear seat who did not have their seatbelt fastened. Using the same assumptions used to calculate the benefits of the seatbelt/speed limitation for passengers in the front seats (*i.e.,* that 73 percent occurred at speeds of 15 mph or greater and seatbelts would reduce the risk of death by 45 percent), extending the requirement to include the rear seats could have potentially reduced the number of fatalities in 2010 by 0.2 or about one death every 5 years, all other things equal. Therefore, extending the seatbelt/speed limitation requirement to the rear passenger seats could reduce the annual risk of fatal injury by 0.00000175 (0.2 ÷ 114,000) per ROV in use. Assuming a societal benefit of $8.05 million per death averted results in an estimated annual benefit of about $14 per ROV in use ($8.05 million × 0.00000175) in terms of reduced fatal injuries.

Three of the 388 nonfatal injuries (or 0.8 percent) involved passengers in rear seats who did not have their seatbelts fastened. This suggests that about 89 of the estimated 11,100 medically attended injuries in 2010 may have happened to unbelted rear passengers. Again, assuming that 73 percent of these occurred at speeds of 15 mph or faster, about 65 medically attended injuries might have been addressed by the seatbelt/speed limitation requirement if applied to the rear seating locations. This represents a risk of a nonfatal, medically attended injury of 0.0005702 (65 ÷ 114,000) per ROV in use per year. The societal cost of this risk is $17, assuming an average nonfatal, medically attended injury cost of $29,383. If seatbelts could reduce the cost of these injuries by 20 percent, by reducing the number of injuries in their severity, the value of the reduction would be $3 per ROV in use per year.

Combining the benefit of $14 for the reduction in fatal injuries and $3 for the reduced cost of nonfatal, medically attended injuries yields a combined benefit of $17 per ROV in use per year. The present value of this estimated benefit over the expected useful life of a ROV is $234. This is greater than the quantifiable cost of $48 to $72. However, these estimates of the costs and benefits are probably oversimplified the costs may have been understated and the benefits overstated. The Commission is hesitant to recommend this alternative for the several reasons.

First, as discussed earlier, a system that includes all passenger seats would comprise more parts than a system that included only the front passenger seats. A failure in only one of the parts could result in significant cost to the users for repairs, lost time and utility of the vehicle while it is being repaired, or the inability of the vehicle to reach its potential speed. These failures could occur because a faulty seat belt latch sensor does not detect or signal that a seatbelt is latched or because a faulty seat switch incorrectly registers the presence of a passenger when a passenger is not present. This cost cannot be quantified. However, if such failures are possible, the costs of extending the seatbelt/speed limitation requirement to include the rear seats would be higher than the $48 to $72 estimated above.

Second, as discussed previously, there is some correlation between the seatbelt use of the driver and other passengers on the ROV. If the driver and front passengers fasten their seatbelts, there is reason to believe that some rear passengers will also fasten their seatbelts. If so, the benefits of including the rear seat passengers could be overestimated above. Moreover, even if there was no correlation, including only the driver and front seat passengers would still achieve about 98 percent of the total potential benefits from the seatbelt/speed limitation requirement.[106]

5. Requiring an Ignition Interlock Instead of Limiting the Maximum Speed

The Commission considered whether an ignition interlock requirement that did not allow the vehicle to be started unless the driver's seatbelt was buckled would be appropriate for ROVs. However, the history of ignition interlock systems to encourage seatbelt use on passenger cars suggests that consumer resistance to an ignition interlock system could be strong. In 1973, NHTSA proposed requiring an interlock system on passenger cars. However, public opposition to the proposed requirement led Congress to prohibit NHTSA from requiring an ignition interlock system.[107] For this reason, the Commission is not proposing this alternative. Instead, the proposed rule would allow people to use ROVs at low speeds without requiring seat belts to be fastened.

[104] This estimate is based on manufacturing cost estimates of $39 to apply the requirement to the driver's seat and $26 to apply the requirement to the front passenger's seat, plus $12 for research, development and certification testing.

[105] Heiden Associates, Results from the 2008 ROV Exposure Survey (APPENDIX 2 to Joint Comments of Arctic Cat Inc., Bombardier Recreational Products Inc., Polaris Industries Inc., and Yamaha Motor Corporation, U.S.A regarding CPSC Advance Notice of Proposed Rulemaking-Standard for Recreational Off-Highway Vehicles: Docket No. CPSC—2009–0087), Alexandria Virginia (December 4, 2009).) This suggests that there were about 114,000 ROVs with rear passenger seats in 2010 (0.2 × 570,000).

[106] The potential net benefit of the seatbelt/speed limitation requirement resulting from its application to the driver and front passengers was estimated to be $2,199 per ROV. The potential net benefit resulting from its application to the rear seats was estimated to be $234 per ROV with rear seats. However, only about 20 percent of ROVs were assumed to have rear seats. Therefore, the weighted benefit over all ROVs of extending the seatbelt/speed limitation requirement to include the rear seats would be about $47 per ROV ($234 × 0.2). The potential weighted benefit would be $2,246, of which about 2 percent ($47 ÷ $2,246) would be attributable to extending the requirement to the rear seats.

[107] Caroleene Paul, ''Proposal for Seatbelt Speed Limiter on Recreational Off-Highway Vehicles (ROVs),'' CPSC Memorandum (2013). U.S. Consumer Product Safety Commission, Bethesda MD (2013).

6. Limiting the Maximum Speed to 10 mph if the Driver's Seatbelt Is Not Fastened

The Commission considered limiting the maximum speed of the ROV to 10 mph if the driver's seatbelt was not fastened, instead of 15 mph, as in the proposed rule. In making this determination, we weigh some potentially quantifiable factors against some unquantifiable factors. The expected benefits of limiting the maximum speed to 10 mph are higher than the expected benefits of limiting the maximum speed to 15 mph. Based on the injuries reported to CPSC for which the speed was reported and the seatbelt use was known, about 15 percent of the people injured in ROV accidents who were not wearing seatbelts were traveling between 10 and 15 mph. Therefore, decreasing the maximum allowed speed of an ROV to 10 mph if the driver's or right front passenger's seatbelt is not fastened could increase the expected benefits of the requirement by up to 21 percent ($0.15 \div 0.73$). There would be no difference between the two alternatives in terms of the quantified costs.

Although the quantified benefits would be increased and the quantified costs would not be affected by this alternative, the Commission believes that the unquantifiable costs would be higher if the maximum speed allowed was set at 10 mph instead of 15 mph. Commission staff believes this could have a negative impact on consumer acceptance of the requirement. The unquantifiable costs include: The time, inconvenience, and discomfort to some users who would prefer not to wear seatbelts. These users could include: People using the ROVs for work or utility purposes, who might have to get on and off the ROV frequently, and who are likely to be traveling at lower rates of speed, but who occasionally could exceed 10 mph. Some of these users could be motivated to defeat the requirement (and this could be done easily), which could reduce the benefits of the proposed rule. Allowing ROVs to reach speeds of up to 15 mph without requiring the seatbelt to be fastened would mitigate some of the inconvenience or discomfort of the requirement to these users, and correspondingly, consumers would have less motivation to attempt to defeat the requirement.

ROV manufacturers would have the option of setting the maximum speed that their models could reach without requiring the seatbelts to be fastened—so long as the maximum speed was no greater than 15 miles per hour. Therefore, manufacturers could set a maximum speed of less than 15 mph if they believed this was in their interest to do so. One ROV manufacturer has introduced ROV models that will not exceed 9.3 mph (15 km/hr.) unless the driver's seatbelt is fastened.

G. Conclusion

We estimate the quantifiable benefits of the proposed rule to be about $2,199 per ROV, and we estimate the quantifiable costs to be about $61 to $94 per ROV. Therefore, the benefits would exceed the costs by a substantial margin. However, the only benefits that could be quantified would be the benefits associated with the seat belt/speed limitation requirement. The lateral stability and vehicle handling requirements would also be expected to reduce deaths and injuries and so result in additional benefits, but these were not quantifiable.

There could be some unquantifiable costs associated with the rule. Some consumers might find the requirement to fasten their seat belts before the vehicle can exceed 15 mph to be inconvenient or uncomfortable. The 15 mph threshold as opposed to a 10 mph threshold was selected for the requirement to limit the number of consumers who would be inconvenienced by the requirement and might be motivated to defeat the system. Some consumers might prefer an ROV that oversteers under more conditions than the proposed rule would allow. However, the number of consumers who have a strong preference for oversteering vehicles is probably low.

Several alternatives to requirements in the proposed rule were considered, including relying on voluntary standards or requiring more intrusive seat belt reminders (as opposed to the speed limitation requirement). However, the Commission determined that the benefits of the requirements in the proposed rule would probably exceed their costs, considering both the quantifiable and unquantifiable costs and benefits.

XI. Paperwork Reduction Act

This proposed rule contains information collection requirements that are subject to public comment and review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). In this document, pursuant to 44 U.S.C. 3507(a)(1)(D), we set forth:

- A title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;
- a description of the likely respondents and proposed frequency of response to the collection of information;
- an estimate of the burden that shall result from the collection of information; and
- notice that comments may be submitted to the OMB.

Title: Safety Standard for Recreational Off-Highway Vehicles (ROVs).

Number of Respondents: We have identified 20 manufacturers of ROVs.

Number of Models: We estimate that there are about 130 different models of ROVs, or an average of 6.5 models per manufacturer. This estimate counts as a single model, all models of a manufacturer that do not appear to differ from each other in terms of performance, such as engine size, width, number of seats, weight, horsepower, capacity, and wheel size. In other words, if the models differed only in terms of accessory packages, or in the case of foreign manufacturers, differed only in the names of the domestic distributors, then they were counted as the same model.

Number of Reports per Year: Manufacturers will have to place a hang tag on each ROV sold. In 2013, about 234,000 ROVs were sold, or about 1,800 units per model. This would be a reasonable estimate of the number of responses per year. On average, each manufacturer would have about 11,700 responses per year.

Burden Estimates per Model: The reporting burden of this requirement can be divided into two parts. The first is designing the hang tag for each model. The second is printing and physically attaching the hang tag to the ROV. These are discussed in more detail below.

Designing the Hang tag: We estimate that it will take about 30 minutes to design the hang tag for each model. The first year the rule is in effect, manufacturers will have to design the hang tag for each of their models. However, the same model might be in production for more than one year. If ROV models have a production life of about 5 years before being redesigned, then the same hang tag might be useable for more than 1 year. Therefore, in year 1, on average, the burden on each manufacturer will be about 3.25 hours to design the hang tag (0.5 hours per model $\times$ 6.5 models). In subsequent years, the burden on each manufacturer will be about 0.65 hours assuming that manufacturers will have to redesign the hang tag only when they redesign the

ROV and that ROVs are redesigned, on average, about every 5 years. Assuming this work will be performed by a professional employee, the cost per manufacturer will be $206 the first year and $41 in each subsequent year.[108]

Printing and Placing the Hang tag on Each Vehicle: Based on estimates for printing obtained at: *http://www.uprinting.com* and estimates for the ties obtained from *http://blanksusa.com,* we estimate that the cost of the printed hang tag and wire for attaching the hang tag to the ROV will be about $0.08. Therefore, the total cost of materials for the average manufacturer with 6.5 models, producing 1,800 units of each model, would be about $936 per year ($0.08 × 6.5 models × 1,800 units).

We estimate that it will take about 20 seconds to attach a hang tag to each vehicle. Assuming an annual production of 1,800 units of each model, on average, this comes to 10 hours per model or an average of 65 hours per manufacturer or respondent, assuming an average of 6.5 models per manufacturer. Assuming a total compensation of $26.12 per hour, the cost would be $261 per model or $1,698 per manufacturer, assuming an average of 6.5 models per manufacturer.[109]

Total Burden of the Hang tag Requirement: The total burden of the hang tag requirement the first year will consist of the following components:

Designing the Hang tags: 65 hours (0.5 hours × 130 models). Assuming a total compensation rate of $63.36 per hour (professional and related workers), the cost would be $4,118.

Placing the Hang tags on the Vehicles: 1,300 hours (234,000 vehicles × 20 seconds). Assuming a total compensation rate of 26.12 per hour (production, transportation, and material moving workers), the total cost is $33,956.

Total Compensation Cost: The total compensation cost for this requirement would be $38,074 in the first year. In subsequent years, the burden of designing the hang tag is estimated to be about one-fifth the burden in the initial year, or 13 hours, assuming that each ROV model either undergoes a significant design change or is replaced by a different model every 5 years. Therefore, the compensation cost of designing the hang tag in subsequent years would be about $824 ($4,118/5). The total compensation cost in subsequent years would be $34,780.

Total Material Cost: The cost of the printed hang tags and ties for attaching the hang tag to the vehicles is estimated to be about 8 cents each. Therefore, the total material cost would be $18,720 ($0.08 × 234,000 units).

Total Cost of Hang tag Requirement: Based on the above estimates, the total cost of the hang tag requirement in the initial year is estimated to be about $56,794. In subsequent years, the total cost would be slightly less, about $53,500.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information collection requirements of this rule to the OMB for review. Interested persons are requested to submit comments regarding information collection by December 19, 2014, to the Office of Information and Regulatory Affairs, OMB (see the **ADDRESSES** section at the beginning of this notice).

Pursuant to 44 U.S.C. 3506(c)(2)(A), we invite comments on:

- Whether the collection of information is necessary for the proper performance of the CPSC's functions, including whether the information will have practical utility;
- the accuracy of the CPSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information to be collected;
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology; and
- the estimated burden hours associated with label modification, including any alternative estimates.

XII. Initial Regulatory Flexibility Analysis

This section provides an analysis of the impact on small businesses of a proposed rule that would establish a mandatory safety standard for ROVs. Whenever an agency is required to publish a proposed rule, section 603 of the Regulatory Flexibility Act (5 U.S.C. 601–612) requires that the agency prepare an initial regulatory flexibility analysis (IRFA) that describes the impact that the rule would have on small businesses and other entities. An IRFA is not required if the head of an agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. The IRFA must contain:

(1) A description of why action by the agency is being considered;

(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

(5) an identification to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

An IRFA must also contain a description of any significant alternatives that would accomplish the stated objectives of the applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities. Alternatives could include: (1) Establishment of differing compliance or reporting requirements that take into account the resources available to small businesses; (2) clarification, consolidation, or simplification of compliance and reporting requirements for small entities; (3) use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part of the rule thereof, for small entities.

A. Reason for Agency Action

ROVs were first introduced in the late 1990s. Sales of ROVs increased substantially over the next 15 years. The number of deaths associated with ROVs has substantially increased over the same period, from no reported deaths in 2003, to at least 76 reported deaths in 2012. As explained in this preamble, some ROVs on the market have hazardous characteristics that could be addressed through a mandatory safety standard.

B. Objectives of and Legal Basis for the Rule

The Commission proposes this rule to reduce the risk of death and injury associated with the use of ROVs. The rule is promulgated under the authority

[108] This estimate is based on the total compensation for management, professional, and related workers in private, goods producing industries, as reported by the Bureau of Labor Statistics (March 2014), available at *http://www.bls.gov/ncs/.* Please note, in the draft regulatory analysis, we are using 2010 as the base year with all values expressed in 2012 dollars. Therefore, these estimates might be slightly higher than estimated in the regulatory analysis.

[109] Estimate is based on the total compensation for production, transportation, and material-moving workers, private, goods-producing industries, as reported by the Bureau of Labor Statistics (March 2014), available at: *http://www.bls.gov/ncs/.*

of the Consumer Product Safety Act (CPSA).

C. Small Entities to Which the Rule Will Apply

The proposed rule would apply to all manufacturers and importers of ROVs. Under criteria set by the U.S. Small Business Administration (SBA), manufacturers of ROVs are considered small businesses if they have fewer than 500 employees. We have identified one ROV manufacturer with fewer than 500 employees.

Importers of ROVs could be wholesalers or retailers. Under the criteria set by the SBA, wholesalers of ROVs and other motor vehicles or powersport vehicles are considered small businesses if they have fewer than 100 employees; and retail dealers that import ROVs and other motor or powersport vehicle dealers are considered small if their annual sales volume is less than $30 million. We are aware of about 20 firms in 2013 that import ROVs from foreign suppliers that would be considered small businesses.[110] (There may be other small firms that manufacture or import ROVs of which we are not aware.)

D. Compliance, Reporting, and Record Keeping Requirements of Proposed Rule

The proposed rule would establish a mandatory safety standard consisting of several performance requirements for ROVs sold in the United States. The proposed rule would also establish test procedures through which compliance with the performance requirements would be determined. The proposed rule includes: (1) Lateral stability and vehicle handling requirements that specify a minimum level of rollover resistance for ROVs and a requirement that ROVs exhibit sub-limit understeer characteristics; and (2) occupant retention requirements that would limit the maximum speed of an ROV to no more than 15 miles per hour (mph), unless the seat belts of the driver and front passengers are fastened, and would require ROVs to have a passive means, such as a barrier or structure, to limit the ejection of a belted occupant in the event of a rollover.

Manufacturers would be required to test their ROV models to check that the models comply with the requirements of the proposed rule, and if necessary, modify their ROV models to comply. The costs of these requirements are discussed more fully in the preliminary regulatory analysis. Based on that analysis, we expect that the test for lateral stability and the test for vehicle handling will be conducted at the same time, and we estimate that the cost of this combined testing would be about $24,000 per model. In many cases, we expect that this testing will be performed by a third party engineering consulting or testing firm. If an ROV model must be modified to comply with the requirement and then retested, we estimate that the cost to manufacturers could reach $91,000 per model, including the cost of the initial testing, the cost of modifying design of the model, and the cost of retesting the model after the model has been modified. We estimate that the cost of implementing the occupant retention requirements will be about $104,000 per model. This includes the cost to research, develop, implement, and test a system that will limit the speed of the ROV when the seat belts are not fastened, as well as an occupant protection barrier or structure. Therefore, the total cost of certification testing and research and design could range from about $128,000 to $195,000. (Costs are expressed in 2012 dollars.)

In addition to the upfront testing and research and development costs, there will be some ongoing manufacturing costs associated with the proposed rule. These manufacturing costs include the cost of the parts required to meet any of the requirements of the proposed rule, such as seat belt use sensors and the necessary wiring and the cost of installing these parts on the vehicles during assembly. As estimated in the preliminary regulatory analysis, the ongoing manufacturing costs would be $47 to $72 per vehicle.

The proposed rule includes a requirement that manufacturers report the lateral acceleration at rollover value of an ROV model to potential consumers through the use of a hang tag attached to the ROV. Manufacturers would obtain the rollover resistance value when they conduct the lateral stability and vehicle handling tests to determine compliance with both requirements. The required format of the hangtag is described in the proposed rule. We estimate that it will cost manufacturers less than $0.25 per vehicle to print the hangtags with the rollover resistance values and to attach the hangtags to the vehicles.

E. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

In accordance with Section 14 of the Consumer Product Safety Act (CPSA), manufacturers would have to issue a general conformity certificate (GCC) for each ROV model, certifying that the model complies with the proposed rule. According to Section 14 of CPSA, GCCs must be based on a test of each product or a reasonable testing program; and GCCs must be provided to all distributors or retailers of the product. The manufacturer would have to comply with 16 CFR part 1110 concerning the content of the GCC, retention of the associated records, and any other applicable requirement.

F. Potential Impact on Small Entities

One purpose of the regulatory flexibility analysis is to evaluate the impact of a regulatory action and determine whether the impact is economically significant. Although the SBA allows considerable flexibility in determining ''economically significant,'' CPSC staff typically uses one percent of gross revenue as the threshold for determining ''economic significance.'' When we cannot demonstrate that the impact is lower than one percent of gross revenue, we prepare a regulatory flexibility analysis.[111]

1. Impact on Small Manufacturers

The sole, small ROV manufacturer may need to devote some resources to bringing its ROV models into compliance with the proposed rule. This is a relatively new manufacturer of ROVs and other utility vehicles. We do not have information on the extent to which the models offered by this manufacturer would meet the requirements of the proposed rule or the extent to which this particular manufacturer would be impacted by the proposed rule.

2. Impact on Small Importers

CPSC is aware of about 20 firms that import ROVs from foreign suppliers that would be considered small businesses. As explained more fully below, a small importer could be adversely impacted by the proposed rule if its foreign supplier does not provide testing reports or a GCC and the small importer must conduct the testing in support of a GCC. Additionally, a small importer could experience a significant impact if the foreign supplier withdraws from the U.S. market rather than conduct the necessary testing or modify the ROVs to comply with the proposed rule. If sales

[110] The Commission made these determinations using information from Dun & Bradstreet, Reference USAGov, company Web sites, and regional business publications.

[111] The one percent of gross revenue threshold is cited as example criteria by the SBA and is commonly used by agencies in determining economic significance (see U.S. Small Business Administration, Office of Advocacy. *A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act and Implementing the President's Small Business Agenda and Executive Order 13272.* May 2012, pp. 18–20. *http://www.sba.gov/sites/default/files/rfaguide_0512_0.pdf*).

of ROVs are a substantial source of the importer's business, and the importer cannot find an alternative supplier of ROVs, the impact could be significant. However, we do not expect a widespread exodus of foreign manufacturers from the U.S. market. The U.S. market for ROVs has been growing rapidly in recent years, and at least some foreign manufacturers will likely want to continue taking advantage of these business opportunities by maintaining a U.S. presence. In addition, most of these importers also import products other than ROVs, such as scooters, motorcycles, and other powersport equipment. Therefore, ROVs are not their sole source of revenue. Importers may be able to reduce any impact on their revenue by increasing imports and sales of these other products.

Small importers will be responsible for issuing a GCC certifying that their ROVs comply with the proposed rule if the rule becomes final. However, importers may issue GCCs based upon certifications provided by or testing performed by their suppliers. The impact on small importers should not be significant if their suppliers provide the certificates of conformity or testing reports on which the importers may rely to issue their own GCCs.

If a small importer's supplier does not provide the GCC or testing reports, then the importer would have to test each model for conformity. Importers would likely contract with an engineering consulting or testing firm to conduct the certification tests. As discussed in the regulatory analysis, the certification testing could cost more than $28,000 per model ($24,000 for the lateral stability and vehicle handling requirements and $4,000 for the seat belt/speed limitation requirement). This would exceed 1 percent of the revenue for about one-half of the small importers, assuming that they continue to import the same mix of products as in the pre-regulatory environment.

G. Conclusion

We do not know how many, if any, foreign suppliers might exit the market rather than comply with the proposed rule. Nor do we know the number of foreign suppliers that may not be willing to provide small importers with testing reports or GCCs. A small importer could experience a significant impact if the importer has to conduct testing in support of a GCC. We expect that most importers, however, will rely upon certifications or testing performed by their suppliers. Thus, although uncertainty exists, the proposed rule will not likely have a significant direct impact on a substantial number of small firms.

H. Alternatives for Reducing the Adverse Impact on Small Businesses

The Commission welcomes comments on this IRFA. Small businesses that believe they will be affected by the proposed rule are especially encouraged to submit comments. The comments should be specific and describe the potential impact, magnitude, and alternatives that could reduce the impact of the proposed rule on small businesses.

Several alternatives to the proposed rule were considered, some of which could reduce the potential impact on some small firms. These include: (1) Not issuing a mandatory standard; (2) dropping the lateral stability requirement or the vehicle handling requirement; (3) requiring a more intrusive seat belt reminder instead of the speed limitation requirement; and (4) requiring an ignition interlock if a seat belt is not fastened, instead of limiting the maximum speed. For the reasons discussed below, the CPSC did not include these alternatives in the proposed rule.

1. Not Issuing a Mandatory Standard

If CPSC did not issue a mandatory standard, most manufacturers would comply with one of the two voluntary standards that apply to ROVs and there would be no impact on the small manufacturer or small importers. However, neither voluntary standard requires that ROVs understeer, as required by the proposed rule. According to ES staff, drivers are more likely to lose control of vehicles that oversteer, which can lead to the vehicle rolling over or to other types of accidents. Additionally, although both voluntary standards have requirements for dynamic lateral stability or rollover resistance, ES staff does not believe that the test procedures in these standards have been properly validated as being capable of providing useful information about the dynamic stability of the vehicle.

The voluntary standards require that manufacturers include a lighted seat-belt reminder that is visible to the driver and remains on for at least 8 seconds after the vehicle is started, unless the driver's seat belt is fastened. However, virtually all ROVs on the market already include this feature; and therefore, relying only on the voluntary standards would not be expected to raise seat belt use over its current level. Moreover, the preliminary regulatory analysis showed that the projected benefits of the seat belt/speed limitation requirement would be substantially greater than the costs.

Finally, the Commission believes that the occupant retention barrier in the current ROVs could be improved at a modest cost per ROV. For these reasons, the Commission believes that relying on compliance with voluntary standards is not satisfactory and is adopting the requirements in the proposed rule.

2. Dropping the Lateral Stability Requirement or the Understeer Requirement

The Commission considered including a performance requirement for either lateral stability or vehicle handling, but not both. As mentioned previously, the vehicle handling requirement is designed to allow ROVs to understeer. However, the Commission believes that both of these characteristics need to be addressed. According to ES staff, a vehicle that meets both the lateral stability requirement and the understeer requirement should be safer than a vehicle that meets only one of the requirements. Moreover, the cost of meeting just one requirement is not substantially lower than the cost of meeting both requirements. The cost of testing a vehicle for compliance with both the dynamic lateral stability and vehicle handling requirements was estimated to be about $24,000. The cost of testing for compliance with the lateral stability requirement would be about $20,000, and the cost of testing for compliance with just the vehicle handling requirement would be about $17,000. Moreover, changes in the vehicle design that affect the lateral stability of the vehicle could also impact the handling of the vehicle. For these reasons, the proposed rule includes both the lateral stability and understeer requirements in the proposed rule.

3. Require ROVs To Have Loud or Intrusive Seat Belt Reminders in Lieu of the Speed Limitation Requirements

Instead of seat belt/speed limitation requirements in the proposed rule, the Commission considered requiring ROVs to have loud or intrusive seat belt reminders. Most ROVs currently have a seat belt reminder in the form of a warning light that comes on for about 8 seconds. Most do not include any audible warning. As discussed in the preliminary regulatory analysis, staff considered requiring a more intrusive seat belt reminder, such as a loud audible warning that would sound for a minute or more. Manufacturers would incur some costs to comply with a requirement for a more intrusive seat belt reminder. For example, the seat belt use sensors (estimated to cost about $7 per seat) and sensor switches (estimated to cost about $13 per seat) would still be required. However, the research and development costs to design and implement a more intrusive seat belt reminder system would probably be less than the estimated cost to develop a system that limited the maximum speed of the vehicle.

Some intrusive systems have been used on passenger cars and have been found to be effective in increasing seat belt use. One system reduced the number of unbelted drivers by 17 percent and another by about 38 percent.[112] However, a more intrusive seat belt warning system is unlikely to be as effective as the seat belt/speed limitation requirement in the proposed rule. ROVs are open vehicles and the ambient noise is likely higher than in the enclosed passenger compartment of a car. It is likely that some ROV drivers would not hear the warning and be motivated to fasten their seat belts, unless the warning was substantially louder than the systems used in passenger cars. The Commission believes that the requirement will cause most drivers and passengers who want to exceed 15 mph to fasten their seat belts. Moreover, the analysis in the preliminary regulatory analysis showed that the societal benefits of the seat belt/ speed limitation requirement in the proposed rule would exceed the costs by a substantial margin. Because CPSC does not believe that a more intrusive seat belt reminder would be effective in a ROV, and because Commission staff believes that the seat belt/speed limitation requirement would result in substantial net benefits, this alternative was not included in the proposed rule.

4. Requiring an Ignition Interlock Instead of Limiting the Maximum Speed

CPSC considered whether an ignition interlock requirement that did not allow the vehicle to be started unless the driver's seat belt was buckled would be appropriate for ROVs. However, the history of ignition interlock systems as a way to encourage seat belt use on passenger cars suggests that consumer resistance to an ignition interlock system that prevents starting the vehicle could be strong. For this reason, CPSC rejects this alternative, and instead, proposes a rule that allows people to use ROVs at low speeds without having to fasten their seat belts. However, manufacturers who believe that the cost of an ignition interlock system will be substantially lower than a system that limits the maximum speed of the vehicle, and who do not believe that consumer rejection of an ignition interlock system will be a problem, can use an ignition interlock system to comply with the seat belt speed limitation requirement.

XIII. Environmental Considerations

The Commission's regulations address whether we are required to prepare an environmental assessment or an environmental impact statement. If our rule has ''little or no potential for affecting the human environment,'' the rule will be categorically exempted from this requirement. 16 CFR 1021.5(c)(1). The proposed rule falls within the categorical exemption.

XIV. Executive Order 12988 (Preemption)

As required by Executive Order 12988 (February 5, 1996), the CPSC states the preemptive effect of the proposed rule, as follows:

The regulation for ROVs is proposed under authority of the CPSA. 15 U.S.C. 2051–2089). Section 26 of the CPSA provides that ''whenever a consumer product safety standard under this Act is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as the performance, composition, contents, design, finish, construction, packaging or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal Standard''. 15 U.S.C. 2075(a). Upon application to the Commission, a state or local standard may be excepted from this preemptive effect if the state or local standard: (1) Provides a higher degree of protection from the risk of injury or illness than the CPSA standard, and (2) does not unduly burden interstate commerce. In addition, the federal government, or a state or local government, may establish and continue in effect a non-identical requirement that provides a higher degree of protection than the CPSA requirement for the hazardous substance for the federal, state or local government's use. 15 U.S.C. 2075(b).

Thus, with the exceptions noted above, the ROV requirements proposed in today's **Federal Register** would preempt non-identical state or local requirements for ROVs designed to protect against the same risk of injury if the rule is issued in final.

XV. Certification

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). A final rule on ROVs would subject ROVs to this certification requirement.

XVI. Effective Date

The CPSA requires that consumer product safety rules take effect not later than 180 days from their promulgation unless the Commission finds there is good cause for a later date. 15 U.S.C. 2058(g)(1). The Commission proposes that this rule would take effect 180 days after publication of the final rule in the **Federal Register** and would have two compliance dates. ROVs would be required to comply with the lateral stability and vehicle handling requirements (§§ 1411.3 and 1422.4) 180 days after publication of a final rule in the **Federal Register**. ROVs would be required to comply with the occupant protection requirements (§ 1422.5) 12 months after publication of a final rule in the **Federal Register**. The requirements would apply to all ROVs manufactured or imported on or after the applicable date.

CPSC believes ROV models that do not comply with the lateral stability and vehicle handling requirements can be modified, with changes to track width and suspension, in less than 4 person-months (a high estimate) and can be tested for compliance in one day. Therefore, CPSC believes 180 days is a reasonable time period for manufacturers to modify vehicles if necessary, conduct necessary tests, and analyze test results to ensure compliance with the lateral stability and vehicle handling requirements.

The Commission is proposing the longer compliance date for the occupant protection requirements because we understand that some manufacturers will need to redesign and test new prototype vehicles to meet these requirements. This design and test process is similar to the process that manufacturers use when introducing new model year vehicles. We also estimate that it will take approximately 9 person-months per ROV model to design, test, implement, and begin manufacturing vehicles to meet the occupant protection performance

[112] Memorandum from Caroleene Paul, ''Proposal for Seat Belt Speed Limiter on Recreational Off-Highway Vehicles (ROVs),'' U.S. Consumer Product Safety Commission, Bethesda, MD 8 December 2013).

requirements. Therefore, staff believes that 12 months from publication of a final rule would be sufficient time for ROVs to comply with all of the proposed requirements.

XVII. Proposed Findings

The CPSA requires the Commission to make certain findings when issuing a consumer product safety standard. Specifically, the CPSA requires that the Commission consider and make findings about the degree and nature of the risk of injury; the number of consumer products subject to the rule; the need of the public for the rule and the probable effect on utility, cost, and availability of the product; and other means to achieve the objective of the rule, while minimizing the impact on competition, manufacturing, and commercial practices. The CPSA also requires that the rule must be reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product and issuing the rule must be in the public interest. 15 U.S.C. 2058(f)(3).

In addition, the Commission must find that: (1) If an applicable voluntary standard has been adopted and implemented, that compliance with the voluntary standard is not likely to reduce adequately the risk of injury, or compliance with the voluntary standard is not likely to be substantial; (2) that benefits expected from the regulation bear a reasonable relationship to its costs; and (3) that the regulation imposes the least burdensome requirement that would prevent or adequately reduce the risk of injury. *Id.* These findings are discussed below.

Degree and nature of the risk of injury. CPSC received 428 reports of ROV-related incidents from the Injury and Potential Injury Incident (IPII) and In-Depth Investigation (INDP) databases that occurred between January 1, 2003 and December 31, 2011, and were received by December 31, 2011. There were a total of 826 victims involved in the 428 incidents. Among the 428 ROV-related incidents, there were a total of 231 reported fatalities and 388 reported injuries. Seventy-five of the 388 injuries (19 percent) could be classified as severe; that is, the victim has lasting repercussions from the injuries received in the incident, based on the information available. The remaining 207 victims were either not injured or their injury information was not known. Of the 428 ROV-related incidents, 76 involved drivers under 16 years of age (18 percent); 227 involved drivers 16 years of age or older (53 percent); and 125 involved drivers of unknown age (29 percent).

Using data reported through NEISS from January 1, 2010 to August 31, 2010, the Commission conducted a special study to identify cases that involved ROVs that were reported through NEISS. Based on information obtained through the special study, the estimated number of emergency department-treated ROV-related injuries occurring in the United States between January 1, 2010 and August 31, 2010, is 2,200 injuries. Extrapolating for the year 2010, the estimated number of emergency department-treated ROV-related injuries is 3,000, with a corresponding 95 percent confidence interval of 1,100 to 4,900.

Number of consumer products subject to the rule. Sales of ROVs have increased substantially since their introduction. In 1998, only one firm manufactured ROVs, and fewer than 2,000 units were sold. By 2003, when a second major manufacturer entered the market, almost 20,000 ROVs were sold. The only dip in sales occurred around 2008, which coincided with the worst of the credit crisis and a recession that also started about the same time. In 2013, an estimated 234,000 ROVs were sold by about 20 different manufacturers.

The number of ROVs available for use has also increased substantially. Because ROVs are a relatively new product, we do not have any specific information on the expected useful life of ROVs. However, using the same operability rates that CPSC uses for ATVs, we estimate that there were about 570,000 ROVs available for use in 2010. By the end of 2013, there were an estimated 1.2 million ROVs in use.

The need of the public for ROVs and the effects of the rule on their utility, cost, and availability.

Currently there are two varieties of ROVs: Utility and recreational. Early ROV models emphasized the utility aspects of the vehicles, but the recreational aspects of the vehicles have become very popular.

Regarding the effects of the rule on ROVs utility, according to comments on the ANPR provided by several ROV manufacturers, some ROV users ''might prefer limit oversteer in the off-highway environment.'' To the extent that the requirements in the proposed rule would reduce the ability of these users to reach limit oversteer intentionally, the proposed rule could have some adverse impact on the utility or enjoyment that these users receive from ROVs. These impacts would probably be limited to a small number of recreational users who enjoy activities or stunts that involve power oversteering or limit oversteer.

Although the impact on consumers who prefer limit oversteer cannot be quantified, the Commission expects that the impact will be low. Any impact would be limited to consumers who wish to engage intentionally in activities involving the loss of traction or power oversteer. The practice of power oversteer, such as the speed at which a user takes a turn, is the result of driver choice. The proposed rule would not prevent ROVs from reaching limit oversteer under all conditions; nor would the proposed rule prevent consumers from engaging in these activities. At most, the proposed rule might make it somewhat more difficult for users to reach limit oversteer in an ROV.

The seat belt speed limiter requirement could have an effect on utility and impose some unquantifiable costs on some users who would prefer not to use seat belts. The cost to these users would be the time required to buckle and unbuckle their seat belts and any disutility cost, such as discomfort caused by wearing the seat belt. We cannot quantify these costs because we do not know how many ROV users choose not to wear their seat belts; nor do we have the ability to quantify any discomfort or disutility that they would experience from wearing seat belts. However, the proposed rule does not require that the seat belts be fastened unless the vehicle is traveling faster than 15 mph. This should serve to mitigate these costs because many people who would be inconvenienced or discomforted by the requirement, such as people using the vehicle for work or utility purposes, or who must frequently get on and off the vehicle, are likely to be traveling at lower speeds.

The effect of the rule on cost and availability of ROVs is expected to be minimal. The average manufacturer's suggested retail prices (MSRP) of ROVs, weighted by units sold, was about $13,100 in 2013, with a range of about $3,600 to $20,100. The Commission estimates the per-unit cost to ROVs of the rule to be $61 to $94. Because this per-unit cost resulting from the rule is a very small percentage of the overall retail price of an ROV, it is unlikely that the rule would have much of an effect on the cost or availability of ROVs.

Other means to achieve the objective of the rule, while minimizing the impact on competition and manufacturing. The Commission does not believe the rule will have adverse impact on competition. The preliminary regulatory analysis estimates the per-unit cost to ROVs of the rule to be $61 to $94. The average manufacturer's suggested retail prices (MSRP) of ROVs, weighted by units sold, was about $13,100 in 2013, with a range of about $3,600 to $20,100. The per-unit cost resulting from the rule is a very small percentage of the overall retail price of an ROV. With such a relatively low impact, it is unlikely that ROV companies would withdraw from the market or that the number of ROV models will be affected. Therefore, the preliminary regulatory analysis supports a finding that the proposed rule is unlikely to have an impact on competition.

The Commission believes that some, but not all, ROV models already meet the rule's requirement that the speed of the vehicle be limited if the driver's seat belt is not fastened. Before implementing any changes to their vehicles to meet the requirement, manufacturers whose ROVs do not meet the seatbelt speed limiter requirement would have to analyze their options for meeting the requirement. This process would include developing prototypes of system designs, testing the prototypes, and refining the design of the systems based on this testing. Once the manufacturer has settled on a system for meeting the requirement, the system will have to be incorporated into the manufacturing process of the vehicle. This will involve producing the engineering specifications and drawings of the system, parts, assemblies, and subassemblies that are required. Manufacturers will need to obtain the needed parts from their suppliers and incorporate the steps needed to install the system on the vehicles in the assembly line. The Commission believes that manufacturers should be able to complete activities related to meeting the lateral stability and handling requirements within 180 days after publication of the final rule and activities related to meeting the occupant protection requirements within 12 months after publication of the final rule. The Commission's proposed effective date of 12 months for the occupant protection requirements may reduce the impact of the proposed requirements on manufacturing.

Unreasonable risk. CPSC received 428 reports of ROV-related incidents from the Injury and Potential Injury Incident (IPII) and In-Depth Investigation (INDP) databases that occurred between January 1, 2003 and December 31, 2011, and were received by December 31, 2011. There were a total of 826 victims involved in the 428 incidents. Among the 428 ROV-related incidents, there were a total of 231 reported fatalities and 388 reported injuries. Seventy-five of the 388 injuries (19 percent) could be classified as severe; that is, the victim has lasting repercussions from the injuries received in the incident based on the information available.

The estimated cost and benefits of the rule on an annual basis can be calculated by multiplying the estimated benefits and costs per unit by the number of ROVs sold in a given year. In 2013, 234,000 ROVs were sold. If the proposed rule had been in effect that year, the total quantifiable cost would have been between $14.3 million and $225.0 million ($61 and $94 multiplied by 234,000 units, respectively). The total quantifiable benefits would have been at least $515 million ($2,199 × 234,000). Of the benefits, about $453 million (or about 88 percent) would have resulted from the reduction in fatal injuries, and about $62 million (or about 12 percent) of the benefits would have resulted from a reduction in the societal cost of nonfatal injuries. The reduction in the societal cost of nonfatal injuries, which amounts to about $47 million, would represent a reduction in pain and suffering. The Commission concludes preliminarily that ROVs pose an unreasonable risk of injury and finds that the proposed rule is reasonably necessary to reduce that unreasonable risk of injury.

Public interest. This proposed rule is intended to address identified aspects of ROVs, ROV design, and ROV use, which are believed to contribute to ROV deaths and injuries, with a goal of reducing such incidents. The CPSC believes that adherence to the requirements of the proposed rule will reduce ROV deaths and injuries in the future; thus the rule is in the public interest. Specifically, the Commission believes that improving lateral stability (by increasing rollover resistance) and improving vehicle handling (by correcting oversteer to understeer) are the most effective approaches to reducing the occurrence of ROV rollover incidents. ROVs with higher lateral stability are less likely to roll over because more lateral force is necessary to cause rollover. ROVs exhibiting understeer during a turn are also less likely to roll over because lateral acceleration decreases as the path of the ROV makes a wider turn, and the vehicle is more stable if a sudden change in direction occurs.

Furthermore, the Commission believes that when rollovers do occur, improving occupant protection performance (by increasing seat belt use) will mitigate injury severity. CPSC analysis of ROV incidents indicates that 91 percent of fatally ejected victims were not wearing a seat belt at the time of the incident. Increasing seat belt use, in conjunction with better shoulder retention performance, will significantly reduce injuries and deaths associated with an ROV rollover event.

In summary, the Commission finds preliminarily that promulgating the proposed rule is in the public interest.

Voluntary standards. The Commission is aware of two voluntary standards that are applicable to ROVs, ANSI/ROHVA 1, *American National Standard for Recreational Off-Highway Vehicles,* and ANSI/B71.9, *American National Standard for Multipurpose Off-Highway Utility Vehicles.* As described previously in detail in the preamble, the Commission believes that the current voluntary standard requirements do not adequately reduce the risk of injury or death associated with ROVs. Neither voluntary standard requires that ROVs understeer, as required by the proposed rule. Based on testing and experience with the Yamaha Rhino repair program, the Commission believes that drivers are more likely to lose control of vehicles that oversteer, which can lead to the vehicle rolling over or to other types of accidents.

Both voluntary standards have requirements that are intended to set standards for dynamic lateral stability. ANSI/ROHVA 1–2011 uses a turn-circle test for dynamic lateral stability. That is more similar to the test in the proposed rule for determining whether the vehicle understeers, than it is to the test for dynamic lateral stability. The dynamic stability requirement in ANSI/OPEI B71.9–2012 uses a J-turn test, like the proposed rule, but measures different variables during the test and uses a different acceptance criterion. The Commission does not believe that the tests procedures in either standard have been validated properly as being capable of providing useful information about the dynamic stability of the vehicle. Moreover, the voluntary standards would find some vehicles acceptable, even though their lateral acceleration at rollover is less than 0.70 g, which is the acceptance criterion in the proposed rule.

Both voluntary standards require that manufacturers include a lighted seat-belt reminder that is visible to the driver and that remains on for at least 8 seconds after the vehicle is started, unless the driver's seatbelt is fastened. However, virtually all ROVs on the market already include this feature, and therefore, relying only on the voluntary standards would not be expected to raise seatbelt use over its current level.

The voluntary standards include requirements for retaining the occupant within the protective zone of the vehicle in the event of a rollover, including two options for restraining the occupants in the shoulder/hip area. However, testing performed by CPSC identified weaknesses in the performance-based tilt table test option that allows unacceptable occupant head ejection beyond the protective zone of the vehicle Rollover Protective Structure (ROPS). CPSC testing indicated that a passive shoulder barrier could reduce the head excursion of a belted occupant during quarter-turn rollover events. The Commission believes that this can be accomplished by a requirement for a passive barrier based on the dimensions of the upper arm of a 5th percentile adult female, at a defined area near the ROV occupants' shoulder, as contained in the proposed rule.

Relationship of benefits to costs. The estimated costs and benefits of the rule on an annual basis can be calculated by multiplying the estimated benefits and costs per unit, by the number of ROVs sold in a given year. In 2013, 234,000 ROVs were sold. If the proposed rule had been in effect that year, the total quantifiable cost would have been between $14.3 million and $22.0 million ($61 and $94 multiplied by 234,000 units, respectively). The total quantifiable benefits would have been at least $515 million ($2,199 × 234,000).

On a per-unit basis, we estimate the total cost of the proposed rule to be $61 to $94 per vehicle. We estimate the total quantifiable benefits of the proposed rule to be $2,199 per unit. This results in net quantifiable benefits of $2,105 to $2,138 per unit. Quantifiable benefits of the proposed rule could exceed the estimated $1,329 per unit because the benefit associated with the vehicle handling and lateral stability requirement could not be quantified.

Based on this analysis, the Commission finds preliminarily that the benefits expected from the rule bear a reasonable relationship to the anticipated costs of the rule.

Least burdensome requirement. The Commission considered less-burdensome alternatives to the proposed rule on ROVs, but we concluded that none of these alternatives would adequately reduce the risk of injury:

(1) Not issuing a mandatory rule, but instead relying upon voluntary standards. If CPSC did not issue a mandatory standard, most manufacturers would comply with one of the two voluntary standards that apply to ROVs. As discussed previously, the Commission does not believe either voluntary standard adequately addresses the risk of injury and death associated with ROVs.

(2) Including the dynamic lateral stability requirement or the understeer requirement, but not both. The Commission believes that both of these characteristics need to be addressed. A vehicle that meets both the dynamic stability requirement and the understeer requirement should be safer than a vehicle that meets only one of the requirements. Moreover, the cost of meeting just one requirement is not substantially lower than the cost of meeting both requirements. The cost of testing a vehicle for compliance with both the dynamic lateral stability and vehicle handling/understeer requirement was estimated to be about $24,000. However, the cost of testing for compliance with just the dynamic stability requirement would be about $20,000, or only about 17 percent less than the cost of testing for compliance with both requirements. This is because the cost of renting and transporting the vehicle to the test site, instrumenting the vehicle for the tests, and making some initial static measurements are virtually the same for both requirements and would only have to be done once if the tests for both requirements were conducted on the same day. Moreover, changes in the vehicle design that affect the lateral stability of the vehicle could also impact the handling of the vehicle. For these reasons, the proposed rule includes both a dynamic stability and vehicle handling requirement.

(3) Instead of seatbelt/speed limitation requirements in the proposed rule, the Commission considered a requirement for ROVs to have loud or intrusive seatbelt reminders. Currently, most ROVs meet the voluntary standards that require an 8-second visual seatbelt reminder. Some more intrusive systems have been used on passenger cars. For example, the Ford ''BeltMinder'' system resumes warning the driver after about 65 seconds if his or her seatbelt is not fastened and the car is traveling at more than 3 mph. The system flashes a warning light and sounds a chime for 6 seconds every 30 seconds for up to 5 minutes as long as the car is operating and the driver's seatbelt is not fastened. Honda developed a similar system in which the warning could last for longer than 9 minutes if the driver's seatbelt is not fastened. Studies of both systems found that a statistically significant increase in the use seatbelts of 5 percent (from 71 to 76 percent) and 6 percent (from 84 to 90 percent), respectively.

However, these more intrusive seatbelt warning systems are unlikely to be as effective as the seatbelt speed limitation requirement in the proposed rule. The Commission believes that the seatbelt speed limitation requirement will cause most drivers and passengers who desire to exceed 15 mph to fasten their seatbelts. Research supports this position. One experiment used a haptic feedback system to increase the force the driver needed to exert to depress the gas pedal when the vehicle exceeded 25 mph if the seatbelt was not fastened. The system did not prevent the driver from exceeding 25 mph, but the system increased the amount of force required to depress the gas pedal to maintain a speed greater than 25 mph. In this experiment, all seven participants chose to fasten their seatbelts. A follow-up study on the haptic feedback study focused on 20 young drivers ranging in age from 18 to 21, and a feedback force set at 20 mph instead of 25 mph. The study results showed that the mean seat belt use increased from 54.7 percent to 99.7 percent, and the few instances in which seat belts were not worn were on trips of 2 minutes long or less. Most significantly, participants rated the system as very acceptable and agreeable (9 out of a 10-point scale).

The more intrusive seatbelt reminder systems used on some passenger cars have been more limited in their effectiveness. The Honda system, for example, reduced the number of unbelted drivers by about 38 percent; the Ford system reduced the number of unbelted drivers by only 17 percent. (The Honda system increased seatbelt use from 84 percent to 90 percent. Therefore, the percentage of unbelted drivers was reduced by about 38 percent, or 6 percent divided by 16 percent. The Ford system increased seatbelt use from 71 percent to 76 percent. Therefore, the percentage of unbelted drivers was reduced by about 17 percent, or 5 percent divided by 29 percent.) Additionally, ROVs are open vehicles and the ambient noise is likely higher than in the enclosed passenger compartment of a car. It is likely that some ROV drivers would not hear the warning, and therefore, they would be motivated to fasten their seatbelts, unless the warning was substantially louder than the systems used in passenger cars. Therefore, the Commission believes that the loud or intrusive seat belt reminders would not be as effective as the seat belt speed limiter requirement.

For the reasons set forth above, the Commission finds preliminarily that the rule imposes the least burdensome requirement that prevents or adequately reduces the risk of injury for which promulgation of the rule is proposed.

XVIII. Request for Comments

We invite all interested persons to submit comments on any aspect of the proposed rule. In particular, the Commission invites comments regarding the estimates used in the preliminary regulatory analysis and the assumptions underlying these estimates. The Commission is especially interested in data that would help the Commission to refine its estimates to more accurately reflect the expected costs of the proposed rule as well as any alternate estimates that interested parties can provide. The Commission is also interested in comments addressing whether the proposed compliance dates of 180 days after the publication of the final rule to meet the lateral stability and vehicle handling requirements and 12 months after the publication of the final rule to meet the occupant protection requirements are appropriate. The Commission also seeks comments on the following:

- Additional key issues related to seatbelts for ROVs, including: available technology to prevent any hazards from the application of a passenger seatbelt requirement (such as sudden speed reductions if a passenger unbuckles); whether CPSC should extend the phase-in period for the seat-belt requirement; and any other relevant information related to the proposed seatbelt requirements.
- Whether CPSC should allow the use of doors or other mechanisms capable of meeting specified loading criteria to meet the shoulder restraint requirement.
- Whether there are further consistent and repeatable testing requirements that should be added to the proposed rule that would capture off-road conditions drivers experience in ROVs. If so, set forth the specifics of such further requirements.
- Whether CPSC should establish separate requirements for utility vehicles, including: definitions, scope, additional standards, and/or exemptions that would be suitable for requirements specific to utility vehicles.

The Commission seeks comment, data testing parameters and testing results concerning:

- Oversteer and understeer, dynamically unstable handling, and minimal path-following capabilities; and
- Whether there is a need for supplemental criteria in addition to specific lateral stability acceleration limits to avoid potential unintended consequences of a single criterion.

The public is invited to submit additional information about any other issues that stakeholders find relevant. Comments should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

XIV. Conclusion

For the reasons stated in this preamble, the Commission proposes requirements for lateral stability, vehicle handing, and occupant protection to address an unreasonable risk of injury associated with ROVs.

List of Subjects in 16 CFR Part 1422

Consumer protection, Imports, Information, Labeling, Recreation and Recreation areas, Incorporation by reference, Safety.

For the reasons discussed in the preamble, the Commission proposes to amend Title 16 of the Code of Federal Regulations as follows:

■ 1. Add part 1422 to read as follows:

PART 1422—SAFETY STANDARD FOR RECREATIONAL OFF-HIGHWAY VEHICLES

Sec.
1422.1 Scope, purpose and compliance dates.
1422.2 Definitions.
1422.3 Requirements for dynamic lateral stability.
1422.4 Requirements for vehicle handling.
1422.5 Requirements for occupant protection performance.
1422.6 Prohibited stockpiling.
1422.7 Findings.

Authority: 15 U.S.C. 2056, 2058 and 2076.

§ 1422.1 Scope, purpose and compliance dates.

(a) This part 1422, a consumer product safety standard, establishes requirements for recreational off-highway vehicles (ROVs), as defined in § 1422.2(a). The standard includes requirements for dynamic lateral, vehicle handling, and occupant protection. These requirements are intended to reduce an unreasonable risk of injury and death associated with ROVs.

(b) This standard does not apply to the following vehicles, as defined by the relevant voluntary standards:

(1) Golf carts

(2) All-terrain vehicles

(3) Fun karts

(4) Go karts

(5) Light utility vehicles

(c) Any ROV manufactured or imported on or after [date that is 180 days after publication of a final rule] shall comply with the lateral stability requirements stated in § 1422.3 and the vehicle handling requirements stated in § 1422.4. Any ROV manufactured or imported on or after [date that is 12 months after publication of final rule] shall comply with the occupant protection requirements stated in § 1422.5.

§ 1422.2 Definitions.

In addition to the definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2051), the following definitions apply for purposes of this part 1422.

(a) *Recreational off-highway vehicle (ROV)* means a motorized vehicle designed for off-highway use with the following features: Four or more wheels with pneumatic tires; bench or bucket seating for two or more people; automotive-type controls for steering, throttle, and braking; rollover protective structure (ROPS); occupant restraint; and maximum speed capability greater than 30 mph.

(b) *Two-wheel lift* means the point at which the inside wheels of a turning vehicle lift off the ground, or when the uphill wheels of a vehicle on a tilt table lift off the table. Two-wheel lift is a precursor to a rollover event. We use this term interchangeably with the term ''tip-up.''

(c) *Threshold lateral acceleration* means the minimum lateral acceleration of the vehicle at two-wheel lift.

§ 1422.3 Requirements for dynamic lateral stability.

(a) *General.* The Recreational Off-Highway Vehicle (ROV) requirement for lateral stability is based on the average threshold lateral acceleration at rollover, as determined by a 30 mph dropped throttle J-turn test. This threshold lateral acceleration is measured parallel to the ground plane at the center of gravity (CG) of the loaded test vehicle and occurs at the minimum steering wheel angle required to cause the vehicle to roll over in a 30 mph dropped throttle J-turn test on a flat and level, high-friction surface. Rollover is achieved when all of the wheels of the ROV that are on the inside of the turn lift off the ground. For convenience, this condition is referred to as two-wheel lift, regardless of the number of wheels on the ROV. Testing shall be conducted on a randomly selected representative production vehicle.

(b) *Test surface.* Tests shall be conducted on a smooth, dry, uniform, paved surface constructed of asphalt or concrete. The surface area used for dynamic testing shall be kept free of debris and substances that may affect test results during vehicle testing.

(1) *Friction.* Surface used for dynamic testing shall have a peak braking coefficient greater than or equal to 0.90 and a sliding skid coefficient greater than or equal to 0.80 when measured in accordance with ASTM E 1337, Standard Test Method for Determining Longitudinal Peak Braking Coefficient of Paved Surfaces Using Standard

Reference Tire, approved December 1, 2012, and ASTM E274, Standard Test Method for Skid Resistance of Paved Surfaces Using a Full-Scale Tire, approved January 2011, respectively. The Director of the **Federal Register** approves these incorporations by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html.

(2) *Slope.* The test surface shall have a slope equal to or less than 1 degree (1.7% grade).

(3) *Ambient conditions.* The ambient temperature shall be between 0 degrees Celsius (32 °Fahrenheit) and 38 °C (100 °F). The maximum wind speed shall be no greater than 16 mph (7 m/s).

(c) *Test conditions.* (1) *Vehicle condition.* An ROV used for dynamic testing shall be configured in the following manner:

(i) The test vehicle shall be a representative production vehicle. The ROV shall be in standard condition. Adjustable seats shall be located in the most rearward position.

(ii) The ROV shall be operated in two-wheel drive mode, with selectable differential in its most-open setting. The tires shall be the manufacturer's original-equipment tires intended for normal retail sale to consumers. The tires shall be new when starting the tests, then broken-in by conducting a minimum total of ten J-turns with five in the right-turning direction and five in the left-turning direction. The J-turns conducted for tire break-in shall be conducted at 30 mph and steering angles sufficient to cause two-wheel lift.

(iii) Springs or shocks that have adjustable spring or damping rates shall be set to the manufacturer's recommended settings for delivery.

(iv) Tires shall be inflated to the ROV manufacturer's recommended settings for normal operation for the load condition specified in paragraph (c)(vi) of this section. If more than one pressure is specified, the lowest value shall be used.

(v) All vehicle operating fluids shall be at the manufacturer's recommended level, and the fuel tank shall be full to its rated capacity.

(vi) The ROV shall be loaded, such that the combined weight of the test operator, test equipment, and ballast, if any, shall equal 430 lbs. ± 11 lbs. (195 kg ± 5 kg).

(vii) The center of gravity (CG) of the equipped test vehicle shall be no more than 0.5 inch below (and within 1.0 inch in the x-axis and y-axis directions) the CG of the vehicle as it is sold at retail and loaded according to paragraph (c)(vi) of this section.

(2) *Vehicle test equipment.* (i) *Safety equipment.* Test vehicles shall be equipped with outriggers on both sides of the vehicle. The outriggers shall be designed to minimally affect the loaded vehicle's center of gravity location, shall permit the vehicle to experience two-wheel lift during dynamic testing, and shall be capable of preventing a full vehicle rollover.

(ii) *Steering controller.* The test vehicle shall be equipped with a programmable steering controller (PSC), capable of responding to vehicle speed, with a minimum steering angle input rate of 500 degrees per second, and accurate within + 0.25 degree. The steering wheel setting for 0.0 degrees of steering angle is defined as the setting which controls the properly aligned vehicle to travel in a straight path on a level surface. The PSC shall be operated in absolute steering mode, where the amount of steering used for each test shall be measured relative to the PSC reading when the vehicle steering is at zero degrees.

(iii) *Vehicle instrumentation.* The vehicle shall be instrumented to record lateral acceleration, vertical acceleration, longitudinal acceleration, forward speed, steering wheel angle, steering wheel angle rate, vehicle roll angle, roll angle rate, pitch angle rate, and yaw angle rate. See Table 1 for instrumentation specifications. Ground plane lateral acceleration shall be calculated by correcting the body-fixed acceleration for roll angle. A roll motion inertia measurement sensor that provides direct output of ground plane lateral acceleration at the vehicle CG may also be used in lieu of manual correction to obtain ground plane lateral acceleration. Roll angle may be calculated from roll rate data.

TABLE 1—INSTRUMENTATION SPECIFICATION FOR J-TURN AND CONSTANT RADIUS TESTING OF ROVS

Parameter	Accuracy
Vehicle Speed	± 0.10 mph
Acceleration (x, y, and z directions).	± 0.003 g
Steering Wheel Angle	± 0.25 deg.
Steering Wheel Angle Rate	± 0.5 deg./sec.
Pitch, Roll, and Yaw Rates	± 0.10 deg./sec.
Roll Angle*	± 0.20 deg.

* For constant radius testing, roll angle must be measured directly or roll rate accuracy must be ± 0.01 deg./sec.

(d) *Test procedure.* (1) 3.3.1. Set the vehicle drive train in its most-open setting. For example, two-wheel drive shall be used instead of four-wheel drive, and a lockable differential, if so equipped, shall be in its unlocked, or ''open,'' setting.

(2) Drive the vehicle in a straight path to define zero degree (0.0) steer angle.

(3) Program the PSC to input a 90-degree turn to the right at a minimum of 500 degrees per second as soon as the vehicle slows to 30 mph. Program the PSC to hold steering angles for a minimum of 4 seconds before returning to zero steer angle. The steering rate when returning to zero may be less than 500 degrees per second.

(4) Conduct a 30 mph dropped throttle J-turn.

(i) Accelerate the vehicle in a straight line to a speed greater than 30 mph.

(ii) As the vehicle approaches the desired test location, engage the PSC and fully release the throttle.

(iii) The PSC shall input the programmed steering angle when the vehicle decelerates to 30 mph. Verify that the instrumentation recorded all of the data during this J-turn event.

(5) Conduct additional J-turns, increasing the steer angle in 10-degree increments, as required, until a two-wheel lift event is visually observed.

(6) Conduct additional J-turns, decreasing the steering angle in 5-degree increments to find the lowest steering angle that will produce two-wheel lift. Additional adjustments, up or down, in 1-degree increments may be used.

(7) Repeat the process of conducting J-turns to determine minimum steer angle to produce two-wheel lift in left turn direction.

(8) Start the data acquisition system.

(9) Conduct J-turn test trials in the left and right directions using the minimum steering angles determined in paragraphs (d)(6) and (d)(7) of this section to verify that the steering angle

produces two-wheel lift in both directions.

(10) Conduct five J-turn test trials with two-wheel lift in the left and right turn directions in one direction heading on the test surface (10 total trials). On the same test track, but in the opposite heading on the test surface, conduct five more J-turn test trials with two-wheel lift in the left and right turn directions (10 total trials). A minimum data set will consist of 20 total J-turn test trials with half of the tests conducted in one direction on the test surface and half of the tests conducted in the opposite direction. Review all data parameters for each trial to verify that the tests were executed correctly. Any trials that do not produce two-wheel lift should be diagnosed for cause. If cause is identified, discard the data and repeat the trial to replace the data. If no cause can be identified, repeat actions stated in paragraphs (d)(5) through (d)(7) of this section to ensure that the correct steering angle has been determined. Additional J-turn tests may be added to the minimum data set in groups of four, with one test for each left/right turn direction and one test for each direction heading on the test surface.

(11) Determine value of threshold lateral acceleration at rollover.

(i) Data recorded as required in paragraph (d)(10) of this section shall be digitally low-pass filtered to 2.0 hertz, using a phaseless, eighth-order, Butterworth filter to eliminate noise artifacts on the data.

(ii) Plot the data for ground plane lateral acceleration corrected to the test vehicle CG location, steering wheel angle, and roll angle recorded for each trial conducted under paragraph (d)(10) of this section.

(iii) Find and record the peak ground plane lateral acceleration occurring between the time of the PSC input and the time of two-wheel lift.

(iv) If a body-fixed acceleration sensor is used, correct the lateral acceleration data for roll angle, using the equation:

$A_y\ ground = A_y \cos \Phi - A_z \sin \Phi$

(Φ = vehicle body roll angle)

(v) Calculate the threshold lateral acceleration at rollover value, which is the average of the peak values for ground plane lateral acceleration for all of the trials conducted under paragraph (d)(10) of this section that produced two-wheel lift.

(e) *Performance requirements.* The minimum value for the threshold lateral acceleration at rollover shall be 0.70 g or greater.

(f) *Consumer information requirements.* The manufacturer shall provide a hang tag with every ROV that is visible to the driver and provides the value of the threshold lateral acceleration at rollover of that model vehicle. The label must conform in content, form, and sequence to the hang tag shown in Figure 1.

(1) *Size.* Every hang tag shall be at least 6 inches (152 mm) wide x 4 inches (102 mm) tall.

(2) *Content.* Every hang tag shall contain the following:

(i) Value of the threshold lateral acceleration at rollover of that model vehicle displayed on a progressive scale.

(ii) The statement—''Compare with other vehicles before you buy.''

(iii) The statement—''The value above is a measure of this vehicle's resistance to rolling over on a flat surface. Vehicles with higher numbers are more stable.''

(iv) The statement—''Other vehicles may have a higher rollover resistance; compare before you buy.''

(v) The statement—''Rollover cannot be completely eliminated for any vehicle.''

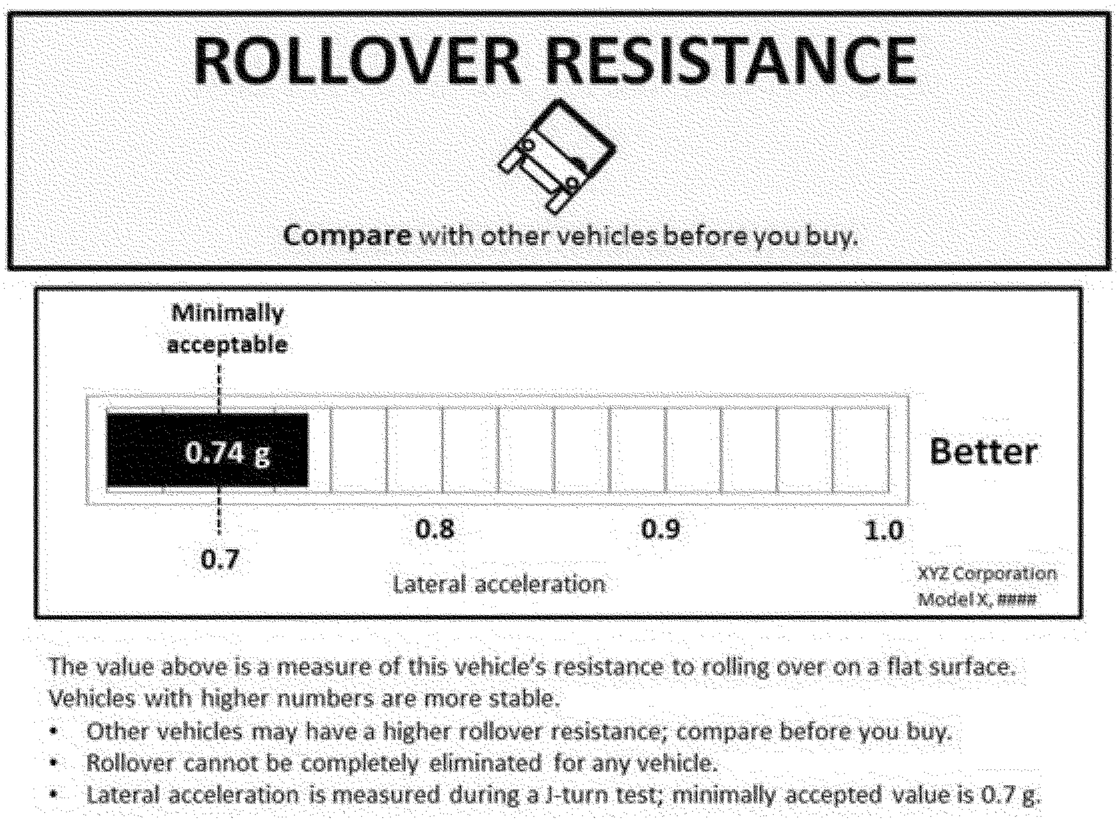
(vi) The statement—''Lateral acceleration is measured during a J-turn test; minimally accepted value is 0.7 g.''

(vii) The manufacturer's name and vehicle model, *e.g.,* XYZ corporation, Model x, ####.

(3) *Format.* The hang tag shall be formatted as shown in Figure 1.

(4) *Attachment.* Every hang tag shall be attached to the ROV and conspicuous to the seated driver.

Figure 1. Hang tag



§ 1422.4 Requirements for vehicle handling.

(a) *General.* The ROV requirement for vehicle handling shall be based on the vehicle's steering gradient, as measured by the constant radius test method described in SAE Surface Vehicle Recommended Practice J266, published January 1996. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html.*

(b) *Test surface.* Tests shall be conducted on a smooth, dry, uniform, paved surface constructed of asphalt or concrete. The surface area used for dynamic testing shall be kept free of debris and substances that may affect test results during vehicle testing.

(1) *Friction.* Surface used for dynamic testing shall have a peak braking coefficient greater than or equal to 0.90 and a sliding skid coefficient greater than or equal to 0.80 when measured in accordance with ASTM E 1337 and ASTM E274, respectively.

(2) *Slope.* The test surface shall have a slope equal to or less than 1 degree (1.7% grade).

(3) *Ambient conditions.* The ambient temperature shall be between 0 degrees Celsius (32 °Fahrenheit) and 38 °C (100 °F). The maximum wind speed shall be no greater than 16 mph (7 m/s).

(c) *Test conditions.*—(1) *Vehicle condition.* A vehicle used for dynamic testing shall be configured in the following manner. (i) The test vehicle shall be a representative production vehicle. The ROV shall be in standard condition. Adjustable seats shall be located in the most rearward position.

(ii) The ROV shall be operated in two-wheel drive mode with selectable differential in its most-open setting. The tires shall be the manufacturer's original-equipment tires intended for normal retail sale to consumers. The tires shall be new when starting the tests, then broken-in by conducting a minimum total of ten J-turns with five in the right-turning direction and five in the left-turning direction. The J-turns conducted for tire break-in shall be conducted at 30 mph and steering angles sufficient to cause two-wheel lift. Tires used for the full test protocol to establish the threshold lateral acceleration at rollover value for the test vehicle are acceptable for use in the handling performance test protocol.

(iii) Springs or shocks that have adjustable spring or damping rates shall be set to the manufacturer's recommended settings for delivery.

(iv) Tires shall be inflated to the ROV manufacturer's recommended settings for normal operation for the load condition specified in paragraph (c)(vi) of this section. If more than one pressure is specified, the lowest value shall be used.

(v) All vehicle operational fluids shall be at the manufacturer's recommended level and the fuel tank shall be full to its rated capacity.

(vi) The ROV shall be loaded, such that the combined weight of the test operator, test equipment, and ballast, if any, shall equal 430 lbs. ± 11 lbs. (195 kg ± 5 kg).

(vii) The center of gravity (CG) of the equipped test vehicle shall be no more than 0.5 inch below (and within 1.0

inch in the x-axis and y-axis directions) the CG of the vehicle as it is sold at retail and loaded according to paragraph (c)(vi) of this section.

(2) *Vehicle test equipment.* Test vehicles shall be equipped with outriggers on both sides of the vehicle. The outriggers shall be designed to minimally affect the loaded vehicle's center of gravity location, shall permit the vehicle to experience two-wheel lift during dynamic testing, and shall be capable of preventing a full vehicle rollover.

(ii) *Vehicle instrumentation.* The vehicle shall be instrumented to record lateral acceleration, vertical acceleration, longitudinal acceleration, forward speed, steering wheel angle, steering wheel angle rate, vehicle roll angle, roll angle rate, pitch angle rate, and yaw angle rate. See Table 1 in § 1422.3(c) for instrumentation specifications. Ground plane lateral acceleration shall be calculated by correcting the body-fixed acceleration for roll angle. A roll motion inertia measurement sensor that provides direct output of ground plane lateral acceleration at the vehicle CG may also be used in lieu of manual correction to obtain ground plane lateral acceleration.

(d) *Test Procedure.* (1) Handling performance testing shall be conducted using the constant radius test method described in SAE Surface Vehicle Recommended Practice J266. The minimum radius for constant-radius testing shall be 100 feet. In this test method, the instrumented and loaded vehicle is driven while centered on a 100-ft. radius circle marked on the test surface, with the driver making every effort to maintain the vehicle path relative to the circle. The vehicle is operated at a variety of increasing speeds, and data are recorded for those various speed conditions to obtain data to describe the vehicle handling behavior across the prescribed range of ground plane lateral accelerations. Data shall be recorded for the lateral acceleration range from 0.0 g to 0.5 g.

(2) Start the data acquisition system.

(3) Drive the vehicle on the circular path at the lowest possible speed. Data shall be recorded with the steering wheel position and throttle position fixed to record the approximate Ackermann angle.

(4) Continue driving the vehicle to the next speed at which data will be taken. The vehicle speed shall be increased and data shall be taken until it is no longer possible for the driver to maintain directional control of the vehicle. Test shall be repeated at least three times so that results can be examined for repeatability and then averaged.

(5) *Data collection, method 1—discrete data points.* In this data acquisition method, the driver maintains a constant speed while maintaining compliance with the circular path, and data points are recorded when a stable condition of speed and steering angle is achieved. After the desired data points are recorded for a given speed, the driver accelerates to the next desired speed setting, maintains constant speed and compliance with the path, and data points are recorded for the new speed setting. This process is repeated to cover the speed range from 0.0 mph to 28 mph, which will map the lateral acceleration range from near 0.0 g to 0.50 g. Increments of speed shall be 1 to 2 miles per hour, to allow for a complete definition of the understeer gradient. Data shall be taken at the lowest speed practicable to obtain an approximation of the vehicle's Ackermann steering angle.

(6) *Data collection, method 2—continuous data points* In this data acquisition method, the driver maintains compliance with the circular path while slowly increasing vehicle speed; and data from the vehicle instrumentation is recorded continuously, so long as the vehicle remains centered on the intended radius. The rate of speed increase shall not exceed 0.93 mph per second. Initial speed shall be as low as is practicable, in order to obtain an approximation of the vehicle's Ackermann steering angle. The speed range shall be 0.0 mph to 28.0 mph, which will be sufficient to produce corrected lateral accelerations from near 0.0 g to 0.50 g.

(7) *Vehicle dimension coordinate system.* The coordinate system described in SAE Surface Vehicle Recommended Practice J670, published in January 2008, shall be used. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html.*

(8) *Data analysis.* The lateral acceleration data shall be corrected for roll angle using the method described in § 1422.3(11)(iv). To provide uniform and comparable data, the ground plane lateral acceleration shall also be corrected to reflect the value at the test vehicle's center of gravity. The data shall be digitally low-pass filtered to 1.0 Hz, using a phase-less, eighth-order, Butterworth filter, and plotted with ground plane lateral acceleration on the abscissa versus hand-wheel steering angle on the ordinate. A second-order polynomial curve fit of the data shall be constructed in the range from 0.01 g to 0.5 g. The slope of the constructed plot determines the understeer gradient value in the units of degrees of hand-wheel steering angle per g of ground plane lateral acceleration (degrees/g). Using the coordinate system specified in paragraph (d)(7) of this section, positive values for understeer gradient are required for values of ground plane lateral acceleration values from 0.10 g to 0.50 g.

(e) *Performance requirements.* Using the coordinate system specified in section 1422.4(d)(7), values for the understeer gradient shall be positive for values of ground plane lateral acceleration values from 0.10 g to 0.50 g. The ROV shall not exhibit negative understeer gradients (oversteer) in the lateral acceleration range specified.

§ 1422.5 Requirements for occupant protection performance.

(a) *General.* The ROV requirement for occupant protection shall be based on the maximum vehicle speed limitation when the seat belt of any occupied front seat is not buckled, and on passive coverage of the occupant shoulder area as measured by a probe test.

(b) *Vehicle speed limitation.* (1) *Test surface.* Tests shall be conducted on a smooth, dry, uniform, paved surface constructed of asphalt or concrete. The surface area used for dynamic testing shall be kept free of debris and substances that may affect test results during vehicle testing.

(i) *Friction.* Surface shall have a peak braking coefficient greater than or equal to 0.90, and a sliding skid coefficient greater than or equal to 0.80, when measured in accordance with ASTM E 1337 and ASTM E274, respectively.

(ii) *Slope.* The test surface shall have a slope equal to or less than 1 degree (1.7% grade).

(2) *Test condition 1.* Test conditions shall be as follows:

(i) The test vehicle shall be a representative production vehicle. The

ROV shall have a redundant restraint system in the driver's seat.

(ii) ROV test weight shall be the vehicle curb weight plus the test operator, only. If the test operator weighs less than 215 lbs. ± 11 lbs. (98 kg ± 5 kg), then the difference in weight shall be added to the vehicle to reflect an operator weight of 215 lbs. ± 11 lbs. (98 kg ± 5 kg).

(iii) Tires shall be inflated to the pressures recommended by the ROV manufacturer for the vehicle test weight.

(iv) The driver's seat belt shall not be buckled; however, the driver shall be restrained by the redundant restraint system for test safety purposes.

(3) *Test condition 2.* Test conditions shall be as follows:

(i) The test vehicle shall be a representative production vehicle. in standard condition.

(ii) ROV test weight shall be the vehicle curb weight, plus the test operator and a passenger surrogate that will activate the seat occupancy sensor. If the test operator weighs less than 215 lbs. ± 11 lbs. (98 kg ± 5 kg), then the difference in weight shall be added to the vehicle to reflect an operator weight of 215 lbs. ± 11 lbs. (98 kg ± 5 kg).

(iii) Tires shall be inflated to the pressures recommended by the ROV manufacturer for the vehicle test weight.

(iv) The driver's seat belt shall be buckled. The front passenger's seat belt(s) shall not be buckled.

(4) *Test procedure.* Measure the maximum speed capability of the ROV under Test Condition 1, specified in paragraph (b)(2) of this section, and Test Condition 2, specified in paragraph (b)(3) of this section using a radar gun or equivalent method. The test operator shall accelerate the ROV until maximum speed is reached, and shall maintain maximum speed for at least 15 m (50 ft.). Speed measurement shall be made when the ROV has reached a stabilized maximum speed. A maximum speed capability test shall consist of a minimum of two measurement test runs conducted over the same track, one each in opposite direction. If more than two measurement runs are made, there shall be an equal number of runs in each direction. The maximum speed capability of the ROV shall be the arithmetic average of the measurements made.

(5) *Performance requirement.* The maximum speed capability of a vehicle with an unbuckled seat belt of the driver or any occupied front passenger seat shall be 15 mph or less.

(c) *Passive coverage of shoulder area.*

(1) *General test conditions.*

(i) Probes shall be allowed to rotate through a universal joint.

(ii) Forces shall be quasi-statically applied and held for 10 seconds.

(2) *Shoulder/Hip performance requirement.* The vehicle structure or restraint system must absorb the force specified in § 1422.5(c)(5) with less than 25 mm (1 inch) of permanent deflection along the horizontal lateral axis.

(3) *Location of applied force.* Locate point R on the vehicle, as shown in Figure X of ANSI/ROHVA 1–2011, American National Standard for Recreational Off-Highway Vehicles, approved July 11, 2011. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html.* All measurements for the point shall be taken with respect to the base of the seatback. The base of the seatback lies on the surface of the seat cushion along the centerline of the seating position and is measured without a simulated occupant weight on the seat. Point R is located 432 mm (17 inches) along the seat back above the base of the seatback. The point is 152 mm (6 inches) forward of and perpendicular to the seatback surface as shown in the figure. For an adjustable seat, Point R is determined with the seat adjusted to the rear-most position. Point R2 applies to an adjustable seat and is located in the same manner as Point R except that the seat is located in the forward-most position.

(4) *Barriers.* Remove all occupant protection barriers that require action on the part of the consumer to be effective (i.e. remove nets). Passive barriers that do not require any consumer action are allowed to remain.

(5) *Shoulder/Hip test method.* Apply a horizontal, outward force of 725 N (163 lbf.). Apply the force through the upper arm probe shown in Figure 2. The upper arm probe shall be oriented so that Point Q on the probe is coincident with Point R for a vehicle with a fixed seat, or Point Q shall be coincident with any point between R and R2 for a vehicle with an adjustable seat. The probe's major axis shall be parallel to the seatback angle at a point 17 inches along the seat back above the base of the seatback.

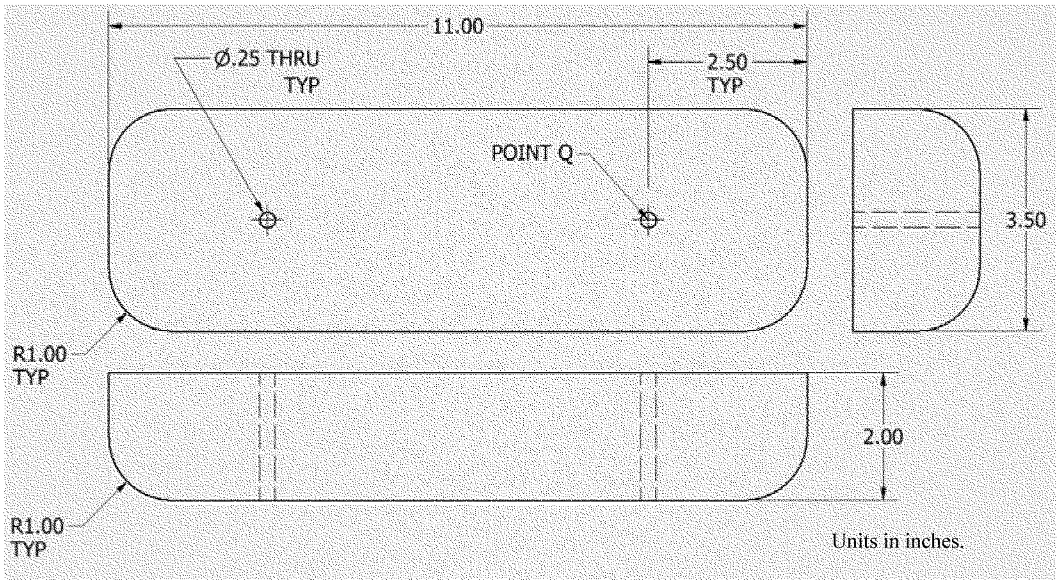


Figure 2. Shoulder/Hip Zone Probe

§ 1422.6 Prohibited stockpiling.

(a) *Stockpiling. Stockpiling* means manufacturing or importing a product which is the subject of a consumer product safety rule between the date of issuance of the rule and its effective date at a rate that is significantly greater than the rate at which such product was produced or imported during a base period prescribed by the Consumer Product Safety Commission.

(b) *Base period.* The base period for ROVs is, at the option of each manufacturer or importer, any period of 365 consecutive days beginning on or after October 1, 2009, and ending on or before [the date of promulgation of the rule].

(c) *Prohibited acts.* Manufacturers and importers of ROVs shall not manufacture or import ROVs that do not comply with the requirements of this part between [the date of promulgation of the rule] and [the effective date of the rule] at a rate that exceeds 10 percent of the rate at which this product was produced or imported during the base period described in paragraph (b) of this section.

§ 1422.7 Findings.

(a) *General.* In order to issue a consumer product safety standard under the Consumer Product Safety Act, the Commission must make certain findings and include them in the rule. 15 U.S.C. 2058(f)(3). These findings are discussed in this section.

(b) *Degree and nature of the risk of injury.* (1) CPSC received 428 reports of ROV-related incidents from the Injury and Potential Injury Incident (IPII) and In-Depth Investigation (INDP) databases that occurred between January 1, 2003 and December 31, 2011, and were received by December 31, 2011. There were a total of 826 victims involved in the 428 incidents. Within the 428 ROV-related incidents, there were a total of 231 reported fatalities and 388 reported injuries. Seventy-five of the 388 injuries (19 percent) could be classified as severe, that is, the victim has lasting repercussions from the injuries received in the incident, based on the information available. The remaining 207 victims were either not injured or their injury information was not known. Of the 428 ROV-related incidents, 76 involved drivers under 16 years of age (18 percent); 227 involved drivers 16 years of age or older (53 percent); and 125 involved drivers of unknown age (29 percent).

(2) Using data reported through the National Electronic Injury Surveillance System (NEISS) from January 1, 2010 to August 31, 2010, the Commission conducted a special study to identify cases that involved ROVs that were reported through NEISS. (NEISS is a stratified national probability sample of hospital emergency departments that allows the Commission to make national estimates of product-related injuries.) Based on information obtained through the special study, the estimated number of emergency department-treated ROV-related injuries occurring in the United States between January 1, 2010 and August 31, 2010, is 2,200 injuries. Extrapolating for the year 2010, the estimated number of emergency department-treated ROV-related injuries is 3,000, with a corresponding 95 percent confidence interval of 1,100 to 4,900.

(c) *Number of consumer products subject to the rule.* (1) Sales of ROVs have increased substantially since their introduction. In 1998, only one firm manufactured ROVs, and fewer than 2,000 units were sold. By 2003, when a second major manufacturer entered the market, almost 20,000 ROVs were sold. The only dip in sales occurred around 2008, which coincided with the worst of the credit crisis and recession that also started about the same time. In 2013, an estimated 234,000 ROVs were sold by about 20 different manufacturers. (This information is based upon a Commission analysis of sales data provided by Power Products Marketing, Eden Prairie, MN.)

(2) The number of ROVs available for use has also increased substantially. Because ROVs are a relatively new product, we do not have any specific information on the expected useful life of ROVs. However, using the same operability rates that CPSC uses for ATVs, we estimate that there were about 570,000 ROVs available for use in 2010. By the end of 2013, there were an estimated 1.2 million ROVs in use.

(d) *The need of the public for ROVs and the effects of the rule on their utility, cost, and availability.* (1) Currently there are two varieties of ROVs: Utility and recreational. Early ROV models emphasized the utility aspects of the vehicles, but the recreational aspects of the vehicles have become very popular.

(2) In terms of the effects of the rule on ROVs utility, according to several ROV manufacturers, some ROV users ''might prefer limit oversteer in the off-highway environment.'' (This assertion was contained in a public comment on

the ANPR for ROVs (Docket No. CPSC–2009–0087) submitted jointly on behalf of Arctic Cat, Inc., Bombardier Recreational Products, Inc., Polaris Industries, Inc., and Yamaha Motor Corporation, USA.) To the extent that the requirements in the proposed rule would reduce the ability of these users to intentionally reach limit oversteer, the proposed rule could have some adverse impact on the utility or enjoyment that these users receive from ROVs. These impacts would probably be limited to a small number of recreational users who enjoy activities or stunts that involve power oversteering or limit oversteer.

(3) Although the impact on consumers who prefer limit oversteer cannot be quantified, the Commission expects that it will be low. Any impact would be limited to those consumers who wish to intentionally engage in activities involving the loss of traction or power oversteer. The practice of power oversteer is the result of driver choices, such as the speed at which a user takes a turn. The proposed rule would not prevent ROVs from reaching limit oversteer under all conditions; nor would the rule prevent consumers from engaging in these activities. At most, the proposed rule might make it somewhat more difficult for users to reach limit oversteer in an ROV. Moreover, consumers who have a high preference for vehicles that oversteer would be able to make aftermarket modifications, such as adjustments to the suspension of the vehicle, or using different wheels or tires to increase the potential for oversteering.

(4) The seat belt speed limiter requirement could have a negative effect on utility and impose some unquantifiable costs on some users who would prefer not to use seat belts. The cost to these users would be the time required to buckle and unbuckle their seat belts and any disutility cost, such as discomfort caused by wearing the seat belt. We cannot quantify these costs because we do not know how many ROV users choose not to wear their seat belts, nor do we have the ability to quantify any discomfort or disutility that they would experience from wearing seat belts. However, the proposed rule does not require that the seat belts be fastened unless the vehicle is traveling 15 mph or faster. This should serve to mitigate these costs because many people who would be inconvenienced or discomforted by the requirement, such as people using the vehicle for work or utility purposes or who must frequently get on and off the vehicle are likely to be traveling at lower speeds.

(5) The effect of the rule on cost and availability of ROVs is expected to be minimal. The average manufacturer's suggested retail prices (MSRP) of ROVs, weighted by units sold, was about $13,100 in 2013, with a range of about $3,600 to $20,100. The preliminary regulatory analysis estimates the per-unit cost to ROVs of the rule to be $61 to $94. Because this per-unit cost resulting from the rule is a very small percentage of the overall retail price of a ROV, it is unlikely that the rule would have more than a minimal effect on the cost or availability of ROVs.

(e) *Other means to achieve the objective of the rule, while minimizing the impact on competition and manufacturing.* (1) The Commission does not believe the rule will have adverse impact on competition. The preliminary regulatory analysis estimates the per-unit cost to ROVs of the rule to be $61 to $94. The average manufacturer's suggested retail prices (MSRP) of ROVs, weighted by units sold, was about $13,100 in 2013, with a range of about $3,600 to $20,100. The per-unit cost resulting from the rule is a very small percentage of the overall retail price of a ROV and is unlikely to have any impact on competition.

(2) The Commission believes that some but not all ROV models already meet the rule's requirement that the speed of the vehicle be limited if the driver's seat belt is not fastened. Before implementing any changes to their vehicles to meet the requirement, manufacturers whose ROVs do not meet the seatbelt speed limiter requirement would have to analyze their options for meeting the requirement. This process would include developing prototypes of system designs, testing the prototypes and refining the design of the systems based on this testing. Once the manufacturer has settled upon a system for meeting the requirement, the system will have to be incorporated into the manufacturing process of the vehicle. This will involve producing the engineering specifications and drawings of the system, parts, assemblies, and subassemblies that are required. Manufacturers will need to obtain the needed parts from their suppliers and incorporate the steps needed to install the system on the vehicles in the assembly line. The Commission believes that manufacturers should be able to complete all of these activities and be ready to produce vehicles that meet the requirement within 12 calendar months. The Commission is proposing a 12-month effective date for the occupant protection requirements to minimize the burden on manufacturing.

(f) Unreasonable risk. (1) CPSC received 428 reports of ROV-related incidents from the Injury and Potential Injury Incident (IPII) and In-Depth Investigation (INDP) databases that occurred between January 1, 2003 and December 31, 2011, and were received by December 31, 2011. There were a total of 826 victims involved in the 428 incidents. Within the 428 ROV-related incidents, there were a total of 231 reported fatalities and 388 reported injuries. Seventy-five of the 388 injuries (19 percent) could be classified as severe, that is, the victim has lasting repercussions from the injuries received in the incident, based on the information available.

(2) The estimated cost and benefits of the rule on an annual basis can be calculated by multiplying the estimated benefits and costs per unit by the number of ROVs sold in a given year. In 2013, 234,000 ROVs were sold. If the proposed rule had been in effect that year, the total quantifiable cost would have been between $14.3 million and $22.0 million ($61 and $94 multiplied by 234,000 units, respectively). The total quantifiable benefits would have been at least $515 million ($2,199 × 234,000). Of the benefits, about $453 million (or about 88 percent) would have resulted from the reduction in fatal injuries, and about $62 million (or about 12 percent) of the benefits would have resulted from a reduction in the societal cost of nonfatal injuries. About $47 million of the reduction in the societal cost of nonfatal injuries would have been due to a reduction in pain and suffering. We conclude preliminarily that ROVs pose an unreasonable risk of injury and that the proposed rule is reasonably necessary to reduce that risk.

(g) *Public interest.* (1) This proposed rule is in the public interest because it may reduce ROV-related deaths and injuries in the future. The Commission believes that improving lateral stability (by increasing rollover resistance) and improving vehicle handling (by correcting oversteer to sub) are the most effective approaches to reduce the occurrence of ROV rollover incidents. ROVs with higher lateral stability are less likely to roll over because more lateral force is necessary to cause rollover. ROVs exhibiting understeer during a turn are also less likely to rollover because lateral acceleration decreases as the path of the ROV makes a wider turn, and the vehicle is more stable if a sudden change in direction occurs.

(2) The Commission believes that, when rollovers do occur, improving occupant protection performance (by increasing seat belt use) will mitigate

injury severity. CPSC analysis of ROV incidents indicates that 91 percent of fatally ejected victims were not wearing a seat belt at the time of the incident. Increasing seat belt use, in conjunction with better shoulder retention performance, will significantly reduce injuries and deaths associated with an ROV rollover event.

(h) *Voluntary standards.* (1) The Commission is aware of two voluntary standards that are applicable to ROVs, ANSI/ROHVA 1, *American National Standard for Recreational Off-Highway Vehicles* and ANSI/B71.9, *American National Standard for Multipurpose Off-Highway Utility Vehicles.* As described in detail in the preamble, the Commission believes that the current voluntary standard requirements not adequately reduce the risk of injury or death associated with ROVs. Neither voluntary standard requires that ROVs understeer, as required by the proposed rule. According to the ES staff, drivers are more likely to lose control of vehicles that oversteer, which can lead to the vehicle rolling over or to other types of accidents.

(2) Both voluntary standards have requirements that are intended to set standards for dynamic lateral stability. ANSI/ROHVA 1–2011 uses a turn-circle test for dynamic lateral stability that is more similar to the test in the proposed rule for whether the vehicle understeers than it is to the test for dynamic lateral stability. The dynamic stability requirement in ANSI/OPEI B71.9–2012 uses a J-turn test, like the proposed rule, but measures different variables during the test and uses a different acceptance criterion. However, ES staff does not believe that the tests procedures in either standard have been properly validated as being capable of providing useful information about the dynamic stability of the vehicle. Moreover, the voluntary standards would find some vehicles acceptable even though their lateral acceleration at rollover is less than 0.70 g, which is the acceptance criterion in the proposed rule.

(3) Both voluntary standards require that manufacturers include a lighted seat-belt reminder that is visible to the driver and remains on for at least 8 seconds after the vehicle is started, unless the driver's seatbelt is fastened. However, virtually all ROVs on the market already include this feature and, therefore, relying only on the voluntary standards would not be expected to raise seatbelt use over its current level.

(4) The voluntary standards include requirements for retaining the occupant within the protective zone of the vehicle in the event of a rollover including two options for restraining the occupants in the shoulder/hip area. However, testing performed by CPSC identified weaknesses in the performance-based tilt table test option that allows unacceptable occupant head ejection beyond the protective zone of the vehicle Rollover Protective Structure (ROPS). CPSC testing indicated that a passive shoulder barrier could reduce the head excursion of a belted occupant during quarter-turn rollover events. The Commission believes that this can be accomplished by a requirement for a passive barrier based on the dimensions of the upper arm of a 5th percentile adult female, at a defined area near the ROV occupants' shoulder as contained in the proposed rule.

(i) *Relationship of benefits to costs.* (1) The estimated cost and benefits of the rule on an annual basis can be calculated by multiplying the estimated benefits and costs per unit by the number of ROVs sold in a given year. In 2013, 234,000 ROVs were sold. If the proposed rule had been in effect that year, the total quantifiable cost would have been between $14.3 million and $22.0 million ($61 and $94 multiplied by 234,000 units, respectively). The total quantifiable benefits would have been at least $515 million ($2,199 × 234,000).

(2) On a per unit basis, we estimate the total cost of the proposed rule to be $61 to $94 per vehicle. We estimate the total quantifiable benefits of the proposed rule to be $2199 per unit. This results in net quantifiable benefits of $2105 to $2138 per unit. Quantifiable benefits of the proposed rule could exceed the estimated $2199 per unit because the benefit associated with the vehicle handling and lateral stability requirement could not be quantified.

(j) *Least burdensome requirement.* The Commission considered less burdensome alternatives to the proposed rule regarding ROVs, but concluded that none of these alternatives would adequately reduce the risk of injury.

(1) *Not issuing a mandatory rule, but instead relying upon voluntary standards.* If CPSC did not issue a mandatory standard, most manufacturers would comply with one of the two voluntary standards that apply to ROVs. The Commission does not believe either voluntary standard adequately addresses the risk of injury and death associated with ROVs.

(2) *Including the dynamic lateral stability requirement or the understeer requirement, but not both.* The Commission believes that both of these characteristics need to be addressed. According to CPSC's Directorate for Engineering Sciences, a vehicle that meets both the dynamic stability requirement and the understeer requirement should be safer than a vehicle that meets only one of the requirements. Moreover, the cost of meeting just one requirement is not substantially lower than the cost of meeting both requirements. The cost of testing a vehicle for compliance with both the dynamic lateral stability and vehicle handling/understeer requirement was estimated to be about $24,000. However, the cost of testing for compliance with just the dynamic stability requirement itself would be about $20,000, or only about 17 percent less than the cost of testing for compliance with both requirements together. This is because the cost of renting and transporting the vehicle to the test site, instrumenting the vehicle for the tests, and making some initial static measurements are virtually the same for both requirements and would only have to be done once if the tests for both requirements were conducted on the same day. Moreover, changes in the vehicle design that affect the lateral stability of the vehicle could also impact the handling of the vehicle. For these reasons, the proposed rule includes both a dynamic stability and vehicle handling requirement.

(3) *Loud or intrusive seatbelt reminders instead of seatbelt/speed limitation requirements.* (i) Currently, most ROVs meet the voluntary standards that require an 8-second visual seatbelt reminder. Some more intrusive systems have been used on passenger cars. For example, one system resumes warning the driver after about 65 seconds if his or her seatbelt is not fastened and the car is traveling at more than 3 mph. The system flashes a warning light and sounds a chime for 6 seconds every 30 seconds for up to 5 minutes so long as the car is operating and the driver's seatbelt is not fastened. A similar system is used in which the warning could last for longer than 9 minutes if the driver's seatbelt is not fastened. Although studies of both systems found an increase in the use seatbelts, the systems' effectiveness was limited. Moreover, audible warnings are not likely to be effective in ROVs. ROVs are open vehicles and the ambient noise is higher than in the enclosed passenger compartment of a car. ROV drivers would not hear the warning and be motivated to fasten their seatbelts unless the warning was substantially louder than the systems used in passenger cars.

(ii) In contrast, these more intrusive seatbelt warning systems are unlikely to be as effective as the seatbelt speed limitation requirement in the proposed rule. The Commission believes that the requirement in the proposed rule will cause most drivers and passengers that desire to exceed 15 mph to fasten their seatbelts. Research supports this position. One experiment used a haptic feedback system to increase the force the driver needed to exert to depress the gas pedal when the vehicle exceeded 25 mph if the seatbelt was not fastened. The system did not prevent the driver from exceeding 25 mph, but it increased the amount of force required to depress the gas pedal to maintain a speed greater than 25 mph. In this experiment all 7 participants chose to fasten their seatbelts.

Dated: October 31, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

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